

October 20, 2004

OLYMPIA, WASHINGTON

ISSUE 04-20



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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 in the basement of the Pritchard Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (360) 786-6697.

## REPUBLICATION OF OFFICIAL DOCUMENTS

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

## CERTIFICATE

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

DENNIS W. COOPER  
Code Reviser

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## STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of October 2004 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%) per annum.

The interest rate required by RCW 4.56.110(3) and 4.56.115 for the month of October 2004 is 3.903%.

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

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## WASHINGTON STATE REGISTER

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### WASHINGTON STATE REGISTER

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

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# STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

## 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following 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].

2004-2005

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue Number	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>	Expedited Adoption <sup>4</sup>
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS	Count 20 days from -	For hearing on or after	First Agency Adoption Date
04 - 20	Sep 8, 2004	Sep 22, 2004	Oct 6, 2004	Oct 20, 2004	Nov 9, 2004	Dec 7, 2004
04 - 21	Sep 22, 2004	Oct 6, 2004	Oct 20, 2004	Nov 3, 2004	Nov 23, 2004	Dec 21, 2004
04 - 22	Oct 6, 2004	Oct 20, 2004	Nov 3, 2004	Nov 17, 2004	Dec 7, 2004	Jan 4, 2005
04 - 23	Oct 20, 2004	Nov 3, 2004	Nov 17, 2004	Dec 1, 2004	Dec 21, 2004	Jan 19, 2005
04 - 24	Nov 3, 2004	Nov 17, 2004	Dec 1, 2004	Dec 15, 2004	Jan 4, 2005	Feb 1, 2005
05 - 01	Nov 24, 2004	Dec 8, 2004	Dec 22, 2004	Jan 5, 2005	Jan 25, 2005	Feb 23, 2005
05 - 02	Dec 8, 2004	Dec 22, 2004	Jan 5, 2005	Jan 19, 2005	Feb 8, 2005	Mar 8, 2005
05 - 03	Dec 22, 2004	Jan 5, 2005	Jan 19, 2005	Feb 2, 2005	Feb 22, 2005	Mar 22, 2005
05 - 04	Jan 5, 2005	Jan 19, 2005	Feb 2, 2005	Feb 16, 2005	Mar 8, 2005	Apr 5, 2005
05 - 05	Jan 19, 2005	Feb 2, 2005	Feb 16, 2005	Mar 2, 2005	Mar 22, 2005	Apr 19, 2005
05 - 06	Feb 2, 2005	Feb 16, 2005	Mar 2, 2005	Mar 16, 2005	Apr 5, 2005	May 3, 2005

- <sup>1</sup> All documents are due at the code reviser's office by 12:00 noon on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.
- <sup>2</sup> A filing of any length will be accepted on the closing dates of this column if it has been prepared and completed by the order typing service (OTS) of the code reviser's office; see WAC 1-21-040. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.
- <sup>3</sup> At least twenty days before the rule-making hearing, the agency shall cause notice of the hearing to be published in the Register; see RCW 34.05.320(1). These dates represent the twentieth day after the distribution date of the applicable Register.
- <sup>4</sup> A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited adoption and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 34.05.230 and 1.12.040.

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

The WASHINGTON STATE REGISTER (ISSN 0164-6389), is published twice each month by the Statute Law Committee, Office of the Code Reviser, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552. The filing date of this report was September 27, 2004. The 2004 annual subscription price is \$211.38 (sales tax included) for 24 issues. The general business offices of the publisher are located in the Legislative Building, Olympia, Washington 98504-0552.

The editor is Kerry S. Radcliff, Code Reviser's Office, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552. There is no managing editor. The owner is the Statute Law Committee, State of Washington, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552. There are no known bondholders, mortgagees, or other security holders. The extent and nature of the circulation is as follows:

	Average no. copies each issue during preceding 12 months	Actual no. copies of single issue published nearest to filing date
Total no. copies printing	500	500
Paid circulation		
Paid outside-county mail subscriptions	153	150
Paid in-county subscriptions	0	0
Sales through dealers and carriers, street vendors, counter sales	56	54
Other classes mailed through the USPS	0	0
Total paid circulation	209	204
Free distribution by mail		
Outside-county	37	39
In-county	0	0
Other classes mailed through the USPS	6	6
Free distribution outside the mail	30	31
Total free distribution	73	76
Total distribution	282	280
Copies not distributed	218	220
Total	500	500
Percent paid circulation	73.98%	72.86%

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

Kerry S. Radcliff  
Editor



## **REGULATORY FAIRNESS ACT**

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

### **Small Business Economic Impact Statements (SBEIS)**

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

### **Mitigation**

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

### **When is an SBEIS Required?**

When:

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

### **When is an SBEIS Not Required?**

When:

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

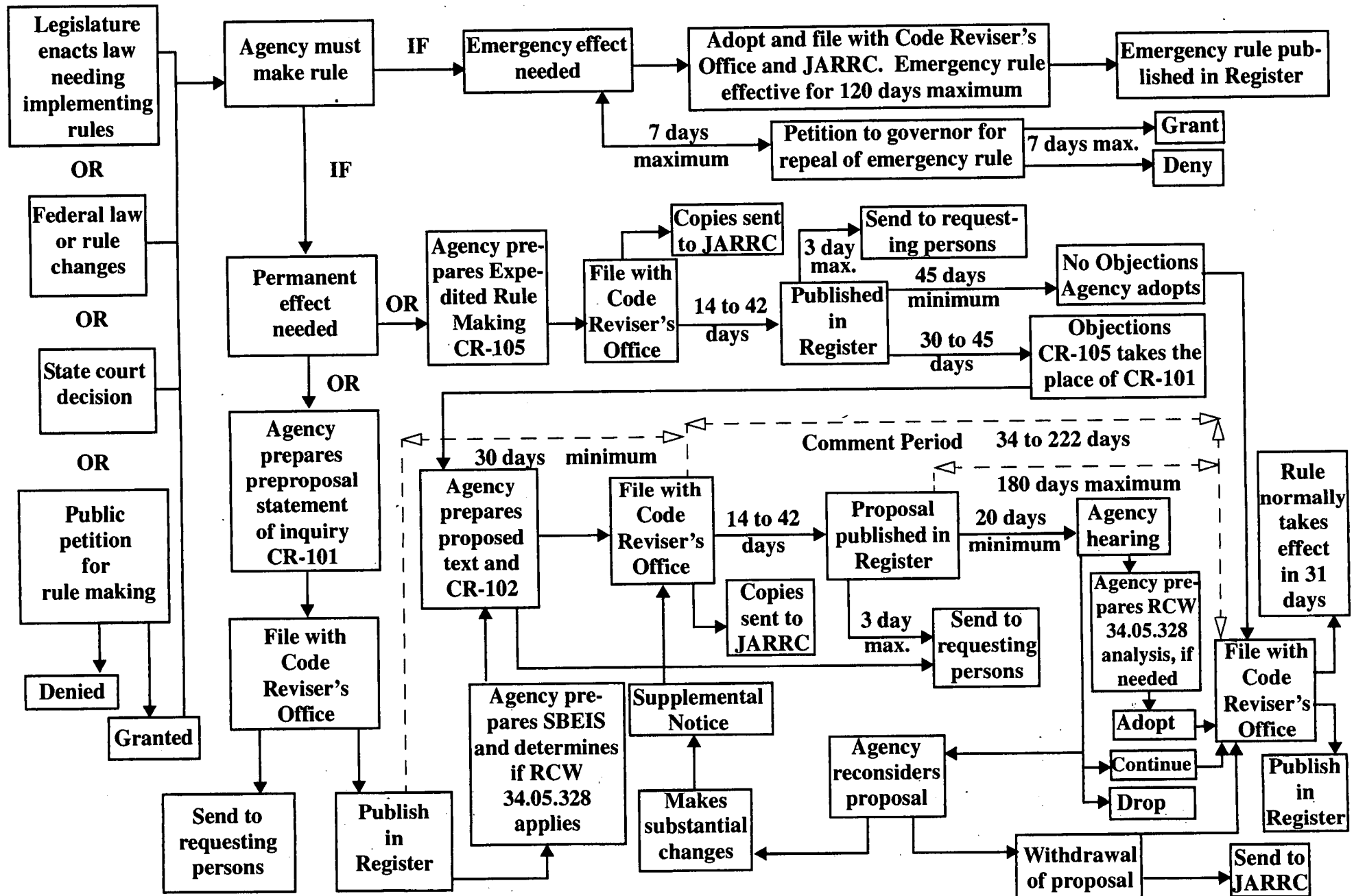
There is less than minor economic impact on business;

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

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

The rule is pure restatement of state statute.

# RULE-MAKING PROCESS



**WSR 04-20-002**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed September 22, 2004, 4:49 p.m.]

Subject of Possible Rule Making: Distribution of shellfish receiving tickets and accountability.

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: Housekeeping change to bring current practices into compliance with existing rules regarding receiving 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 Morris Barker, State Marine Resource Manager, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826. Contact by November 18, 2004. Expected filing date is November 19, 2004.

September 22, 2004

Evan Jacoby  
 Rules Coordinator

**WSR 04-20-010**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed September 24, 2004, 10:24 a.m.]

Subject of Possible Rule Making: WAC sections pertaining to the actuarial recomputation of benefits for members who retire, reenter employment, and then retire again. Sections include, but may not be limited to WAC 415-104-111 (LEOFF 2), 415-108-830 (PERS), 415-110-830 (SERS), and 415-112-840 (TRS).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050(5).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Department of Retirement Systems (DRS) will explore the need to make substantive changes, update and/or correct statutory references, and rewrite for clarity.

Process for Developing New Rule: DRS will develop the draft rule(s) with the assistance of the Attorney General's Office. 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. DRS encourages your active participation in the rule-making process. 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. The notice will include the time and date of a public rules hearing. DRS will send a copy of the notice and the proposed rule(s) to everyone currently on

the mailing list and anyone else who requests a copy. To request a copy or for more information on how to participate, please contact Leslie Saeger, Rules and Contracts Coordinator, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, fax (360) 753-3166, e-mail leslies@drs.wa.gov.

September 22, 2004

Leslie Saeger  
 Rules Coordinator

**WSR 04-20-032**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**OFFICE OF**  
**ADMINISTRATIVE HEARINGS**

[Filed September 28, 2004, 4:59 p.m.]

Subject of Possible Rule Making: Prohibiting firearms or other dangerous weapons at all facilities owned, leased, or operated by the Office of Administrative Hearings (OAH) and in rooms where OAH is conducting an administrative hearing.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 34.12.030(6) and 34.12.080.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules are to enhance safety in administrative hearings by prohibiting weapons. Rules would also provide for consistent notice to parties that weapons are prohibited.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Weapons are already prohibited in courts. Some state agencies (e.g., DSHS and Employment Security Department) where hearings are held already prohibit weapons in those facilities, but there is no consistent rule for all OAH hearings. The process has included consultation with other agency headquarters and with field offices where OAH regularly conducts hearings.

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 Art Wang, Chief Administrative Law Judge, Office of Administrative Hearings, P.O. Box 42488, Olympia, WA 98504-2488, (360) 664-8717, fax (360) 664-8721.

September 24, 2004

Art Wang  
 Chief Administrative  
 Law Judge

**WSR 04-20-048**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**  
 (Examining Board of Psychology)  
 [Filed October 1, 2004, 10:42 a.m.]

**Subject of Possible Rule Making:** Code of ethics for psychologists, possible new sections and/or amendments to WAC 246-924-351 through 246-924-367.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 18.83.050(5) Examining board—Powers and duties.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The Examining Board of Psychology is mandated by RCW 18.83.050(5) to adopt a code of ethics into rule. The rules will establish minimum standards for ethical conduct that are consistent with national standards. They may result in improved public protection and client care.

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

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Janice K. Boden, Program Manager, P.O. Box 47869, Olympia, WA 98405-7869 [98504-7869], (360) 236-4912, fax (360) 236-4909, janice.boden@doh.wa.gov, <http://www.doh.wa.gov/hsqa/hpqad/psychology/default/htm>. Interested parties can participate by attending board meetings and rule-writing workshops, submitting written comments, reviewing and commenting on draft rule proposals, and by providing testimony at the rule hearing.

August 13, 2004  
 Janice K. Boden  
 Program Manager

tions and standards; and clarify vague language. A member of the legislature and the governor have also asked the board to consider standards for monitoring drinking water quality in schools.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** Local health jurisdictions are required to implement the rule and DOH provides technical assistance to the local health jurisdictions. The State Building Code Council, the State Fire Marshal's Office, and the Department of Labor and Industries regulate aspects of school environmental health and safety, generally referenced within the rule. School district boards and superintendents, the State Board of Education, and the Office of the Superintendent of Public Instruction also regulate school facilities. Representatives of these organizations will be invited to participate in the rule development process. An advisory committee will recommend rule revisions to the BOH. Additional agencies, organizations, and individuals will be invited to provide input and comments.

**Process for Developing New Rule:** An advisory committee of public health representatives, school organization representatives, and parent and school staff representatives will recommend rule revisions to the State Board of Health. There will be additional opportunity for public input throughout the rule revision process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Marianne Seifert, Environmental Health Policy Advisor, Washington State Board of Health, P.O. Box 47990, Olympia, WA 98504-7990, phone (360) 236-4103, fax (360) 236-4088, e-mail Marianne.seifert@doh.wa.gov; or Nancy P. Bernard, MPH, WSDOH School Environmental Health and Safety Program Manager, P.O. Box 47825, Olympia, WA 98504-7825, (360) 236-3072, fax (360) 236-2261, nancy.bernard@doh.wa.gov.

September 29, 2004  
 Craig McLaughlin  
 Acting Executive Director

**WSR 04-20-050**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**STATE BOARD OF HEALTH**  
 [Filed October 1, 2004, 10:44 a.m.]

**Subject of Possible Rule Making:** Chapter 246-366 WAC, Primary and secondary schools.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 43.20.050.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The state's primary and secondary school rules were minimally revised in 1991. Students, teachers, and parents have requested that the State Board of Health (BOH) strengthen the rule so that it better protects children's health. The state BOH and the state Department of Health (DOH) reviewed the rule in 2003 with stakeholder involvement, and agreed that significant revisions are needed to protect children's health. The rule revision process should include clear standards regarding temperature, humidity, ventilation and air contaminants; clarify plan review requirements; update references to relevant regula-

**WSR 04-20-054**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**TRANSPORTATION IMPROVEMENT BOARD**  
 [Filed October 1, 2004, 11:15 a.m.]

**Subject of Possible Rule Making:** Proposed changes to local match requirements for transportation projects funded by the transportation partnership program and the arterial improvement program. Potentially impacted: WAC 479-12-150 Matching ratios for arterial improvement program projects and 479-14-180 Local/private matching funds on transportation partnership program projects.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 47.26 RCW, Development in urban areas—Urban arterials.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** RCW 47.26.260 requires the board to consider the financial resources available to counties

and cities when determining matching fund requirements. Currently, two different approaches are used to determine match requirements for the Transportation Improvement Board's (TIB's) two urban programs. The transportation partnership program requires a minimum local match of 20% of the total project cost. The minimum match for the AIP is determined by population and ranges between 10 and 20%. These requirements extend to all incorporated cities with a population of 5,000 or greater and all counties that contain a federal urban area.

Historically, the TIB has used population to determine an agency's required match. After reviewing existing match requirements, staff believes population may not be the most precise indicator of how much local match should be required. Instead of using population to determine match requirements, the TIB is recommending an approach that uses city valuation or county road levy valuation.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: This proposal does not impact state or federal agencies.

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 submitting written comments to Stevan Gorcester, Executive Director, Washington State Transportation Improvement Board, P.O. Box 40901, Olympia, WA 98504-0901, fax (360) 586-1165, e-mail SteveG@tib.wa.gov.

October 1, 2004

Richard F. Struna  
Chief Financial Officer

#### WSR 04-20-072

##### PREPROPOSAL STATEMENT OF INQUIRY BELLINGHAM TECHNICAL COLLEGE

[Filed October 4, 2004, 2:45 p.m.]

Subject of Possible Rule Making: Parking and traffic on college campus, chapter 495B-116 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.50.130.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To update the wording to accurately reflect job titles, locations and publications of the college; to accommodate special parking practices for car-pool-permitted vehicles; and to clarify the time when a parking permit is initially required.

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 Ronda Laughlin, Rules Coordinator, Bellingham Technical College, 3028 Lindbergh Avenue, Bellingham, WA 98225, (360) 752-8334, fax (360) 715-8359.

October 1, 2004

Ronda Laughlin  
Rules Coordinator

#### WSR 04-20-077

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

[Filed October 5, 2004, 9:43 a.m.]

Subject of Possible Rule Making: Chapter 296-46B WAC, Electrical safety standards, administration, and installation.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 19.28 RCW, Electricians and electrical installations.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department plans to review the electrical rule for additions or revisions. These rules are developed to aid both stakeholders and the department to clarify and enforce the electrical statute.

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

Process for Developing New Rule: The Electrical Board and the Electrical Technical Advisory Committee will be used to develop these rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Christine Swanson, Department of Labor and Industries, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6411, fax (360) 902-5292, e-mail copc235@lni.wa.gov.

October 5, 2004

Paul Trause  
Director

#### WSR 04-20-081

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

[Filed October 5, 2004, 10:14 a.m.]

Subject of Possible Rule Making: Changes to commercial razor clam rules.

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: Current rule is considered vague and might inhibit enforceability. Modification would clarify the rule and provide better enforceability.

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, Marine Resources Manager, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826. Contact by November 18, 2004. Expected proposal filing November 19, 2004.

October 5, 2004

Evan Jacoby  
Rules Coordinator

**WSR 04-20-086**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF LICENSING**

[Filed October 5, 2004, 1:54 p.m.]

Subject of Possible Rule Making: Chapter 308-56A WAC, Certificates of title—Motor vehicles, etc.; chapter 308-61 WAC, Unauthorized and abandoned vehicles; chapter 308-93 WAC, Vessel registration and certificates of title; and chapter 308-96A WAC, Vehicle licenses.

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: The Department of Licensing, Vehicle Services Division, is currently looking at removing the requirement for a notary public signature on vehicle titling, licensing and dealer forms. We could instead require the customer to sign a perjury statement, which would be added to the form in place of the notary, verifying that the information contained in the document is true and correct. The notary signature does not add significant value to the document. This requirement creates inconvenience to our customers and has significant workload impacts. The American Association of Motor Vehicle Administrators supports this opinion.

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 Dale R. Brown, Management Analyst, Policy and Projects Office, Mailstop 48001, P.O. Box 2956, Olympia, WA 98507-2957, phone (360) 902-4020, fax (360) 902-3827, TTY (360) 664-8885, e-mail dbrown@dol.wa.gov.

October 5, 2004

Steve Boruchowitz, Manager  
Policy and Projects Office

**WSR 04-20-100**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Aging and Disability Services Administration)  
 [Filed October 5, 2004, 4:11 p.m.]

Subject of Possible Rule Making: Chapter 388-105 WAC, Medicaid rates for contracted home and community residential care services.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Section 13, chapter 142, Laws of 2004, amending RCW 18.20.290; chapter 276, Laws of 2004; RCW 74.39A.030.

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

- To codify the 2.4% vendor rate increases for adult family homes (AFH) and boarding homes with contracts to pro-

vide adult residential care (ARC), enhanced adult residential care (EARC), and assisted living (AL) services.

- To amend the bed hold rules for AFHs and boarding homes with ARC, EARC and AL contracts seeking a third-party payment to hold a bed or unit for twenty-one days or longer.

Process for Developing New Rule: By publishing in the Washington State Register: This CR-101 Preproposal statement of inquiry; CR-102 Proposed rule making; and CR-103 Rule-making order, including a concise explanatory statement. ADSA welcomes the public participation in developing its rule(s). Anyone interested in participating should contact the staff person indicated below. At a later date, ADSA will file proposed rules with the Office of the Code Reviser with a notice of proposed rule making, and send the proposal to everyone currently on the HCS mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. If you would like to be personally notified when draft regulations are ready for review, please contact Patricia Hague, Office of Rates Management, P.O. Box 45600, Olympia, WA 98504-5600, by fax (360) 725-2641 or e-mail [haguepe@dshs.wa.gov](mailto:haguepe@dshs.wa.gov).

October 5, 2004

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**WSR 04-20-101**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Medical Assistance Administration)  
 [Filed October 5, 2004, 4:12 p.m.]

Subject of Possible Rule Making: Amending WAC 388-535-1070 Dental-related services provider information.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.09.500, 74.09.520.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To ensure the quality of professional healthcare providers, the Medical Assistance Administration (MAA) is incorporating into rule the provisions that only a dentist entitled to a specialty designation under WAC 246-817-420 and who meets MAA's certification requirements may bill claims using current procedural terminology (CPT) codes for performing oral and maxillofacial surgery on medical assistance clients.

Process for Developing New Rule: The department invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathy Sayre, Rules Program Manager, P.O. Box 45533, Olympia, WA 98504-5533, phone (360)

725-1342, fax (360) 586-9727, TTY 1-800-848-5429, e-mail sayrek@dshs.wa.gov.

October 5, 2004  
 Brian H. Lindgren, Manager  
 Rules and Policies Assistance Unit

lication by sending written comments via internet to cthompson.aaac@ospi.wednet.edu or by regular mail to A+ Commission Rules Coordinator, P.O. Box 47220, Olympia, WA 98504. For telephone assistance contact Christopher Thompson at (360) 725-6032.

September 28, 2004  
 Christopher M. Thompson  
 Executive Director

**WSR 04-20-102**  
**WITHDRAWAL OF**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Aging and Disability Services Administration)  
 [Filed October 5, 2004, 4:13 p.m.]

The Aging and Disability Services Administration would like to withdraw the preproposal statement of inquiry filed as WSR 04-18-066.

Brian Lindgren, Manager  
 Rules and Policies Assistance Unit

**WSR 04-20-108**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**ACADEMIC ACHIEVEMENT AND**  
**ACCOUNTABILITY COMMISSION**  
 [Filed October 6, 2004, 9:32 a.m.]

Subject of Possible Rule Making: High school graduation and dropout rate goals and other academic indicators.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.655.030 (1)(a).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Under RCW 28A.655.030, the commission has the discretion to adopt or revise school and school district performance improvement goals in reading and mathematics as well as goals addressing high school graduation rates and dropout reduction goals for students in grades seven through twelve. Such rules are intended to help students progress toward achievement of the essential academic learning requirements of RCW 28A.655.060 and help achieve the goals provided in the Basic Education Act (RCW 28A.150.210). This rule will align the state improvement goals with amendments to Washington's Consolidated State Application Accountability Workbook under the No Child Left Behind Act of 2001. The amendments have been submitted by the Office of the Superintendent of Public Instruction and conditionally approved by the United States Department of Education.

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 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 pub-

**WSR 04-20-111**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**HOME CARE**  
**QUALITY AUTHORITY**  
 [Filed October 6, 2004, 10:38 a.m.]

Subject of Possible Rule Making: The Home Care Quality Authority will be writing new rules pertaining to the operation of the referral registry.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The agency will soon provide referral registry services which include placement and removal of individual providers from a registry. Rules regarding the policies and procedures related to the registry operations need to be established in order to provide clear guidance and expectations.

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 Sherri Wills-Green, Referral Registry Program Manager, phone (360) 725-2520, e-mail Swills-Green@hcqa.wa.gov or Jackie Myers, Operations Manager, phone (360) 725-2618, e-mail JMyers@hcqa.wa.gov, fax (360) 407-0304, TTY (360) 493-2637, website www.hcqa.wa.gov, e-mail info@hcqa.wa.gov.

October 1, 2004  
 Mindy L. Schaffner  
 Executive Director





**WSR 04-19-109**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Medical Assistance Administration)  
 [Filed September 21, 2004, 11:14 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-09-035.

Title of Rule and Other Identifying Information: Amending WAC 388-530-1050 Definitions, 388-530-1100 Covered drugs, devices, and pharmaceutical supplies, 388-530-1125 Drug rebate program, 388-530-1150 Noncovered drugs and pharmaceutical supplies and reimbursement limitations, 388-530-1200 Prior authorization program, 388-530-1250 Prior authorization process, 388-530-1260 Therapeutic consultation service, 388-530-1270 Mail order services, 388-530-1400 Maximum allowable cost, 388-530-1900 Drug use and claims review and 388-530-1950 Point-of-sale (POS) system/prospective drug use review; and new sections WAC 388-530-1280 Preferred drug list(s) and 388-530-1290 Therapeutic interchange program.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on November 9, 2004, at 10:00 a.m.

Date of Intended Adoption: Not sooner than November 10, 2004.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., November 9, 2004.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by November 5, 2004, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules implement SB 6088 (chapter 29, Laws of 2003) which directs state agencies to establish an evidence-based prescription drug program that identifies preferred drugs, develop programs to provide prescription drugs at a reasonable price to those in need, and increase public awareness regarding their safe and cost-effective use. To fulfill this legislative mandate, the proposed rules establish new sections within chapter 388-530 WAC, Pharmacy services, for preferred drug list(s) and the therapeutic interchange program (TIP). The proposed rules also amend the sections in chapter 388-530 WAC listed above to update, clarify, and make them consistent with the new sections.

Statutory Authority for Adoption: RCW 74.08.090, 70.14.050.

Statute Being Implemented: RCW 70.14.050, 69.41.-150, 69.41.190, chapter 41.05 RCW.

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

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

Name of Agency Personnel Responsible for Drafting: Ann Myers, 905 Plum Street S.E., Olympia, WA 98501, (360) 725-1345; Implementation and Enforcement: Siri

Childs, 805 Plum Street S.E., Olympia, WA 98501, (360) 725-1564.

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

**Small Business Economic Impact Statement**

**SUMMARY OF PROPOSED RULES:** The Department of Social and Health Services' Medical Assistance Administration (MAA) is proposing to amend chapter 388-530 WAC, Pharmacy services. The 2003 state legislature directed state agencies to implement SB 6088 (chapter 29, Laws of 2003) which directs the establishment of an evidence-based prescription drug program that identifies preferred drugs, develop programs to provide prescription drugs at a reasonable price to those in need, and increase public awareness regarding their safe and cost-effective use. The proposed amendments:

- Establish rules for preferred drug list(s);
- Establish rules for the therapeutic interchange program (TIP);
- Update program-related definitions; and
- Clarify and update other sections in the chapter for consistency with the new sections.

**SMALL BUSINESS ECONOMIC IMPACT STATEMENT:** Chapter 19.85 RCW, the Regulatory Fairness Act, requires that the economic impact of proposed regulations be analyzed in relation to small businesses and outlines the information that must be included in a small business economic impact statement (SBEIS). Preparation of an SBEIS is required when a proposed rule has the potential of placing a more than minor economic impact on business.

The proposed rule changes will have an impact on providers who prescribe drugs for Medicaid clients and pharmacists who fill those prescriptions. The degree of impact will be determined by whether or not a prescriber enrolls as "an endorsing practitioner."

The therapeutic interchange program (TIP) allows prescribers to endorse a Washington preferred drug list (PDL). These "endorsing practitioners" will find that TIP reduces the necessity for prior authorization for nonpreferred drugs. When these endorsing practitioners write a prescription for a drug that is not on the Washington PDL and indicate that substitution is permitted, the filling pharmacist substitutes a therapeutically equivalent drug from the preferred drug list for the prescribed drug and informs the prescriber. In those cases where the endorsing practitioner determines that it is medically necessary for the client to receive a drug that is not on the preferred drug list, and indicates "dispense as written (DAW)" on the prescription, the pharmacist may dispense the nonpreferred drug without obtaining prior authorization from MAA.

A pharmacist who receives a DAW prescription for a nonpreferred drug from a nonendorsing practitioner must obtain prior authorization from MAA prior to dispensing the drug. For these nonendorsing practitioners, TIP may result in an increase in the number of times that prior authorization is required. In these circumstances, the telephone calls and staff time required to communicate with the prescriber and obtain prior authorization may increase.

MAA is currently unable to determine what it may cost pharmacists for the telephone calls and staff time used to contact prescribers or contact MAA for prior authorization. Nor does MAA have specific information regarding the costs to the prescriber for telephone calls and staff time used in consultations with pharmacists. MAA concludes that some new costs may be imposed on the small businesses affected by them, but is unable to determine the extent of those costs at this time. If information about increased costs becomes available after adoption of the rule, MAA will analyze that information and consider possible mitigation measures.

**PRELIMINARY ANALYSIS OF PROBABLE COSTS:** The department anticipates that providers who are nonendorsing practitioners will experience an increase in the number of times that prior authorization is required to fill a prescription for a nonpreferred drug, thereby increasing the staff time necessary to handle these situations. It is also likely that pharmacists will experience an increase in the number of times they must obtain prior authorization to fill a prescription for a nonpreferred drug from a nonendorsing practitioner. While the department anticipates the provider's administrative tasks associated with obtaining prior authorization may increase, it is unable to determine specific costs for tasks such as telephone calls and staff time. The department also expects the number of providers who enroll as endorsing practitioners will increase substantially as the program is implemented, thereby reducing the probable increase in the administrative tasks mentioned above.

**PRELIMINARY ANALYSIS OF PROBABLE BENEFITS:** As more endorsing practitioners participate in the therapeutic interchange program (TIP), less prior authorization will be required by the prescriber and the dispensing pharmacist. Prescribers determine which nonpreferred drugs are medically necessary for the client by writing "Dispense as written (DAW)" on the prescription, and the pharmacist will dispense those nonpreferred drugs without prior authorization being required. The department is unable to quantify specific reductions in administrative burden (such as telephone calls), but anticipates that any associated costs of this program will be exceeded by the benefits that result from a significantly reduced need for prior authorization as TIP is implemented.

**CONCLUSION:** RCW 34.05.328 requires the administration to demonstrate that the probable benefits of a proposed exceed its probable costs. Based on the statements above, MAA concludes that the probable benefits of this proposed rule exceed the probable costs.

A copy of the statement may be obtained by contacting Siri Childs, P.O. Box 45506, Olympia, WA 98504, phone (360) 725-1564, fax (360) 586-8827, e-mail childsa@dshs.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Siri Childs, P.O. Box 45506, Olympia, WA 98504, phone (360) 725-1564, fax (360) 586-8827, e-mail childsa@dshs.wa.gov.

September 15, 2004

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 02-17-023, filed 8/9/02, effective 9/9/02)

**WAC 388-530-1050 Definitions.** The following definitions and abbreviations and those found in WAC 388-500-0005, Medical definitions, apply to this chapter.

**"Active ingredient"** means the chemical component of a drug responsible for a drug's prescribed/intended therapeutic effect. The medical assistance administration (MAA) limits coverage of active ingredients to those with a national drug code (NDC) and those specifically authorized by MAA.

**"Actual acquisition cost (AAC)"** means the actual price a provider paid for a drug marketed in the package size of drug purchased, or sold by a particular manufacturer or labeler. Actual acquisition cost is calculated based on factors including, but not limited to:

- (1) Invoice price, including other invoice-based considerations, such as prompt payment discounts;
- (2) Order quantity and periodic purchase volume discount policies of suppliers (wholesalers and/or manufacturers);
- (3) Membership/participation in purchasing cooperatives;
- (4) Advertising and other promotion/display allowances, free merchandise deals; and
- (5) Transportation or freight allowances.

**"Administer"** means the direct application of a prescription drug by injection, inhalation, ingestion, or any other means, to the body of a patient by a practitioner, or at the direction of the practitioner.

**"Appointing authority"** means, for the evidence-based prescription drug program of the participating agencies in the state-operated health care programs, the following persons acting jointly: the administrator of the health care authority (HCA), the secretary of the department of social and health services (DSHS), and the director of the department of labor and industries (L&I).

**"Automated maximum allowable cost (AMAC)"** means the rate established by the medical assistance administration (MAA) for a multiple-source drug that is not on the maximum allowable cost (MAC) list and that is designated by two or more products at least one of which must be under a federal drug rebate contract.

**"Average wholesale price (AWP)"** means the average price of a drug product that is calculated from wholesale prices nationwide at a point in time and reported to the medical assistance administration (MAA) by MAA's drug pricing file contractor.

**"Certified average wholesale price (CAWP)"** means the price certified by the First Data Bank to be the actual average wholesale price of an infusion, injectable, or inhalation drug marketed by a manufacturer or labeler who is subject to a consent order with the United States Department of Justice regarding the reporting of average wholesale price(s).

**"Combination drug"** means a commercially available drug including two or more active ingredients.

**"Compendia of drug information"** includes the following:

- (1) The American Hospital Formulary Service Drug Information;

(2) The United States Pharmacopeia Drug Information; and

(3) DRUGDEX Information System.

**"Compounding"** means the act of combining two or more active ingredients or adjusting therapeutic strengths in the preparation of a prescription.

**"Contract drugs"** means drugs manufactured or distributed by manufacturers/labelers who signed a drug rebate agreement with the federal Department of Health and Human Services (DHHS).

**"Deliver or delivery"** means the transfer of a drug or device from one person to another.

**"Dispense as written (DAW)"** means an instruction to the pharmacist forbidding substitution of a generic drug or a therapeutically equivalent product for the specific drug product prescribed.

**"Dispensing fee"** means the fee the medical assistance administration (MAA) sets to reimburse pharmacy providers for dispensing MAA covered prescriptions. The fee is MAA's maximum reimbursement for expenses involved in the practice of pharmacy and is in addition to MAA's payment for the costs of covered ingredients.

~~("Drug Evaluation Unit (DEU)" means a unit or group designated by the medical assistance administration (MAA) that makes drug coverage recommendations after studying the clinical and pharmacoeconomic attributes of drugs using the Academy of Managed Care Pharmacy drug review submission process. The DEU has physician and pharmacist staff and an advisory committee of actively practicing physicians and pharmacists.)~~

**"Drug file"** means a list of drug products, pricing and other information provided to the medical assistance administration's (MAA's) drug data base and maintained by a drug file contractor.

**"Drug file contractor"** also referred to as **"drug pricing file contractor,"** means the entity which has contracted to provide the medical assistance administration (MAA), at specified intervals, the latest information and/or data base on drugs and related supplies produced, prepared, processed, packaged, labeled, distributed, marketed, or sold in the marketplace. Contractor-provided information includes, but is not limited to, identifying characteristics of the drug (national drug code, drug name, manufacturer/labeler, dosage form, and strength) for the purpose of identifying and facilitating payment for drugs billed to MAA.

**"Drug rebates"** means payments provided by pharmaceutical manufacturers to state Medicaid programs under the terms of the manufacturers' agreements with the Department of Health and Human Services.

**"Drug-related supplies"** means nondrug items necessary for the administration, delivery, or monitoring of a drug or drug regimen.

**"Drug ((utilization)) use review (DUR)"** means a review of covered outpatient drugs that assures prescriptions are appropriate, medically necessary, and not likely to result in adverse medical outcomes.

**"Emergency kit"** means a set of limited pharmaceuticals furnished to a nursing facility by the pharmacy that provides prescription dispensing services to that facility. Each kit is specifically set up to meet the emergency needs of each

nursing facility's client population and is for use during those hours when pharmacy services are unavailable.

**"Endorsing practitioner"** means a practitioner who has reviewed the Washington preferred drug list (PDL) and has enrolled with the health care authority (HCA), agreeing to allow therapeutic interchange (substitution) of a preferred drug for any nonpreferred drug in a given therapeutic class on the Washington PDL.

**"Estimated acquisition cost (EAC)"** means the medical assistance administration's estimate of the price providers generally and currently pay for a drug marketed or sold by a particular manufacturer or labeler.

**"Evidence-based practice center"** means a research organization that has been designated by the Agency for Healthcare Research and Quality (AHRQ) of the U.S. government to conduct systematic reviews of all the evidence to produce evidence tables and technology assessments to guide health care decisions.

**"Expedited prior authorization (EPA)"** means the process for authorizing selected drugs in which providers use a set of numeric codes to indicate to the medical assistance administration (MAA) the acceptable indications, conditions, diagnoses, and criteria that are applicable to a particular request for drug authorization.

**"Experimental drugs"** means drugs the Food and Drug Administration (FDA) has not approved, or approved drugs when used for medical indications other than those listed by the FDA.

**"Expired drug"** means a drug for which the shelf life expiration date has been reached.

**"Federal upper limit (FUL)"** means the maximum allowable payment set by the Centers for Medicare and Medicaid Services (CMS) (formerly known as HCFA) for a multiple-source drug.

**"Four brand name prescriptions per calendar month limit"** means the maximum number of paid prescription claims for brand name drugs that MAA allows for each client in a calendar month without a complete review of the client's drug profile.

**"Generic code number sequence number"** means a number used by the medical assistance administration's drug file contractor to group together products that have the same ingredients, route of administration, drug strength, and dosage form. It is applied to all manufacturers and package sizes.

**"Generic drug"** means a nonproprietary drug that is required to meet the same bioequivalency tests as the original brand name drug.

**"Inactive ingredient"** means a drug component that remains chemically unchanged during compounding but serves as the:

(1) Necessary vehicle for the delivery of the therapeutic effect; or

(2) Agent for the intended method or rate of absorption for the drug's active therapeutic agent.

**"Ingredient cost"** means the portion of a prescription's cost attributable to the covered drug ingredients or chemical components.

**"Less than effective drug"** or **"DESI"** means a drug for which:

(1) Effective approval of the drug application has been withdrawn by the Food and Drug Administration (FDA) for safety or efficacy reasons as a result of the drug efficacy study implementation (DESI) review; or

(2) The secretary of the department of health and human services (DHHS) has issued a notice of an opportunity for a hearing under section 505(e) of the federal Food, Drug, and Cosmetic Act on a proposed order of the secretary to withdraw approval of an application for such drug under such section because the secretary has determined the drug is less than effective for some or all conditions of use prescribed, recommended, or suggested in its labeling.

**"Long-term therapy"** means a drug regimen a client receives or will receive continuously through and beyond ninety days.

**"MAA preferred drug list (PDL)"** means the medical assistance administration's (MAA's) list of drugs of choice within selected therapeutic drug classes.

**"Maximum allowable cost (MAC)"** means the maximum amount that the medical assistance administration pays for a specific dosage form and strength of a multiple-source drug product.

**"Medically accepted indication"** means any use for a covered outpatient drug:

(1) Which is approved under the federal Food, Drug, and Cosmetic Act; or

(2) The use of which is supported by one or more citations included or approved for inclusion in any of the compendia of drug information, as defined in this chapter.

**"Modified unit dose delivery system"** (also known as blister packs or "bingo/punch cards") means a method in which each patient's medication is delivered to a nursing facility:

(1) In individually sealed, single dose packages or "blisters"; and

(2) In quantities for one month's supply, unless the prescriber specifies a shorter period of therapy.

**"Multiple-source drug"** means a drug marketed or sold by:

(1) Two or more manufacturers or labelers; or

(2) The same manufacturer or labeler:

(a) Under two or more different proprietary names; or

(b) Under a proprietary name and a generic name.

**"National drug code (NDC)"** means the eleven-digit number the manufacturer or labeler assigns to a pharmaceutical product and attaches to the product container at the time of packaging. The NDC is composed of digits in 5-4-2 groupings. The first five digits comprise the labeler code assigned to the manufacturer by the Food and Drug Administration (FDA). The second grouping of four digits is assigned by the manufacturer to describe the ingredients, dose form, and strength. The last grouping of two digits describes the package size.

**"Noncontract drugs"** are drugs manufactured or distributed by manufacturers/labelers who have not signed a drug rebate agreement with the federal Department of Health and Human Services.

**"Nonpreferred drug"** means a drug that has not been selected as a preferred drug within the therapeutic class(es) of drugs on the preferred drug list.

**"Obsolete NDC"** means a national drug code replaced or discontinued by the manufacturer or labeler.

**"Over-the-counter (OTC) drugs"** means drugs that do not require a prescription before they can be sold or dispensed.

**"Peer reviewed medical literature"** means a research study, report, or findings regarding the specific use of a drug that has been submitted to one or more professional journals, reviewed by experts with appropriate credentials, and subsequently published by a reputable professional journal. A clinical drug study used as the basis for the publication must be a double blind, randomized, placebo or active control study.

**"Pharmacist"** means a person licensed in the practice of pharmacy by the state in which the prescription is filled.

**"Pharmacy"** means every location licensed by the State Board of Pharmacy in the state where the practice of pharmacy is conducted.

**"Point-of-sale (POS)"** means a pharmacy claims processing system capable of receiving and adjudicating claims on-line.

**"Practice of pharmacy"** means the practice of and responsibility for:

(1) Accurately interpreting prescription orders;

(2) Compounding drugs;

(3) Dispensing, labeling, administering, and distributing of drugs and devices;

(4) Providing drug information to the client that includes, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices;

(5) Monitoring of drug therapy and use;

(6) Proper and safe storage of drugs and devices;

(7) Documenting and maintaining records;

(8) Initiating or modifying drug therapy in accordance with written guidelines or protocols previously established and approved for a pharmacist's practice by a practitioner authorized to prescribe drugs; and

(9) Participating in drug utilization reviews and drug product selection.

**"Practitioner"** means an individual who has met the professional and legal requirements necessary to provide a health care service, such as a physician, nurse, dentist, physical therapist, pharmacist or other person authorized by state law as a practitioner.

**"Preferred drug"** means ((MAA's)) drug(s) of choice within a selected therapeutic class that are selected based on clinical evidence of safety, efficacy, and effectiveness.

**"Prescriber"** means a physician, osteopathic physician/surgeon, dentist, nurse, physician assistant, optometrist, pharmacist, or other person authorized by law or rule to prescribe drugs. See WAC 246-863-100 for pharmacists' prescriptive authority.

**"Prescription"** means an order for drugs or devices issued by a practitioner authorized by state law or rule to prescribe drugs or devices, in the course of the practitioner's professional practice, for a legitimate medical purpose.

**"Prescription drugs"** means drugs required by any applicable federal or state law or regulation to be dispensed by prescription only or that are restricted to use by practitioners only.

**"Prior authorization program"** means a medical assistance administration (MAA) program, subject to the requirements of 42 U.S.C. 1396r-8 (d)(5), that may require, as a condition of payment, that a drug on MAA's drug file be prior authorized. See WAC 388-530-1200.

**"Prospective drug ((utilization)) use review (PRO-DUR)"** means a process in which a request for a drug product for a particular client is screened, before the product is dispensed, for potential drug therapy problems.

**"Reconstitution"** means the process of returning a single active ingredient, previously altered for preservation and storage, to its approximate original state. Reconstitution is not compounding.

**"Retrospective drug ((utilization)) use review (RETRO-DUR)"** means the process in which client's drug utilization is reviewed on a periodic basis to identify patterns of fraud, abuse, gross overuse, or inappropriate or unnecessary care.

**"Risk/benefit ratio"** means the result of assessing the side effects of a drug or drug regimen compared to the positive therapeutic outcome of therapy.

**"Single source drug"** means a drug produced or distributed under an original new drug application approved by the Food and Drug Administration (FDA).

**"Substitute"** means to replace a prescribed drug, with the prescriber's authorization, with:

- (1) An equivalent generic drug product of the identical base or salt as the specific drug product prescribed; or
- (2) A therapeutically equivalent drug other than the identical base or salt.

**"Systematic review"** means a specific and reproducible method to identify, select, and appraise all the studies that meet minimum quality standards and are relevant to a particular question. The results of the studies are then analyzed and summarized into evidence tables to be used to guide evidence-based decisions.

**"TCS"** See **"therapeutic consultation service."**

**"Terminated NDC"** means a national drug code (NDC) that is discontinued by the manufacturer for any reason. The NDC may be terminated immediately due to health or safety issues or it may be phased out based on the product's shelf life.

**"Therapeutic alternative"** means a drug product that contains a different chemical structure than the drug prescribed, but is in the same pharmacologic or therapeutic class and can be expected to have a similar therapeutic effect and adverse reaction profile when administered to patients in a therapeutically equivalent dosage.

**"Therapeutic class"** means a group of drugs used for the treatment, remediation, or cure of a specific disorder or disease.

**"Therapeutic consultation service (TCS)"** means the prescriber and a medical assistance administration (MAA) designated clinical pharmacist jointly review prescribing activity when drug claims for a medical assistance client exceed program limitations.

**"Therapeutic interchange"** means to dispense a therapeutic alternative to the prescribed drug when an endorsing practitioner who has indicated that substitution is permitted, prescribes the drug. See Therapeutic interchange program (TIP).

**"Therapeutic interchange program (TIP)"** means the process developed by participating state agencies under RCW 69.41.190 and 70.14.050, to allow prescribers to endorse a Washington preferred drug list, and in most cases, required pharmacists to automatically substitute a preferred, equivalent drug from the list.

**"Therapeutically equivalent"** means drug products that contain different chemical structures but have the same efficacy and safety when administered to an individual, as determined by:

- (1) Information from the Food and Drug Administration (FDA);
- (2) Published and peer-reviewed scientific data;
- (3) Randomized controlled clinical trials; or
- (4) Other scientific evidence.

**"Tiered dispensing fee system"** means a system of paying pharmacies different dispensing fee rates, based on the individual pharmacy's total annual prescription volume and/or the drug delivery system used.

**"True unit dose delivery"** means a method in which each patient's medication is delivered to the nursing facility in quantities sufficient only for the day's required dosage.

**"Unit dose drug delivery"** means true unit dose or modified unit dose delivery systems.

**"Usual and customary charge"** means the fee that the provider typically charges the general public for the product or service.

**"Washington preferred drug list (Washington PDL)"** means the list of drugs selected by the appointing authority to be used by applicable state agencies as the basis for purchase of drugs in state-operated health care programs.

**AMENDATORY SECTION** (Amending WSR 02-17-023, filed 8/9/02, effective 9/9/02)

**WAC 388-530-1100 Covered drugs, devices, and pharmaceutical supplies.** (1) The medical assistance administration (MAA) covers medically necessary drugs, devices, and pharmaceutical supplies when they are prescribed for medically accepted indications, subject to the restrictions described in this section and other published WAC. For exceptions to the prescription requirement, see subsection (4) of this section.

(2) MAA reimburses a provider for medically necessary drugs only when the manufacturer has a signed drug rebate agreement with the federal Department of Health and Human Services (DHHS). Exceptions to the drug rebate requirement are described in WAC 388-530-1125 which describes the drug rebate program.

(3) MAA covers the following medically necessary drugs, devices, and supplies:

- (a) Outpatient drugs, generic or brand name.
- (b) Over-the-counter (OTC) drugs when the drug:
  - (i) Is prescribed by a provider with prescribing authority (see exceptions in subsection (4) of this section);
  - (ii) Is not excluded from coverage under WAC 388-530-1150;
  - (iii) Is a less costly therapeutic alternative; and
  - (iv) Does not require prior authorization.
- (c) Drugs requiring prior authorization when:

(i) Prior authorized by MAA; or  
 (ii) They meet MAA's published expedited prior authorization (EPA) criteria and the dispensing pharmacist follows the EPA process described in WAC 388-530-1250(4).

(d) Oral, topical and/or injectable drugs, vaccines for immunizations, and biologicals, prepared or packaged for individual use.

(e) Drugs with obsolete national drug codes (NDCs) for up to two years from the date the NDC is designated obsolete, unless the drug is expired as defined in WAC 388-530-1050.

(f) Drugs and supplies used in conjunction with family planning under subsection (4) of this section and under chapter 388-532 WAC, including drugs dispensed for emergency contraception and nonprescribed OTC contraceptive supplies.

(g) Drugs, devices, and supplies provided under unusual and extenuating circumstances to clients by providers who request and receive MAA approval.

(h) Drug-related supplies as determined in consultation with federal guidelines.

(i) Preferred drugs in drug classes on the preferred drug list(s), according to WAC 388-530-1280.

(4) MAA covers family planning drugs, devices, and supplies per chapter 388-532 WAC and as follows:

(a) MAA covers certain over-the-counter (OTC) family planning drugs, devices, and supplies without a prescription when they meet the criteria of WAC 388-530-1200(3); ~~((and))~~

(b) MAA may cover family planning drugs that do not meet the federal drug rebate requirement in WAC 388-530-1125 on a case-by-case basis, under the provisions of subsection (6) of this section; and

(c) MAA covers contraceptive patches, contraceptive rings, and oral contraceptives (excluding emergency contraceptive pills, which are not subject to the at-least-three-month supply limitation), only when dispensed in at least a three-month supply, unless otherwise directed by the prescriber.

(5) MAA determines if certain drugs are medically necessary and covered with or without restrictions based on evidence contained in compendia of drug information and peer-reviewed medical literature.

(a) Decisions regarding restrictions are based on, but are not limited to:

- (i) Client safety;
- (ii) FDA-approved indications;
- (iii) Quantity;
- (iv) Client age and/or gender; and
- (v) Cost.

(b) Restrictions ~~((apply))~~ and limitations may include, but are not limited to:

(i) Exclusion of drugs covered in the nursing facility per diem rate;

(ii) Number of refills within a calendar month; ~~((and))~~

(iii) Refills requested before seventy-five percent of the previously dispensed supply is scheduled to be exhausted; and

(iv) Quantity and days-supply dispensed.

(6) MAA evaluates requests for drugs, devices, and pharmaceutical supplies that are subject to limitations or other restrictions in this chapter on a case-by-case basis. MAA

approves the requested services that are beyond the stated limits or restrictions of this chapter when MAA determines that the services are medically necessary, under subsection (5) of this section and under the standards for covered services in WAC 388-501-0165.

AMENDATORY SECTION (Amending WSR 02-17-023, filed 8/9/02, effective 9/9/02)

**WAC 388-530-1125 Drug rebate program.** The medical assistance administration (MAA) covers only those outpatient prescription drugs and over-the-counter (OTC) drugs supplied by manufacturers who have a drug rebate contract with the Department of Health and Human Services (DHHS) ~~((MAA may make exceptions to the drug rebate requirement based on medical necessity on a case-by-case basis. Exceptions to this requirement must be prior authorized by MAA)), according to 42 U.S.C. 1396r-8.~~ MAA may exempt the following from the drug rebate requirement in WAC 388-530-1100(2):

(1) Family planning drugs as provided by WAC 388-530-1100(4); and

(2) Other drugs approved under WAC 388-501-0165.

AMENDATORY SECTION (Amending WSR 02-17-023, filed 8/9/02, effective 9/9/02)

**WAC 388-530-1150 Noncovered drugs and pharmaceutical supplies and reimbursement limitations.** (1) The medical assistance administration (MAA) does not cover:

(a) Brand or generic drugs, when the manufacturer has not signed a rebate agreement with the federal Department of Health and Human Services. Refer to WAC 388-530-1125 for information on the drug rebate program.

(b) A drug prescribed:

(i) For weight loss or gain;

(ii) For infertility, frigidity, impotency, or sexual dysfunction;

(iii) For cosmetic purposes or hair growth; or

(iv) To promote ~~((smoking))~~ to ~~cessation, except as described in WAC ((388-533-0400(21), smoking))~~ 388-533-0345 (3)(d) tobacco cessation for pregnant women.

(c) Over-the-counter (OTC) drugs and supplies, except as described under WAC 388-530-1100.

(d) Prescription vitamins and mineral products, except:

(i) When prescribed for clinically documented deficiencies;

(ii) Prenatal vitamins, only when prescribed and dispensed to pregnant women; or

(iii) Fluoride preparations for children under the early and periodic screening, diagnosis, and treatment (EPSDT) program.

(e) A drug prescribed for an indication that is not evidence based as determined by:

(i) MAA in consultation with federal guidelines; or

(ii) The Drug ~~((Utilization and Education (DUE) Council))~~ Use Review (DUR) board; and

(iii) MAA medical consultants and MAA pharmacist(s).

(f) Drugs listed in the federal register as "less-than-effective" ("DESI" drugs) or which are identical, similar, or related to such drugs.

- (g) Drugs that are:
- (i) Not approved by the Food and Drug Administration (FDA); or
- (ii) Prescribed for non-FDA approved indications or dosing, unless prior authorized; or
- (iii) Unproven for efficacy or safety.
- (h) Outpatient drugs for which the manufacturer requires as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or manufacturer's designee.
- (i) Drugs requiring prior authorization for which MAA authorization has been denied.
- (j) Preservatives, flavoring and/or coloring agents.
- (k) Less than a one-month supply of drugs for long-term therapy.
- (l) A drug with an obsolete National Drug Code (NDC) more than two years from the date the NDC is designated obsolete by the manufacturer.
- (m) Products or items that do not have an eleven-digit NDC.
- (n) Nonpreferred drugs when a therapeutic equivalent is on the preferred drug list(s) (PDL), according to WAC 388-530-1100, 388-530-1280, and 388-530-1290.
- (o) Less than a three-month supply of contraceptive patches, contraceptive rings, or oral contraceptives (excluding emergency contraceptive pills), unless otherwise directed by the prescriber.
- (2) MAA does not reimburse enrolled providers for:
  - (a) Outpatient drugs, biological products, insulin, supplies, appliances, and equipment included in other reimbursement methods including, but not limited to:
    - (i) Diagnosis-related group (DRG);
    - (ii) Ratio of costs-to-charges (RCC);
    - (iii) Nursing facility per diem;
    - (iv) Managed care capitation rates;
    - (v) Block grants; or
  - (vi) Drugs prescribed for clients who are on the MAA hospice program when the drugs are related to the client's terminal condition.
  - (b) Any drug regularly supplied as an integral part of program activity by other public agencies (e.g., immunization vaccines for children).
  - (c) Prescriptions written on pre-signed prescription blanks filled out by nursing facility operators or pharmacists. MAA may terminate the core provider agreement of pharmacies involved in this practice.
  - (d) Drugs used to replace those taken from nursing facility emergency kits.
  - (e) Drugs used to replace a physician's stock supply.
  - (f) Free pharmaceutical samples.
  - (g) A drug product after the product's national drug code (NDC) termination date.
  - (h) A drug product whose shelf life has expired.
  - (3) MAA evaluates each request for a noncovered drug under WAC 388-530-1100(5) and under the provisions of WAC 388-501-0165.

AMENDATORY SECTION (Amending WSR 02-17-023, filed 8/9/02, effective 9/9/02)

**WAC 388-530-1200 Prior authorization program.**

(1) The medical assistance administration (MAA) pharmacist(s), medical consultants, and drug utilization review team evaluate drugs to determine prior authorization status on the drug file. MAA may consult with ~~((a drug evaluation unit, the Drug Utilization and Education (DUE) Council))~~ an evidence-based practice center, the Drug Use Review (DUR) Board, and/or participating MAA providers in this evaluation.

(2) To facilitate the evaluation process for a drug product, a drug manufacturer may send the MAA pharmacist(s) a written request and the following supporting documentation:

- (a) Background data about the drug;
- (b) Product package information;
- (c) Any pertinent clinical studies;
- (d) Outcome and effectiveness data using the Academy of Managed Care Pharmacy's drug review submission process; and

(e) Any additional information the manufacturer considers appropriate.

(3) MAA evaluates a drug based on, but not limited to, the following criteria:

- (a) Whether the manufacturer has signed a federal drug rebate agreement except as specified in WAC 388-530-1125;
- (b) Whether the drug is a less-than-effective drug;
- (c) The drug's risk/benefit ratio;
- (d) Whether like drugs are on MAA's drug file list and there are less costly therapeutic alternative drugs;
- (e) Whether the drug falls into one of the categories authorized by federal law to be excluded from coverage;
- (f) The drug's potential for abuse; and
- (g) Whether outcome data demonstrate that the drug is cost effective.

(4) MAA updates and reviews the drug file list as necessary and periodically publishes a list of drugs not requiring prior authorization.

(5) Manufacturers may seek review of MAA's prior authorization decisions by writing to MAA's chief medical officer.

AMENDATORY SECTION (Amending WSR 02-17-023, filed 8/9/02, effective 9/9/02)

**WAC 388-530-1250 Prior authorization process.**

(1) The medical assistance administration (MAA) requires pharmacies to obtain prior authorization for:

- (a) Drugs with a prior authorization indicator on the MAA drug file list;
- (b) Drugs that exceed specific dosage or unit limits as indicated by the Food and Drug Administration (FDA); ~~((and))~~

(c) Additional fills in a calendar month for drugs dispensed for a less than thirty-four day supply when:

(i) Two fills for the same prescription have been dispensed, except for:

- (A) Over-the-counter (OTC) contraceptives; or
- (B) Drugs prescribed to a suicidal patient or a patient at risk for potential drug abuse; or



(ii) Four fills in the same calendar month for the same prescription have been dispensed for any of the following:

- (A) Antibiotics;
- (B) Anti-asthmatics;
- (C) Schedule II and III drugs;
- (D) Antineoplastic agents;
- (E) Topical preparations; or

(F) Propoxyphene, propoxyphene napsylate, and all propoxyphene combinations.

(d) A nonpreferred drug in a drug class on the Washington PDL when the prescription is received from a nonendorsing practitioner, according to WAC 388-530-1290; and

(e) A nonpreferred drug in a drug class that is not on the Washington PDL and is not subject to TIP, when the prescription is received from an endorsing or a nonendorsing practitioner, according to WAC 388-530-1280.

(2) The pharmacy provider must make a request to MAA for a drug requiring prior authorization before dispensing the drug. The pharmacy provider must:

(a) Ensure the request states the medical diagnosis and includes medical justification for the drug; and

(b) Keep on file documentation of the prescriber's medical justification that is communicated to the pharmacy by the prescriber at the time the prescription is filled. The records must be retained for the period specified in WAC 388-502-0020 (1)(c).

(3) MAA evaluates a request for prior authorization based on, but not limited to:

(a) Requirements in this section;

(b) Requirements under WAC 388-530-1000, 388-530-1150, and 388-501-0165; and

(c) The least costly alternative between two or more products of equal effectiveness.

(4) MAA authorizes certain prescribed drugs through a process called "expedited prior authorization (EPA)." MAA determines which drugs can be authorized through the EPA process by using factors (~~which~~) that include, but are not limited to:

(a) Product cost;

(b) Potential for clinical misuse;

(c) Narrow therapeutic indication; and

(d) Safety concerns.

(5) MAA may authorize reimbursement at the brand name estimated acquisition cost (EAC) for a brand name multiple-source drug that would have been reimbursed at the maximum allowable cost (MAC) for that multiple-source drug, if:

(a) The pharmacist calls for prior authorization; and

(b) The prescriber indicates:

(i) "Dispense as written" on the prescription; and

(ii) That a specific brand is "medically necessary" for a particular client; or

(c) The availability of generic equivalents in the marketplace is severely curtailed and the price disparity between the brand name EAC and the generic MAC reimbursement affects clients' access to the medication.

(6) MAA provides a response, by telephone or other telecommunication device, within twenty-four hours of a request for drugs that require prior authorization, if the request is received during normal state business hours. If a provider

needs prior authorization to dispense a drug during a weekend or Washington state holiday, the provider may dispense the drug without prior authorization only when:

(a) Given in an emergency;

(b) MAA receives justification within seventy-two hours of the fill date, excluding weekends and Washington state holidays; and

(c) MAA agrees with the justification and approves the request.

(7) MAA's prior authorization:

(a) Is limited to a decision of medical appropriateness for a drug; and

(b) Does not guarantee payment.

AMENDATORY SECTION (Amending WSR 01-24-066, filed 11/30/01, effective 1/2/02)

**WAC 388-530-1260 Therapeutic consultation service.** (1) The medical assistance administration (MAA) provides a therapeutic consultation service (TCS) to aid appropriate utilization of prescription drugs, improve quality of care and health care outcomes for medical assistance clients, and promote cost effectiveness.

(2) A TCS review occurs when a drug claim(~~:~~

~~(a))~~ exceeds the four-brand-name-prescriptions-per-calendar-month limit(~~:~~

~~(b) Is for a nonpreferred drug within selected therapeutic classes).~~ The exceptions to this are:

(a) When the brand-name drug is a preferred drug on the Washington Preferred Drug List (PDL) (preferred brand-name drugs on the Washington PDL do not count against the limit); or

(b) When an endorsing practitioner indicates dispense as written (DAW) for a nonpreferred drug. Nonpreferred drugs do not count against the limit in these cases. However, if a nonendorsing practitioner indicates DAW for a nonpreferred drug, the nonpreferred drug counts against the limit and requires prior authorization, regardless of the DAW indication. See WAC 388-530-1290.

(3) Through TCS, MAA(~~:~~

~~(a))~~ provides a complete drug profile review for each client whose claims exceed four brand name prescriptions in a calendar month. MAA excludes the following from the four brand name prescriptions per calendar month limit:

~~((+))~~ (a) Generic drugs; and

~~((+))~~ (b) The following drugs:

~~((A))~~ (i) Antidepressants;

~~((B))~~ (ii) Antipsychotics;

~~((C))~~ (iii) Chemotherapy;

~~((D))~~ (iv) Contraceptives;

~~((E))~~ (v) HIV;

~~((F))~~ (vi) Immunosuppressants; and

~~((G))~~ (vii) Hypoglycemia rescue agents.

~~((b) Publishes a list of preferred drugs within selected therapeutic classes. MAA chooses a drug or drugs from a selected therapeutic class for placement on the preferred list when:~~

~~(i) The drugs in the class are essentially equal in terms of safety and efficacy; and~~



~~(ii) The selected drug or drugs may be the least costly in the therapeutic class.)~~

(4) When a pharmacy provider submits a claim that exceeds ~~((TCS limitations))~~ the four-brand-name-prescriptions-per-calendar-month limitation for a client, MAA notifies the pharmacy provider that a TCS review is required.

(5) The TCS review process includes all of the following:

(a) Pharmacy provider requirements:

(i) The pharmacy provider notifies the prescriber that the prescriber or prescriber designee must call the TCS toll-free telephone number to begin a TCS review according to subsection (2) of this section; and

(ii) If the TCS review cannot take place due to the prescriber's or prescriber designee's unavailability, the pharmacy provider has the option to dispense an emergency supply of the requested drug only when:

(A) Given in an emergency;

(B) MAA receives justification within seventy-two hours of the fill date, excluding weekends and Washington state holidays; and

(C) MAA agrees with the justification and approves the request.

(b) Prescriber requirements:

(i) When the pharmacy provider contacts the client's prescriber as described in subsection (5)(a)(i) of this section, the prescriber or prescriber designee ~~((contacts))~~ calls the TCS toll-free telephone number to contact the MAA designee (MAA-designated clinical pharmacist) to begin a TCS review;

(ii) After the prescriber or prescriber designee and the MAA designee review the client's drug profile and discuss clinically sound options and cost effective alternative drug(s), the prescriber does one of the following:

(A) Changes the prescription to an alternate drug or preferred drug and contacts the client's pharmacy with the new prescription;

(B) Provides the MAA designee with medical justification for the requested drug and the MAA designee authorizes the drug under the provisions of medical necessity as defined in WAC 388-500-0005; or

(C) Does not agree to prescribe an alternate drug or preferred drug and does not provide medical justification for the requested drug, then:

(I) The MAA designee authorizes only a one-month supply of the requested drug with no refills and sends the initiating prescriber a copy of the client's drug profile and a therapy authorization turnaround form;

(II) The prescriber signs the therapy authorization turnaround form and returns it to the MAA designee; and

(III) Upon receipt of the therapy authorization turnaround form, the MAA designee authorizes ~~((six additional))~~ up to twelve months of the requested drug.

(c) MAA designee responsibilities:

(i) Notifies the following by facsimile, electronic mail, or telephone call, the results of the TCS review:

(A) Prescriber; and

(B) Pharmacy provider~~((; and~~

~~(C) MAA for notification to the client. When the TCS indicates a need for a change, limitation, or denial of the~~

~~requested drug, MAA notifies the client according to WAC 388-501-0165(7)).~~

(ii) Notifies MAA clinical program staff when concerns for client safety are identified during the TCS reviews. See WAC 388-530-1100(2) for how MAA determines restrictions on drug coverage based on, but not limited to, client safety.

(iii) Contacts other prescribers identified during the TCS review when opportunities to further improve the client's healthcare outcome are discovered.

~~((6) A client who does not agree with a TCS decision has a right to a fair hearing under chapter 388-02 WAC. After receiving a request for a fair hearing, MAA may request additional information from the client, the prescriber, or the pharmacy provider. After MAA reviews the available information, the result may be:~~

~~(a) A reversal of the initial department decision;~~

~~(b) Resolution of the client's issue(s); or~~

~~(c) A fair hearing conducted per chapter 388-02 WAC.)~~

AMENDATORY SECTION (Amending WSR 03-05-043, filed 2/13/03, effective 3/16/03)

**WAC 388-530-1270 Mail-order services.** The medical assistance administration (MAA) provides a contracted mail-order pharmacy service for client use. The mail-order contractor is selected as a result of a competitive procurement process.

(1) The contracted mail-order pharmacy service is available as an option to all medical assistance clients, subject to the:

(a) Scope of the client's medical care program;

(b) Availability of services from the contracted mail-order provider; and

(c) Special terms and conditions described in subsection (2) and (3) of this section.

(2) The mail-order prescription service may not dispense medication in a quantity greater than authorized by the prescriber. (See RCW 18.64.360(5), Nonresident pharmacies.)

(3) Prescribed medications may be filled by the mail-order pharmacy service within the following restrictions:

(a) Drugs available from mail-order in no more than a ninety day supply include:

(i) Preferred drugs (see WAC ~~((388-530-1260))~~ 388-530-1280);

(ii) Generic drugs; and,

(iii) Drugs that do not require prior authorization or expedited prior authorization (see WAC 388-530-1200 and 388-530-1250).

(b) Drugs available in no more than a thirty-four-day supply:

(i) Controlled substances (schedules II through V); and

(ii) Drugs requiring prior authorization or expedited prior authorization (see WAC 388-530-1200).

(c) Other pharmacy restrictions (chapter 388-530 WAC, Pharmacy services) continue to apply.

(4) The contracted mail-order pharmacy services are reimbursed at levels lower than those established for the regular outpatient pharmacy services.

NEW SECTION

**WAC 388-530-1280 Preferred drug list(s).** This section contains the medical assistance administration's (MAA) rules for preferred drug list(s) (PDL). Under RCW 69.41.090 and 70.14.050, MAA and other state agencies cooperate in developing and maintaining preferred drug list(s).

(1) The Washington preferred drug list (PDL):

(a) Washington state contracts with evidence-based practice center(s) for systematic reviews of drug(s).

(b) The Pharmacy and Therapeutics (P&T) Committee reviews and evaluates the safety, efficacy, and outcomes of prescribed drugs, using evidence-based information provided by the evidence-based practice center(s).

(c) The P&T committee makes recommendations to state agencies as to which drug(s) to include on the Washington PDL, under chapter 182-50 WAC.

(d) The appointing authority makes the final selection of drugs included on the Washington PDL.

(d) Nonpreferred drugs within a therapeutic class on the Washington PDL are subject to the Therapeutic Interchange Program (TIP) according to WAC 388-530-1290.

(2) The medical assistance administration's (MAA's) PDL. Drugs on MAA's PDL:

(a) Are not part of the Washington PDL;

(b) Are not subject to TIP; and

(c) Continue to require prior authorization when they are designated as nonpreferred.

(3) Combination drugs that are not on the Washington PDL, that are not reviewed by the evidence-based practice center(s), and that are not subject to TIP under WAC 388-530-1290, are considered for coverage according to MAA's prior authorization program.

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

NEW SECTION

**WAC 388-530-1290 Therapeutic interchange program (TIP).** This section contains the medical assistance administration's (MAA) rules for the Endorsing Practitioner Therapeutic Interchange Program (TIP). TIP is established under RCW 69.41.190 and 70.14.050. The statutes require state-operated prescription drug programs to allow physicians and other prescribers to endorse a Washington preferred drug list (PDL) and, in most cases, requires pharmacists to automatically substitute a preferred, equivalent drug from the list.

(1) The Therapeutic Interchange Program (TIP) applies only to drugs within therapeutic classes on the Washington PDL that are prescribed by an endorsing practitioner. TIP does not apply to other drugs that require MAA's prior authorization or to other program limitations.

(2) A practitioner who wishes to become an endorsing practitioner must specifically enroll with the health care authority (HCA) as such, under the provisions of chapter 182-50 WAC.

(3) When an endorsing practitioner writes a prescription for an MAA client for a nonpreferred drug and indicates that substitution is permitted, the pharmacist must:

(a) Dispense the preferred drug in that therapeutic class in place of the nonpreferred drug. In the event that more than one preferred drug in that therapeutic class is on the Washington PDL, dispense one of the preferred drugs in place of the nonpreferred drug; and

(b) Notify the endorsing practitioner of the specific drug and dose dispensed.

(4) When an endorsing practitioner determines that a nonpreferred drug is medically necessary, all of the following apply:

(a) The practitioner must indicate that the prescription is to be dispensed as written (DAW);

(b) The filling pharmacist dispenses the nonpreferred drug as prescribed; and

(c) MAA does not require prior authorization to dispense the nonpreferred drug.

(5) In the event the following therapeutic drug classes are on the Washington PDL, pharmacists will not substitute a preferred drug for a nonpreferred drug in these therapeutic drug classes when the endorsing practitioner prescribes a refill (including the renewal of a previous prescription or adjustments in dosage):

(a) Antipsychotic;

(b) Antidepressant;

(c) Chemotherapy;

(d) Antiretroviral; or

(e) Immunosuppressive.

(6) When a pharmacist fills a prescription from a nonendorsing practitioner for an MAA client and the prescription is for a nonpreferred drug, the pharmacist must obtain prior authorization from MAA or its designee to dispense the nonpreferred drug.

**AMENDATORY SECTION** (Amending WSR 02-17-023, filed 8/9/02, effective 9/9/02)

**WAC 388-530-1400 Maximum allowable cost (MAC) methodology.** (1) The medical assistance administration (MAA) establishes a maximum allowable cost (MAC) for a multiple-source drug which is available from at least two manufacturers/labelers.

(2) MAA determines the MAC for a multiple-source drug by:

(a) When drug wholesalers make acquisition cost data available to MAA, MAA:

(i) Identifies what products are available from wholesalers for each MAC drug;

(ii) Determines pharmacy subscribers' approximate acquisition costs for these products;

(iii) Ranks the products in descending order by approximate acquisition cost; and

(iv) Establishes the MAC at a level which gives pharmacists access to one product from a manufacturer with a qualified rebate agreement (see WAC 388-530-1125).

(b) When drug wholesalers do not make acquisition cost data available to MAA, MAA may set a MAC for a drug in the same manner described in WAC 388-530-1350 (1)(b).

(3) The MAC established for a multiple-source drug does not apply if the written prescription identifies that a specific brand is medically necessary for a particular client. In

such cases, the estimated acquisition cost (EAC) for the particular brand applies, provided prior authorization is obtained from MAA as specified under WAC 388-530-1250(5). Prior authorization.

(4) Except as provided in subsection (3) of this section, MAA reimburses providers for a multiple-source drug at the lowest of the rates calculated under the methods listed in WAC 388-530-1300(1).

(5) The MAC established for a multiple-source drug applies to all package sizes of that drug, including those identified as unit dose National Drug Codes (NDCs) by the manufacturer(s) of the drug.

**AMENDATORY SECTION** (Amending WSR 02-17-023, filed 8/9/02, effective 9/9/02)

**WAC 388-530-1900 Drug ((utilization)) use and claims review.** (1) The medical assistance administration's (MAA's) drug ((utilization)) use review (DUR) consists of:

(a) A prospective drug ((utilization)) use review (Pro-DUR) that requires all pharmacy providers to:

- (i) Obtain patient histories of allergies, idiosyncrasies, or chronic condition(s) which may relate to drug utilization;
- (ii) Screen for potential drug therapy problems; and
- (iii) Counsel the patient in accordance with existing state pharmacy laws and federal regulations; and

(b) A retrospective drug ((utilization)) use review (Retro-DUR), in which MAA provides for the ongoing periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and individuals receiving benefits.

(2) MAA performs a periodic sampling of claims to determine if drugs are appropriately dispensed and billed. If a review of the sample finds that a provider is inappropriately dispensing or billing for drugs, MAA may implement corrective action that includes, but is not limited to:

- (a) Educating the provider regarding the problem practice(s);
- (b) Requiring the provider to maintain specific documentation in addition to the normal documentation requirements regarding the provider's dispensing or billing actions;
- (c) Recouping the payment for the drug(s); and/or
- (d) Terminating the provider's core provider agreement.

**AMENDATORY SECTION** (Amending WSR 02-17-023, filed 8/9/02, effective 9/9/02)

**WAC 388-530-1950 Point-of-sale (POS) system/prospective drug ((utilization)) use review (Pro-DUR).** (1) Pharmacy claims for drugs and other products listed in the medical assistance administration (MAA) drug file list and billed to MAA by National Drug Code (NDC) are adjudicated by the MAA point-of-sale (POS) system. Claims must be submitted for payment using the billing unit standard identified in WAC 388-530-1800.

(2) All pharmacy drug claims processed through the POS system undergo a system-facilitated prospective drug ((utilization)) use review (Pro-DUR) screening as a complement to the Pro-DUR screening required of pharmacists.

(3) If the MAA POS system identifies a potential drug therapy problem during Pro-DUR screening, a message will alert the pharmacy provider indicating the type of potential problem.

The alerts regarding possible drug therapy problems include, but are not limited to:

- (a) Therapeutic duplication;
- (b) Duration of therapy exceeds the recommended maximum period;
- (c) Drug-to-drug interaction;
- (d) Drug disease precaution;
- (e) High dose;
- (f) Ingredient duplication;
- (g) Drug-to-client age conflict;
- (h) Drug-to-client gender conflict; or
- (i) Refill too soon.

(4) MAA provides pharmacy providers with a list of codes from which to choose in overriding MAA POS system alert messages. The override codes come from the national council for prescription drug programs (NCPDP).

(5) The dispensing pharmacist evaluates the potential drug therapy conflict and chooses one of the following:

(a) If the conflict is resolved, the pharmacy may process the claim using the applicable NCPDP override code.

(b) If the conflict is not resolved, MAA requires prior authorization. This includes all claims for which an alert message is triggered in the POS system and an NCPDP override code is not appropriate.

(6) MAA requires providers to retain documentation of the justification for the use of payment system override codes as described in subsections (4) and (5) of this section. MAA requires the documentation be retained for the same period as that described in WAC 388-502-0020.

(7) POS/Pro-DUR screening is not applicable to pharmacy claims included in the managed care capitated rate.

#### WSR 04-20-028

#### PROPOSED RULES

#### NOXIOUS WEED

#### CONTROL BOARD

[Filed September 28, 2004, 3:09 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-13-015.

Title of Rule and Other Identifying Information: Chapter 16-750 WAC, State noxious weed list and schedule of monetary penalties.

Hearing Location(s): Columbia Gorge Interpretive Center, 990 S.W. Rock Creek Drive, Stevenson, WA 98648, on November 16, 2004, at 1:30 p.m.

Date of Intended Adoption: November 16, 2004.

Submit Written Comments to: Steve McGonigal, P.O. Box 42560, Olympia, WA 98504, e-mail SmcGonigal@agr.wa.gov, fax (360) 902-2094, by November 9, 2004.

Assistance for Persons with Disabilities: Contact Virginia Walsh by October 29, 2004, TTY (360) 902-1996 or (360) 902-1976.

PROPOSED

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The state noxious weed list provides the basis for noxious weed control efforts by county noxious weed control boards, weed districts, the state weed board and the Washington State Department of Agriculture, under the auspices of chapter 17.10 RCW. The effect of the state noxious weed list is to prioritize control of noxious weed species statewide, concentrating on prevention and early detection, while still allowing for local program flexibility.

The proposal would add one species to the Class A weed list, add two species to the Class C weed list and move one species from the Class C list to the Class B list. The proposal would change the designated control areas for five Class B weeds. Two of the Class B weeds would have their designated control areas decreased, and three would have their designated control areas increased. For saltcedar, a Class B weed, the proposal would remove an exemption for plants "intentionally established prior to 2004" in areas where saltcedar is designated for control.

Reasons Supporting Proposal: Grass-leaved arrowhead, butterfly bush and curly-leaf pondweed are present in the state and have been found to be highly destructive, competitive or difficult to control, so their addition to the noxious weed list is proposed. Distribution data indicated that the control designation areas for some existing noxious weeds should be amended, and those changes are proposed.

Statutory Authority for Adoption: Chapter 17.10 RCW.

Statute Being Implemented: Chapter 17.10 RCW.

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

Name of Proponent: Washington State Noxious Weed Control Board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Steve McGonigal, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-2053.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Net economic impact of the proposed changes on small businesses would be negligible. Adding plants to the Class C list does not mandate control, forbid sale, nor make other regulatory changes. The one plant being proposed for the Class A list is not involved in trade, and is of extremely limited distribution. Plants proposed for the B list are proposed for control only in areas where they are found to be of limited distribution.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington State Noxious Weed Control Board is not one of the agencies listed in this section.

September 28, 2004  
Steve McGonigal  
Executive Secretary

**AMENDATORY SECTION** (Amending WSR 03-04-001, filed 1/22/03, effective 2/22/03)

**WAC 16-750-005 State noxious weed list—Class A noxious weeds.**

Common Name	Scientific Name
arrowhead, grass-leaved	<i>Sagittaria graminea</i>
bean-caper, Syrian	<i>Zygophyllum fabago</i>
blueweed, Texas	<i>Helianthus ciliaris</i>
broom, Spanish	<i>Spartium junceum</i>
buffalobur	<i>Solanum rostratum</i>
clary, meadow	<i>Salvia pratensis</i>
cordgrass, dense flower	<i>Spartina densiflora</i>
cordgrass, salt meadow	<i>Spartina patens</i>
crupina, common	<i>Crupina vulgaris</i>
flax, spurge	<i>Thymelaea passerina</i>
four o'clock, wild	<i>Mirabilis nyctaginea</i>
goatsrue	<i>Galega officinalis</i>
hawkweed, yellow devil	<i>Hieracium floribundum</i>
hogweed, giant	<i>Heracleum mantegazzianum</i>
hydrilla	<i>Hydrilla verticillata</i>
johnsongrass	<i>Sorghum halepense</i>
knapweed, bighead	<i>Centaurea macrocephala</i>
knapweed, Vochin	<i>Centaurea nigrescens</i>
kudzu	<i>Pueraria montana var. lobata</i>
lawnweed	<i>Soliva sessilis</i>
mustard, garlic	<i>Alliaria petiolata</i>
nightshade, silverleaf	<i>Solanum elaeagnifolium</i>
sage, clary	<i>Salvia sclarea</i>
sage, Mediterranean	<i>Salvia aethiopsis</i>
spurge, eggleaf	<i>Euphorbia oblongata</i>
starthistle, purple	<i>Centaurea calcitrapa</i>
thistle, Italian	<i>Carduus pycnocephalus</i>
thistle, milk	<i>Silybum marianum</i>
thistle, slenderflower	<i>Carduus tenuiflorus</i>
velvetleaf	<i>Abutilon theophrasti</i>
woad, dyers	<i>Isatis tinctoria</i>

**AMENDATORY SECTION** (Amending WSR 04-13-014, filed 6/4/04, effective 7/5/04)

**WAC 16-750-011 State noxious weed list—Class B noxious weeds.**

Name	Will be a "Class B designate" in all lands lying within:
(1) alyssum, hoary	(a) regions 1, 2, 5, 6, 8, 9, 10
<i>Berteroa incana</i>	(b) region 3, except Okanogan County
	(c) Okanogan County, of region 3, except Ranges 29 through 31 East of Townships 37 through 40 North

PROPOSED

Name	Will be a "Class B designate" in all lands lying within:	
	(d)	Adams and Whitman counties of region 7.
(2) blackgrass <i>Alopecurus myosuroides</i>	(a)	regions 1, 2, 3, 5, 6, 8, 9, 10
	(b)	Ferry, Stevens, Pend Oreille counties of region 4
	(c)	Adams County of region 7.
(3) blueweed <i>Echium vulgare</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9, 10
	(b)	region 7 except for an area starting at the Stevens County line on SR 291 south to the SR 291 bridge over the Little Spokane River, thence upstream along the Little Spokane River to the first Rutter Parkway Bridge; thence south along the Rutter Parkway to the intersection of Rutter Parkway and Indian Trail Road; thence southerly along Indian Trail Road to a point three miles south (on section line between sections 22 and 27, T-26N, R-42E); thence due west to a point intersecting the line between Ranges 41 and 42; thence north along this line to a point 1/4 mile south of Charles Road; thence northwesterly parallel to Charles Road to a point 1/4 miles south of the intersection of Charles Road and West Shore Road; thence northerly along West Shore Road to the Spokane River (Long Lake); thence southeasterly along the Spokane River to the point of beginning.
(4) broom, Scotch <i>Cytisus scoparius</i>	(a)	regions 3, 4, 6, 7, 9, 10.
(5) bryony, white <i>Bryonia alba</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9
	(b)	region 7 except Whitman County
	(c)	Franklin County of region 10.
(6) bugloss, common <i>Anchusa officinalis</i>	(a)	regions 1, 2, 3, 5, 6, 8, 9, 10
	(b)	region 4 except Stevens and Spokane counties
	(c)	Lincoln, Adams, and Whitman counties of region 7.
(7) bugloss, annual <i>Anchusa arvensis</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9
	(b)	Lincoln and Adams counties
	(c)	Whitman County except ranges 43 through 46 East of Townships 16 through 20 North.
(8) camelthorn <i>Alhagi maurorum</i>	(a)	regions 1, 2, 3, 4, 5, 7, 8, 9
	(b)	region 6 except those portions of Sections 23, 24, 25, and 29 through 36, T16N, R27E, W.M. lying outside Intercounty Weed District No. 52 and except Sections 1 through 12, T15N, R27E, W.M. in Grant County and except the area west of Highway 17 and north of Highway 26 in Adams County

Name	Will be a "Class B designate" in all lands lying within:	
	(c)	Franklin, Columbia, Garfield, and Asotin counties of region 10
	(d)	an area beginning at the Washington—Oregon border at the southwest portion of section 5, R32E, T6N, then north to the northwest corner of section 3, R32E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to southeast portion of section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning.
(9) carrot, wild <i>Daucus carota</i>	(a)	regions 3, 7 (except where intentionally cultivated)
	(b)	Spokane and Ferry counties of region 4 (except where intentionally cultivated)
	(c)	region 6, except Yakima County (except where intentionally cultivated)
	(d)	region 9, except Yakima County (except where intentionally cultivated)
	(e)	region 10, except Walla Walla County (except where intentionally cultivated).
(10) catsear, common <i>Hypochaeris radicata</i>	(a)	regions 3, 4, 6, 7, 10
	(b)	region 9 except Klickitat County.
(11) chervil, wild <i>Anthriscus sylvestris</i>	(a)	regions 1, 3, 4, 6, 7, 9, 10
	(b)	region 5 except those portions of Thurston County within T15, 16, 17N, R2, 3, 4W
	(c)	region 2 except Guemes Island in Skagit County
	(d)	region 8 except Clark County.
(12) cinquefoil, sulfur <i>Potentilla recta</i>	(a)	regions 1, 3, 8, 10
	(b)	region 2 except Skagit County
	(c)	region 4 except Stevens, Ferry, and Pend Oreille counties
	(d)	region 5 except Thurston ( <del>County</del> ) and Pierce counties
	(e)	region 6 except Yakima County
	(f)	region 7 except Spokane County
	(g)	region 8 except Lewis County
	(h)	region 9 except Klickitat County.
(13) cordgrass, smooth <i>Spartina alterniflora</i>	(a)	regions 1, 3, 4, 5, 6, 7, 9, 10
	(b)	region 2 except Padilla Bay of Skagit County
	(c)	region 8 except bays and estuaries of Pacific County.
(14) cordgrass, common <i>Spartina anglica</i>	(a)	regions 1, 3, 4, 5, 6, 7, 8, 9, 10
	(b)	region 2 except bays and estuaries of Skagit and Island counties and except bays and estuaries north of Everett in Snohomish County.

PROPOSED

Name	Will be a "Class B designate" in all lands lying within:		Name	Will be a "Class B designate" in all lands lying within:	
(15) daisy, oxeye <i>Leucanthemum vulgare</i>	(a)	regions 7, 10	(26) hawkweed, yellow <i>Hieracium caespitosum</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 10
	(b)	region 9 except those areas lying within Klickitat and Yakima counties west of Range 13 East		(b)	region 4 except Stevens and Pend Oreille counties
	(c)	region 6 except those areas lying within Yakima and Kittitas counties west of Range 13 E.		(c)	region 9 except sections 32, 33 and 34 of T6N, R12E, and sections 4, 5, 6, and 7 of T5N, R12E, and section 12 of T5N, R11E, of Klickitat County.
(16) elodea, Brazilian <i>Egeria densa</i>	(a)	regions 3, 4, 6, 7, 9, 10	(27) hedgeparsley <i>Torilis arvensis</i>	(a)	regions 1, 2, 3, 4, 5, 6, 7, 8, 10
	(b)	Lewis County of region 8		(b)	Yakima, Benton, Franklin counties
	(c)	Clallam County of region 1		(c)	Klickitat County except those lands lying within T4N, R10E, R11E, R12E, R13E, R14E; T3N, R10E, R11E, R12E, R13E; T2N, R12E, R13E.
	(d)	King County of region 5, except lakes Washington, Sammamish, Union and Fenwick.	(28) helmet, policeman's <i>Impatiens glandulifera</i>	(a)	regions 1, 3, 4, 6, 7, 8, 9, 10
(17) fanwort <i>Cabomba caroliniana</i>	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10		(b)	region 2 except Whatcom County
	(b)	region 8 except T8N, R3W of Cowlitz County.		(c)	region 5 except Pierce and Thurston counties.
(18) fieldcress, Austrian <i>Rorippa austriaca</i>	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9	(29) herb-Robert <i>Geranium robertianum</i>	(a)	regions 3, 4, 6, 7, 9, 10
	(b)	regions 7 and 10 except within the Palouse River Canyon from Big Palouse Falls to the Snake River.	(30) houndstongue <i>Cynoglossum officinale</i>	(a)	Kittitas County of region 6
(19) floating heart, yellow <i>Nymphoides peltata</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10		(b)	<u>Douglas County of regions 3 and 6.</u>
	(b)	region 4 except the Spokane River between Long Lake Dam and Nine Mile Dam.	(31) indigobush <i>Amorpha fruticosa</i>	(a)	regions 1, 2, 3, 4, 5, 6
(20) gorse <i>Ulex europaeus</i>	(a)	regions 1, 3, 4, 6, 7, 9, 10		(b)	regions 7 and 10 except within 200 feet of the Snake River from Central Ferry downstream
	(b)	Skagit and Whatcom counties of region 2		(c)	regions 8, 9, and 10 except within 200 feet of the Columbia River.
	(c)	Thurston, Pierce, and King counties of region 5	(32) knapweed, black <i>Centaurea nigra</i>	(a)	regions 1, 2, 3, 4, 7, 9, 10
	(d)	Wahkiakum, Cowlitz, and Lewis counties of region 8.		(b)	region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties
(21) hawkweed, mouseear <i>Hieracium pilosella</i>	(a)	regions 1, 2, 3, 4, 6, 7, 8, 9, 10		(c)	region 6 except Kittitas County
	(b)	region 5 except Thurston County		(d)	region 8 except Clark County.
	(c)	Thurston County lying within T17N, R1W, S31; T16N, R2W, S30 W1/2; T16N, R3W, S25, SE1/4; T16N, R3W, S36, N1/2; T16N, R2W, S31, NW1/4.	(33) knapweed, brown <i>Centaurea jacea</i>	(a)	regions 1, 2, 3, 4, 7, 9, 10
(22) hawkweed, orange <i>Hieracium aurantiacum</i>	(a)	regions 3, 6, 9, 10		(b)	region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties
	(b)	Clallam County of region 1		(c)	region 6 except Kittitas County
	(c)	Skagit County of region 2		(d)	region 8 except Clark County.
	(d)	Ferry County of region 4			
	(e)	Thurston and King counties of region 5			
	(f)	Lincoln and Adams counties of region 7			
	(g)	Lewis County of region 8.			
(23) hawkweed, polar <i>Hieracium atratum</i>	(a)	regions 1, 2, 3, 4, 6, 7, 8, 9, 10			
	(b)	region 5 outside the boundaries of Mt. Rainier National Park.			
(24) hawkweed, queen-devil <i>Hieracium glomeratum</i>	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10			
	(b)	Ferry County of region 4.			
(25) hawkweed, smooth <i>Hieracium laevigatum</i>	(a)	regions 1, 3, 4, 5, 6, 7, 8, 9, 10			
	(b)	San Juan, Island, and Skagit counties of region 2.			

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
(34) knapweed, diffuse <i>Centaurea diffusa</i>	(a) regions 1, 2, 5, 8 (b) Grant County lying in Townships 13 through 16 North, Ranges 25 through 27 East; Townships 17 and 18 N., Ranges 25 through 30 East; Townships 19 and 20 North, Ranges 29 and 30 East; T21N, R23E, Sections 1 through 30; T21N, R26E., Sections 5, 6, 7, 8, 17, and 18; East 1/2 Township 21N, Range 27E.; T21N, Ranges 28 through 30 E.; those portions of Townships 22 through 28N, Ranges 28 through 30 E.; those portions of Township 22 through 28N., Ranges 23 through 30E. lying in Grant County; all W.M. (c) Adams County except those areas within T15N, R36E, Section 36; T15N, R37E, Sections 22, 26, 27, 28, 31, 32, 33 and 34; T15N, R37E, western half of Sections 23, 24 and 25; T15N, R38E, Sections 2, 10, 11, 14, 15, 19 and 20; T16N, R38E, Sections 34 and 35; T17N, R37E, Sections 5 and 6 (d) Franklin County of regions 9 and 10.	(38) knotweed, Bohemian <i>Polygonum Bohemicum</i>	(e) region 10 except Garfield County. (a) <u>Kittitas County of region 6</u> (b) <u>Chelan and Douglas counties of regions 3 and 6</u> (c) <u>Pend Oreille County of region 4.</u> (a) Kittitas County of region 6 (b) Pend Oreille County of region 4.
(35) knapweed, meadow <i>Centaurea jacea x nigra</i>	(a) regions 1, 2, 3, 4, 7, 9, 10 (b) region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties (c) region 6 except Kittitas County (d) region 8 except Clark County.	(((38))) (39) knotweed, giant <i>Polygonum sachalinense</i>	(a) Kittitas County of region 6 (b) Pend Oreille County of region 4
(36) knapweed, Russian <i>Acroptilon repens</i>	(a) regions 1, 2, 5, 7, 8 (b) region 4 except that area lying within the boundaries of the Colville Indian Reservation within Ferry County (c) Adams County of region 6 except for the area west of Highway 17 and North of Highway 26 (d) Intercounty Weed District No. 52 (e) region 10 except Franklin County.	(((39))) (40) knotweed, Himalayan <i>Polygonum polystachyum</i>	(a) Kittitas County of region 6 (b) Pend Oreille County of region 4
(37) knapweed, spotted <i>Centaurea biebersteinii</i>	(a) regions 1, 2, 3, 5, 6, 9 (b) Ferry County of region 4 (c) Adams and Whitman counties of region 7 (d) region 8, except that portion of Lewis County below the ordinary high watermark of the Tilton River from Hwy. 508 to Lake Mayfield	(((40))) (41) knotweed, Japanese <i>Polygonum cuspidatum</i>	(c) Lewis County of region 8. (a) Kittitas County of region 6 (b) <u>Chelan ((County)) and Douglas counties</u> of regions 3 and 6
		(((41))) (42) Kochia <i>Kochia scoparia</i>	(c) Pend Oreille County of region 4. (a) Clallam County of region 1 (b) Skagit and Whatcom counties of region 2
		(((42))) (43) lepyrodiclis <i>Lepyrodiclis holosteoides</i>	(c) Pend Oreille County of region 4 (d) King County of region 5 (e) Kittitas County of region 6.
		(((43))) (44) loosestrife, garden <i>Lysimachia vulgaris</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10 (b) region 7 except an area within Whitman County east of the Pullman—Wawawai Road from Wawawai to Pullman and south of State Highway 270 from Pullman to Moscow, Idaho.
		(((44))) (45) loosestrife, purple <i>Lythrum salicaria</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10 (b) region 5 except King County
			(c) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line.
			(a) regions 1, 4, 7, 8 (b) region 2 except Snohomish County
			(c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside
			(d) Grays Harbor, Mason, Kitsap, and Thurston counties of region 5

PROPOSED

PROPOSED

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
((45)) (46) loosestrife, wand <i>Lythrum virgatum</i>	(e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line	((46)) (47) nutsedge, yellow <i>Cyperus esculentus</i>	(a) regions 1, 2, 3, 4, 5, 7, 8
	(f) Pierce County, except those areas lying within T2D, 21, 22N, R1W and R1E, all sections		(b) region 6 except those areas lying between State Highway 26 and State Highway 28, and westerly of Dodson Road in Grant County, and except S 1/2, Sec. 2, T20N, R25E., W.M.
	(g) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed		(c) region 9 except:
	(h) region 9 except Benton County		(i) except those areas lying within the following boundary description within Yakima County: Beginning at the intersection of Highway 12 and Parker Heights Road and continuing easterly to Konnowac Pass Road follow said road north to the intersection of Konnowac Pass Road and Nightingale Road. The northern boundary shall be the Roza Canal, continuing from the established point at Nightingale Road. The boundaries will follow the Roza Canal easterly to the County Line Road. The east boundaries will be the Yakima/Benton County Line from a point beginning at the County Line and Highway 22 (near Byron) continuing westerly along Highway 22 (to near the city of Mabton) to the intersection of Highway 22 and the Reservation Boundary (Division Road) and continuing north to the Yakima River. Then it will follow the river northwest to the Wapato-Donald Road continuing north along said road to Highway 12 then Highway 12 to Parker Heights Road.
	(i) region 10 except Walla Walla County		(ii) an area lying southerly of State Route 14 and within T2N, Ranges 13 and 14 E of Klickitat County
	(j) Intercounty Weed Districts No. 51 and No. 52.		(d) region 10 except Walla Walla County.
	(a) regions 1, 4, 7, 8		(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10
	(b) region 2 except Snohomish County		(b) region 8 except Skamania County.
	(c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to River-side		(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10
	(d) region 5 except King County		(b) region 8 except Clark, Cowlitz, and Wahkiakum counties.
(e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line			
(f) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed			
(g) region 9 except Benton County			
(h) region 10 except Walla Walla County			
(i) Intercounty Weed Districts No. 51 and No. 52.			
		((47)) (48) oxtongue, hawkweed <i>Picris hieracioides</i>	
		((48)) (49) parrotfeather <i>Myriophyllum aquaticum</i>	



PROPOSED

Name	Will be a "Class B designate" in all lands lying within:
<del>((49))</del> (50) pepperweed, perennial <i>Lepidium latifolium</i>	(a) regions 1, 2, 3, 4, 5, 7, 8, 10 (b) Intercounty Weed Districts No. 51 and 52 (c) Kittitas County of region 6 (d) Adams County of region 6 except for the area west of Highway 17 and north of Highway 26.
<del>((50))</del> (51) primrose, water <i>Ludwigia hexapetala</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) region 8 except T8N, R3W, S14 of Cowlitz County.
<del>((51))</del> (52) puncturevine <i>Tribulus terrestris</i>	(a) Skagit County of region 2 (b) Kittitas County of region 6 (c) Adams County (d) Clallam County of region 1.
<del>((52))</del> (53) ragwort, tansy <i>Senecio jacobaea</i>	(a) regions 3, 4, 6, 7, 9, 10 (b) region 5, that portion of Pierce County lying south or east of a boundary beginning at the White River and State Highway 410, then west along State Highway 410 to intersection with State Highway 162 (Orting) to intersection with Orville Road, then south along Orville Road to intersection with Kapowsin Highway (304th Street East), then west following Kapowsin Highway to intersection with State Route 7, then south along State Route 7 to intersection with State Route 702, then west along State Route 702 to intersection with State Route 507, then southwest along State Route 507 to intersection with the Nisqually River.
<del>((53))</del> (54) Saltcedar <i>Tamarix ramosissima</i>	(a) regions 1, 2, 3, <del>((4))</del> 5, 7, 8 ( <del>unless intentionally established prior to 2004</del> ) (b) <u>region 4 except Stevens County</u> <del>((b))</del> (c) <u>region 6 except Grant County</u> ( <del>unless intentionally established prior to 2004</del> ) (d) region 9 except Benton and Franklin counties ( <del>unless intentionally established prior to 2004</del> ) (e) <u>region 10 except Franklin County, unless intentionally established prior to 2004) and Walla Walla counties.</u>
<del>((54))</del> (55) sandbur, long-spine <i>Cenchrus longispinus</i>	(a) regions 1, 2, 3, 4, 5, 7, 8 (b) Adams County of region 6 except for that area lying within Intercounty Weed District No. 52 (c) Intercounty Weed District No. 51 (d) Kittitas County of region 6.

Name	Will be a "Class B designate" in all lands lying within:
<del>((55))</del> (56) skeletonweed, rush <i>Chondrilla juncea</i>	(a) regions 1, 2, 3, 5, 8, 9 (b) Franklin County except T13N, R36E; and T14N, R36E (c) Adams County except those areas lying east of a line running north from Franklin County along the western boundary of Range 36 East to State Highway 26 then north on Sage Road until it intersects Lee Road, then due north until intersection with Providence Road, then east to State Highway 261, then north along State Highway 261 to its intersection with Interstate 90, henceforth on a due north line to intersection with Bauman Road, then north along Bauman Road to its terminus, then due north to the Lincoln County line. (d) region 6 except that portion lying within Grant County that is southerly of State Highway 28, northerly of Interstate Highway 90 and easterly of Grant County Road I Northwest (e) Stevens County north of Township 33 North of region 4 (f) Ferry and Pend Oreille counties of region 4 (g) Asotin County of region 10 (h) Garfield County south of Highway 12 (i) Columbia County from the Walla Walla County line on Highway 12, all areas south of Turner Road; at Turner Road to the Garfield county line, all areas south and east of Turner Road (j) Whitman County lying in Ranges 43 through 46 East of Townships 15 through 20 North; T14N, Ranges 44 through 46 East; and T13N, Ranges 45 and 46 East.
<del>((56))</del> (57) sowthistle, perennial <i>Sonchus arvensis ssp. arvensis</i>	(a) regions 1, 2, 3, 4, 7, 8, 9, 10 (b) Adams County of region 6 (c) region 5 except for sections 28, 29, 30, 31, 32, and 33 in T19N, R1E of Thurston and Pierce counties.
<del>((57))</del> (58) spurge, leafy <i>Euphorbia esula</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10 (b) region 7 except as follows:

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Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
	(i) T27N, R37E, Sections 34, 35, 36; T27N, R38E, Sections 31, 32, 33; T26N, R37E, Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 26; T26N, R38E, Sections 5, 6, 7, 8 of Lincoln County	<del>((60))</del> (61) Swainsonpea <i>Sphaerophysa salsula</i>	(a) regions 1, 2, 3, 4, 5, 7, 8
	(ii) T24N, R43E, Section 12, Qtr. Section 3, Parcel No. 9068 of Spokane County.		(b) Columbia, Garfield, Asotin, and Franklin counties
<del>((58))</del> (59) spurge, myrtle <i>Euphorbia myrsinites L</i>	(a) Pend Oreille County of region 4.		(c) an area beginning at the Washington—Oregon border at the southwest portion of Section 15, R32E, T6N, then north to the northwest corner of Section 3, R32E, T7N, then east to the northeast corner of Section 3, R36E, T7N, then south to the southeast portion of Section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning
<del>((59))</del> (60) starthistle, yellow <i>Centaurea solstitialis</i>	(a) regions 1, 2, 3, 5, 6, 8		(d) Weed District No. 3 of Grant County
	(b) region 4 except those areas within Stevens County bounded by a line beginning at the intersection of State Highway 20 and State Highway 25, then north to intersection with Pinkston Creek Road, then east along Pinkston Creek Road to intersection with Highland Loop Road, then south along Highland Loop Road to intersection with State Highway 20, then west along State Highway 20 to intersection with State Highway 25	<del>((61))</del> (62) thistle, musk <i>Carduus nutans</i>	(e) Adams County of region 6.
	(c) region 7 except those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border	<del>((62))</del> (63) thistle, plumeless <i>Carduus acanthoides</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10
	(d) Franklin County	<del>((63))</del> (64) thistle, Scotch <i>Onopordum acanthium</i>	(b) Spokane and Pend Oreille counties.
	(e) region 9 except Klickitat County		(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10
	(f) in all lands lying within Asotin County, Region 10, except as follows: T11N, R44E, Sections 25, 26, 27, 28, 29, 31, 32, 33, 34, and 35; T11N, R45E, Sections 21, 22, 23, and 25; T11N, R36E, Sections 19, 20, 21, 28, 29, 30, 31, 32, and 33; T10N, R44E, Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 15, and 16; T10N, R45E, Sections 23 and 24; T10N, R46E, Sections 7, 8, 17, 18, 19, 20, 21, 22, 27, 34, and 35; T9N, R46E, Sections 1, 2, 12, 13, 14, 23, 24, 25, 26, 35, and 36; T9N, R47E, Sections 18, 19, 30, and 31; T8N, R46E, Sections 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 16, 23, and 24; T8N, R47E, Sections 8, 17, 18, 19, 20, 29, 30, 31, and 32.	<del>((64))</del> (65) toadflax, Dalmatian <i>Linaria dalmatica ssp. dalmatica</i>	(b) region 4 except those areas within Stevens County lying north of State Highway 20.
			(a) regions 1, 2, 3, 4, 5, 6, 8, 9
			(b) region 7 except for those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border
			(c) Franklin County.
			(a) regions 1, 2, 5, 8, 10
			(b) Douglas County of region 3 lying south of T25N, west of R25E, and east of R28E
			(c) Okanogan County lying within T 33, 34, 35N, R19, 20, 21, 22E, except the southwest, southeast, and northeast quarters of the northeast quarter of section 27, T35N, R21E; and the northeast quarter of the southeast quarter of section 27, T35N, R21E
			(d) Kittitas, Chelan, Douglas, and Adams counties of region 6
			(e) Intercounty Weed District No. 51
			(f) Weed District No. 3 of Grant County
			(g) Lincoln and Adams counties
			(h) The western two miles of Spokane County of region 7
			(i) region 9 except as follows: (i) those areas lying within Yakima County

Name	Will be a "Class B designate" in all lands lying within:	Common Name	Scientific Name
((65)) (66) watermilfoil, Eurasian <i>Myriophyllum spicatum</i>	(ii) those areas lying west of the Klickitat River and within Klickitat County.	henbane, black iris, yellow flag ivy, English, 4 cultivars only:	<i>Hyoscyamus niger</i> <i>Iris pseudocorus</i> <i>Hedera hibernica</i> 'Hibernica' <i>Hedera helix</i> 'Baltica' <i>Hedera helix</i> 'Pittsburgh' <i>Hedera helix</i> 'Star'
	(a) regions 1, 9, 10	((knotweed, Bohemian mayweed, scentless poison-hemlock <u>pondweed, curly-leaf</u> reed, common, nonnative genotypes rye, cereal spikeweed St. Johnswort, common tansy, common thistle, bull thistle, Canada toadflax, yellow water lily, fragrant whitetop, hairy willow-herb, hairy wormwood, absinth	<b>Polygonum x Bohemicum</b> ) <i>Matricaria perforata</i> <i>Conium maculatum</i> <i>Potamogeton crispus</i> <i>Phragmites australis</i>
	(b) region 7 except Spokane County		<i>Secale cereale</i> <i>Hemizonia pungens</i> <i>Hypericum perforatum</i> <i>Tanacetum vulgare</i> <i>Cirsium vulgare</i> <i>Cirsium arvense</i> <i>Linaria vulgaris</i> <i>Nymphaea odorata</i> <i>Cardaria pubescens</i> <i>Epilobium hirsutum</i> <i>Artemisia absinthium</i>
	(c) region 8 except within 200 feet of the Columbia River		
	(d) Adams County of region 6		
(e) in all water bodies of public access, except the Pend Oreille River, in Pend Oreille County of region 4.			

**AMENDATORY SECTION** (Amending WSR 04-13-014, filed 6/4/04, effective 7/5/04)

**WAC 16-750-015 State noxious weed list—Class C noxious weeds.**

Common Name	Scientific Name
babysbreath	<i>Gypsophila paniculata</i>
beard, old man's	<i>Clematis vitalba</i>
bindweed, field	<i>Convolvulus arvensis</i>
<u>butterfly bush</u>	<i>Buddleja davidii</i>
canarygrass, reed	<i>Phalaris arundinacea</i>
cockle, white	<i>Silene latifolia ssp. alba</i>
cocklebur, spiny	<i>Xanthium spinosum</i>
cress, hoary	<i>Cardaria draba</i>
dodder, smoothseed alfalfa	<i>Cuscuta approximata</i>
goatgrass, jointed	<i>Aegilops cylindrica</i>
groundsel, common	<i>Senecio vulgaris</i>
hawkweed, nonnative species	<i>Hieracium sp.</i> , except species designated in the note in the left-hand column

- Note:**  
This listing includes all species of *Hieracium*, except the following:
- Species designated as Class A noxious weeds in WAC 16-750-005;
  - Species designated as Class B noxious weeds in WAC 16-750-011;
  - Native species designated below:
    - Canada hawkweed (*H. canadense*)
    - houndstongue hawkweed (*H. cynoglossoides*)
    - long-beaked hawkweed (*H. longiberbe*)
    - narrow-leaved hawkweed (*H. umbellatum*)
    - slender hawkweed (*H. gracile*)
    - western hawkweed (*H. albertinum*)
    - white-flowered hawkweed (*H. albiflorum*)
    - woolley-weed (*H. scouleri*)

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**WSR 04-20-033**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
[Filed September 29, 2004, 1:57 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-11-118.

Title of Rule and Other Identifying Information: WAC 458-20-196 Credit losses, bad debts, recoveries and 458-20-198 Conditional and installment sales, method of reporting.

Hearing Location(s): Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on November 9, 2004, at 1:30 p.m.

Date of Intended Adoption: November 16, 2004.

Submit Written Comments to: Nathan Schreiner, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, e-mail NathanS@dor.wa.gov, fax (360) 586-5543, by November 9, 2004.

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7499.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 458-20-196 (Rule 196) provides information about the tax treatment of bad debts and credit losses under the business and occupation (B&O), public utility, retail sales, and use taxes. Chapter 168, Laws of 2003, and chapter 153, Laws of 2004, amended the bad debt provisions for several Washington taxes. The department is proposing to amend Rule 196 to incorporate these changes, provide additional clarification regarding bad

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debt computations, and add examples to demonstrate the application of the law. The proposed rule also explains that an assignee of an installment sale is entitled to claim a sales tax bad debt credit or refund to the extent a credit or refund would have been available to the original seller. The department anticipates canceling ETA 574.08.198 (Financial institutions incurring bad debts on contract assignments) when a revised Rule 196 becomes effective.

WAC 458-20-198 (Rule 198) explains the tax-reporting responsibilities of persons making installment sales of tangible personal property under the business and occupation (B&O), retail sales, and use taxes. The department is proposing to amend Rule 198 to explain that interest income earned on installment sales contracts is subject to service and other activities B&O tax and to refer the reader to Rule 196 for an explanation of how to claim a bad debt deduction/credit when a buyer defaults on an installment obligation.

Reasons Supporting Proposal: To update the rule to reflect legislative changes, clarify the application of tax and/or tax credits, and incorporate information from an interpretive statement.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(1), and 34.05.230.

Statute Being Implemented: RCW 82.04.4284, 82.04-090, 82.08.037, 82.08.090, 82.08.100, 82.12.037, 82.12.070, and 82.16.050(5) to the extent they apply to bad debts and installment sales.

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

Name of Proponent: Department of Revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Nathan Schreiner, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6136; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Janis P. Bianchi, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule does not impose any new performance requirement or administrative burden on any small business not required by statute.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are not a significant legislative rule as defined by RCW 34.05.328.

September 29, 2004

Alan R. Lynn

Rules Coordinator

**AMENDATORY SECTION** (Amending Order ET 83-15, filed 3/15/83)

**WAC 458-20-196 ((Credit losses,)) Bad debts(( recoveries)).**

**((Business and Occupation Tax**

~~In computing business and occupation tax there may be deducted by taxpayers whose regular books of accounts are kept upon an accrual basis, the amount of business credit losses actually sustained, providing that such deduction will~~

~~be allowed only with respect to transactions upon which a tax has been previously paid and providing that the amount thereof has not been otherwise deducted and that credits have not been issued with respect thereto.~~

~~Bad debt deductions must be taken by the taxpayer during the tax reporting period during which such bad debts were actually charged off on the taxpayer's books of account.~~

~~In cases where the amount of bad debts legitimately charged off in a particular reporting period exceeds the gross income for such period, the excess of the amount of the bad debts charged off during such period may be deducted from the gross income of the subsequent tax reporting period.~~

~~A dishonored (bad) check which proves to be uncollectible is a bad debt, to the extent it was taken as payment for goods or services on which business tax was previously reported and paid.~~

~~Extracting or manufacturing, special application. Bad debt deductions will be allowed under the extracting or manufacturing classifications only when the value of products is computed on the basis of gross proceeds of sales.~~

**Retail Sales Tax**

~~A seller is entitled to a credit or refund for sales taxes previously paid on debts which are deductible, on and after January 1, 1983, as worthless for federal income tax purposes.~~

**Public Utility Tax**

~~In computing public utility tax credit losses may be deducted under the same conditions set out under the business and occupation tax. However, the special provisions set out for the extracting and manufacturing classifications are not applicable to the public utility tax.~~

~~Methods of determining credit losses. The amount of credit losses actually sustained must be determined in accordance with one of the following methods:~~

~~(1) Specific charge off method. The amount which is charged off within the tax reporting period with respect to debts ascertained to be worthless:~~

~~(a) Worthlessness of a debt is usually evidenced when all the surrounding and attending circumstances indicate that legal action to enforce payment would result in an uncollectible judgment.~~

~~(b) A "charge off" of a debt, either wholly or in part, must be evidenced by entry in the taxpayer's books of account.~~

~~(2) Reserve method. In the discretion of the department of revenue a reasonable addition to a reserve for bad debts will be authorized to taxpayers who charge off credit losses at the end of their taxable year but who desire to apportion such losses on a monthly basis.~~

~~(a) This will be permitted, in lieu of the specific charge-off method, only to taxpayers who have established or are allowed by the Internal Revenue Service to use for federal income tax purposes, the reserve method of treating bad debts, or who, upon securing permission from the department adopt that method.~~

~~(b) What constitutes a reasonable addition to a reserve for bad debts must be determined in light of the facts and will~~

vary between classes of business and with conditions of business prosperity. The addition to the reserve allowed as a deduction by the Internal Revenue Service for federal income tax purposes, in the absence of evidence to the contrary, will be presumed reasonable.

If the taxpayer actually determines and charges off bad debts on a tax reporting period basis, the amount so charged off each period shall be considered prima facie as a proper deduction for such period.

When bad debt losses are ascertained annually upon specific charge off method, the deduction must be taken against the gross amount reported for the period in which the bad debts were actually charged off.

When the reserve method is employed in taking deductions for bad debts on returns and the amount of debts actually ascertained to be wholly or partially worthless and charged against the reserve account during the taxable year and reported do not agree with the amount of reserve set up therefor, adjustment of the amount of loss deducted shall be made to make the total amount claimed for the tax year coincide with the amount of loss actually sustained.

**Recoveries.** Amounts subsequently received on account of a bad debt or on account of a part of such debt previously charged off and allowed as a deduction for business tax purposes, must be included in gross proceeds of sales (including value of products when measured by gross proceeds of sales) or gross income of the business reported for the taxable period in which received. This is true even though the recoveries during such period exceed the amount of the bad debt charge off.) (1) **Introduction.**

(a) **New laws effective July 1, 2004.** This rule provides information about the tax treatment of bad debts under the business and occupation (B&O), public utility, retail sales, and use taxes, and reflects legislation enacted in 2003 and 2004 conforming Washington law to provisions of the national Streamlined Sales and Use Tax Agreement. See chapter 168, Laws of 2003 and chapter 153, Laws of 2004. The new laws related to bad debts are effective July 1, 2004.

(b) **Bad debt deduction for accrual basis taxpayers.** Bad debt credits, refunds, and deductions occur when income reported by a taxpayer is not received. Taxpayers who report using the cash method do not report income until it is received. For this reason, bad debts are most relevant to taxpayers reporting income on an accrual basis. However, some transactions must be reported on an accrual basis by all taxpayers, including installment sales and leases. These transactions are eligible for a bad debt credit, refund, or deduction as described in this rule. For information on cash and accrual accounting methods, refer to WAC 458-20-197 (When tax liability arises) and WAC 458-20-199 (Accounting methods). Refer to WAC 458-20-198 (Installment sales, method of reporting) and WAC 458-20-199(3) for information about reporting installment sales.

(c) **Relationship between retailing B&O tax deduction and retail sales tax credit.** Generally, a retail sales tax credit for bad debts is reported as a deduction from the measure of sales tax on the excise tax return. The amount of this deduction, or the measure of a recovery of sales tax that must be reported, is the same as the amount reported as a deduction or recovery under the retailing B&O tax classification.

(d) **Relationship to federal income tax return.** Washington credits, refunds, and deductions for bad debts are based on federal standards for worthlessness under section 166 of the Internal Revenue Code. If a federal income tax return is not required to be filed (for example, where the taxpayer is an exempt entity for federal purposes), the taxpayer is eligible for a bad debt credit, refund, or deduction on the Washington tax return if the taxpayer would otherwise be eligible for the federal bad debt deduction.

(2) **Retail sales and use tax.**

(a) **General rule.** Under RCW 82.08.037 and 82.12.037, sellers are entitled to a credit or refund for sales and use taxes previously paid on "bad debts" under section 166 of the Internal Revenue Code, as amended or renumbered as of January 1, 2003. Taxpayers may claim the credit or refund for the tax reporting period in which the bad debt is written off as uncollectible in the taxpayer's books and records and would be eligible for a bad debt deduction for federal income tax purposes. However, the amount of any credit or refund must be adjusted to exclude amounts attributable to:

- (i) Amounts due on property that remains in the possession of the seller until the full purchase price is paid;
- (ii) Expenses incurred in attempting to collect debt; and
- (iii) The value of repossessed property taken in payment of debt.

(b) **Recoveries.** If a taxpayer takes a credit or refund for sales or use taxes paid on a bad debt and later collects some or all of the debt, the amount of sales or use tax recovered must be repaid in the tax-reporting period during which collection was made. The amount of tax that must be repaid is determined by applying the recovered amount first proportionally to the taxable price of the property and the sales or use tax thereon and secondly to any interest, service charges, and any other charges.

(3) **Business and occupation tax.**

(a) **General rule.** Under RCW 82.04.4284, taxpayers may deduct from the measure of B&O tax "bad debts" under section 166 of the Internal Revenue Code, as amended or renumbered as of January 1, 2003, on which tax was previously paid. Taxpayers may claim the deduction for the tax reporting period in which the bad debt is written off as uncollectible in the taxpayer's books and records and would be eligible for a bad debt deduction for federal income tax purposes. However, the amount of the deduction must be adjusted to exclude amounts attributable to:

- (i) Amounts due on property that remains in the possession of the seller until the full purchase price is paid;
- (ii) Sales or use taxes payable to a seller;
- (iii) Expenses incurred in attempting to collect debt; and
- (iv) The value of repossessed property taken in payment of debt.

(b) **Recoveries.** Recoveries received by a taxpayer after a bad debt is claimed are applied under the rules described in subsection (2)(b) above if the transaction involved is a retail sale. The amount attributable to "taxable price" is reported under the retailing B&O tax classification. If the recovery of debt is not related to a retail sale, recovered amount is applied proportionally against the components of the debt (e.g., interest and principal remaining on a wholesale sale).

**(c) Extracting and manufacturing classifications.** Bad debt deductions are only allowed under the extracting or manufacturing classifications when the value of products is computed on the basis of gross proceeds of sales.

**(4) Public utility tax.** Under RCW 82.16.050(5), taxpayers may deduct from the measure of public utility tax "bad debts" under section 166 of the Internal Revenue Code, as amended or renumbered as of January 1, 2003, on which tax was previously paid. Taxpayers may claim the deduction for the tax reporting period in which the bad debt is written off as uncollectible in the taxpayer's books and records and would be eligible for a bad debt deduction for federal income tax purposes. No deduction is allowed for collection or other expenses.

**(5) Application of payments - general rule.** The special rules for application of payments received in recovery of previously claimed bad debts described in subsections (2)(b) and (3)(b) above are not used for other payments. Payments received before a bad debt credit, refund, or deduction is claimed should be applied first against interest and then ratably against other charges. Another commercially reasonable method may be used if approved by the department.

**(6) Assigned debt and installment sales.**

**(a) General rule.** If a person makes a retail sale under an installment sales contract and then legally assigns his or her rights under the contract to another party, the assignee "steps into the shoes" of the person making the sale and may claim a bad debt credit or refund for unpaid retail sales tax to the extent a credit or refund would have been available to the original seller and to the extent that the assignee actually incurs a loss. The seller's B&O tax deduction for bad debt may not be claimed by an assignee. A retail sales tax bad debt credit or refund for unpaid sales tax is available only to the person who makes the retail sale or an assignee under the contract. For example, a bank that loans money to the purchaser of a vehicle may not claim a retail sales tax bad debt credit or refund. The bank did not sell the vehicle and is not an assignee of the dealer who made the retail sale.

**(b) Discounts.** A person who makes a retail sale on credit and then assigns the sales contract in exchange for less than the face value of the contract may not claim a bad debt credit, refund, or deduction for the difference between the face value and the amount received. The discount is a nondeductible cost of doing business, not a bad debt. An assignee of a retail sales contract that pays less than face value for the contract is not required to reduce the amount of a retail sales tax bad debt credit or refund in proportion to the amount of the discount. The assignee may take a credit or refund for the amount that would have been available to the original seller if the original seller had retained the contract and received the payments made by the buyer.

**(c) Recourse financing.** An assignee who receives payment on a bad debt from the assignor must reduce the sales tax credit in proportion to the payment. The assignor may claim a sales tax credit and retailing B&O tax deduction in proportion to the payment if obligated to make the payment and otherwise qualified under this rule.

**(d) Documentation.** All persons claiming a bad debt credit for installment contracts must retain appropriate documentation, including documentation establishing:

(i) The amount of the original sale by the seller, and component amounts necessary to determine that amount, such as credits for trade-ins, down payments, and individual amounts charged for different products;

(ii) The buyer's equity in any trade-in property;

(iii) The contract principal owed at the time of repossession, if any; and

(iv) The deductibility of the debt as worthless for federal income tax purposes.

**(7) Reserve method.** Ordinarily, taxpayers must report bad debt refunds, credits or deductions for specifically identified transactions. However, taxpayers who are allowed by the Internal Revenue Service to use a reserve method of reporting bad debts for federal income tax purposes, or who secure permission from the department to do so, may deduct a reasonable addition to a reserve for bad debts. What constitutes a reasonable addition to a reserve for bad debts must be determined in light of the facts and will vary between classes of business and with conditions of business prosperity. An addition to a reserve allowed as a deduction by the Internal Revenue Service for federal income tax purposes, in the absence of evidence to the contrary, will be presumed reasonable. When the reserve method is employed, an adjustment to the amount of loss deducted must be made annually to make the total loss claimed for the tax year coincide with the amount actually sustained.

**(8) Statute of limitations for claiming bad debts.** No credit, refund, or deduction, as applicable, may be claimed for debt that became eligible for a bad debt deduction for federal income tax purposes more than four years before the beginning of the calendar year in which the credit, refund, or deduction is claimed.

**(9) Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

In all cases, an eight percent combined state and local sales tax rate is assumed. Figures are rounded to the nearest dollar. Payments are applied first against interest and then ratably against the taxable price, sales tax, and other charges except when the special rules for subsequent recoveries on a bad debt apply (see subsections (2) and (3) of this rule). It is assumed that the income from all retail sales described has been properly reported under the retailing B&O tax classification and that all interest or service fees described have been accrued and reported under the service and other activities B&O tax classification.

(a) Seller makes a retail sale of goods with a selling price of \$500 and pays \$40 in sales tax to the department. No payment is received by Seller at the time of sale. One and a half years later, no payment has been received by Seller, and the balance with interest is \$627. Seller is entitled to claim a bad debt deduction on the federal income tax return. Seller is entitled to claim a bad debt sales tax credit or refund in the amount of \$40, a B&O tax deduction of \$500 under the retailing B&O tax classification, and a B&O tax deduction of \$87 under the service and other activities B&O tax classification.

(b) The facts are the same as in subsection (9)(a) above, except that six months after the credit and deduction are

claimed, a \$50 payment is received on the debt. Recoveries received on a retail sale after a credit and deduction have already been claimed must be applied first proportionally to the taxable price and sales tax thereon in order to determine the amount of tax that must be repaid. Therefore, Seller must report \$4, or  $\$50 \times (\$40/\$540)$ , of sales tax on the current excise tax return and \$46, or  $\$50 \times (\$500/\$540)$  under the retailing B&O tax classification. Additional recoveries should be applied in the same manner until the original \$40 credit is reduced to zero.

(c) Seller makes a retail sale of goods on credit for \$500 and pays \$40 in sales tax to the department. No payment is received at the time of sale. Over the following year, regular payments are received and the debt is reduced to \$345, exclusive of any interest or service charges. The \$345 represents sales tax due to Seller in the amount of \$26, or  $\$345 \times (\$40/\$540)$ , and \$319 remaining of the original purchase price, or  $\$345 \times (\$500/\$540)$ . Payments cease. Six months later the balance with interest and service fees is \$413. Seller is entitled to claim a bad debt deduction on the federal income tax return. Seller is entitled to claim a sales tax refund or credit on the current excise tax return of \$26, a deduction under the retailing B&O tax classification of \$319, and a deduction under the service and other activities B&O tax classification of \$68.

(d) The facts are the same as in subsection (9)(c) above, except that before Seller charges off the debt, Seller repossesses the goods. At that time, the goods have a fair market value of \$250. No credit is allowed for repossessed property, so the value of the collateral must be applied against the outstanding balance. After the value of the collateral is applied, Seller has a remaining balance of \$163, or  $\$413 - \$250$ . The allocation rules for recoveries do not apply because a bad debt credit or refund has not yet been taken. The value is applied first against the \$68, or  $\$413 - \$345$ , of interest, so the \$163 remaining is attributable entirely to taxable price and sales tax. Any costs Seller may incur related to locating, repossessing, storing, or selling the goods do not offset the value of the collateral because no credit is allowed for collection costs. Seller is entitled to a sales tax refund or credit in the amount of \$12, or  $\$163 \times (\$40/\$540)$  and deduction of \$151, or  $\$163 \times (\$500/\$540)$  under the retailing B&O tax classification. If Seller later sells the repossessed goods, Seller must pay B&O tax and collect retail sales tax as applicable. If the sales price of the repossessed goods is different from the fair market value previously reported and the statute of limitations applicable to the original transaction has not expired, Seller must report the difference between the selling price and the claimed fair market value as an additional bad debt credit or deduction or report it as an additional recovery, as appropriate.

(e) Seller sells a car at retail for \$1000, Seller's extended service warranty for \$200, and charges the buyer an additional \$50 for license and registration fees. (The amount received for the warranty is subject to service and other activities B&O tax. Refer to WAC 458-20-257 for information about the tax treatment of warranties.) Seller accepts trade-in property with a value of \$500 in which the buyer has \$300 of equity. (The value of trade-in property of like kind is excluded from the selling price for purposes of the retail sales

tax. Refer to WAC 458-20-247 for further information.) Seller properly bills the buyer for \$40 of sales tax, for a total of \$1290 owed to Seller by the buyer. Seller pays the department the \$40 in sales tax. No payment other than the trade-in is received by Seller at the time of sale. Eight months later, Seller has not received any payment. Seller is entitled to claim a bad debt deduction on the federal income tax return. The equity in the trade-in is equivalent to a payment received at the time of purchase, reducing the balance remaining on the initial sale to \$990, or  $\$1290 - \$300$ . Seller is entitled to claim a sales tax credit or refund of \$31, or  $\$990 \times (\$40/\$1290)$  of sales tax, a deduction of \$767, or  $\$990 \times (\$1000/\$1290)$  under the retailing B&O tax classification, and a deduction of \$153, or  $\$990 \times (\$200/\$1290)$  under the service and other activities B&O tax classification.

(f) Seller sells a car at retail for \$1000, Seller's extended warranty for \$200, and charges the buyer an additional \$50 for license and registration fees. (The amount received for the warranty is subject to service and other activities B&O tax. Refer to WAC 458-20-257 for information about the tax treatment of warranties.) Seller properly bills the buyer for \$80 of sales tax and remits it to the department. No money is received from the buyer at the time of sale. Eight months later Seller is entitled to claim a bad debt deduction on the federal income tax return. Seller claims an \$80 sales tax credit, a \$1000 retailing B&O tax deduction, a \$200 deduction under the service and other activities B&O tax classification, and an additional amount under the service and other activities classification for accrued interest. Six months after that, Seller receives a \$200 payment from the buyer. Recoveries must be allocated first to taxable price (the measure of the sales tax), and secondly to other charges. B&O tax consequences follow the same rules. Accordingly, Seller must report \$15, or  $\$200 \times (\$80/\$1080)$  of sales tax and \$185, or  $\$200 \times (\$1000/\$1080)$  of income under the retailing B&O tax classification. Additional recoveries should be applied in the same manner until the original \$80 sales tax credit is reduced to zero.

(g) Seller sells a car at retail for \$1000, Seller's extended warranty for \$200, and charges the buyer an additional \$50 for license and registration fees. Seller accepts trade-in property with a value of \$500 in which the buyer has \$300 of equity. Seller properly bills the buyer for \$40 of sales tax for a total of \$1290 owed to Seller by the buyer. No payment other than the trade-in is received by Seller at the time of sale. Eight months later, no payment has been received by Seller. Seller is entitled to claim a bad debt deduction on the federal income tax return. The equity in the trade-in is equivalent to a payment received at the time of purchase, reducing the balance remaining on the initial sale to \$990, or  $\$1290 - \$300$ . Seller is entitled to claim a sales tax credit or refund of \$31, or  $\$990 \times (\$40/\$1290)$  of sales tax, a deduction of \$767, or  $\$990 \times (\$1000/\$1290)$  under the retailing B&O tax classification, and a deduction of \$153, or  $\$990 \times (\$200/\$1290)$  under the service and other activities B&O tax classification. Six months after that, Seller receives a \$200 payment from the buyer. Recoveries must be allocated first to taxable price (the measure of the sales tax), and secondly to other charges. B&O tax consequences follow the same rules. Accordingly, Seller must report \$15, or  $\$200 \times (\$40/\$540)$  in sales tax, and



\$185, or \$200 x (\$500/\$540) under the retailing B&O tax classification. Additional recoveries should be applied in the same manner until the original \$31 sales tax credit is reduced to zero.

(h) The facts are the same as in subsection (9)(e) above, except that immediately after the sale, Seller assigns the contract to a finance company without recourse, receiving face value for the contract. The finance company may claim the retail sales tax credit or refund of \$31. The finance company may not claim any deductions for Seller's B&O tax liability. No bad debt deduction or credit is available to Seller.

(i) The facts are the same as in subsection (9)(h) above, except that the Seller receives less than face value for the contract. The result is the same as in subsection (9)(h) above for both parties. The finance company may claim a \$31 retail sales tax bad debt credit or refund, but may not claim a B&O bad debt deduction for Seller's B&O tax liability. No bad debt deduction or credit is available to Seller.

AMENDATORY SECTION (Amending Order ET 83-15, filed 3/15/83)

WAC 458-20-198 ((Conditional and)) Installment sales, method of reporting.

((Business and Occupation Tax

Persons making conditional sales or other installment sales of tangible personal property must report the total selling price of such sales in the tax reporting period in which the sale is made.

A deduction from gross proceeds of sales as a credit loss is allowed to such sellers for the amount of the unpaid balance of the contract price on any installment sale if and when the property purchased is repossessed upon default by the buyer.

Retail Sales Tax, Use Tax

Persons making conditional sales or other installment sales of tangible personal property must report the total selling price of such sales in the tax period in which the sale is made.

The foregoing is true irrespective of the fact that such sellers arrange to receive payment of tax in installments or that a contract may be discounted or pledged with or sold to a finance company. In the latter case, although as a part of the agreement with the seller the finance company actually makes collection of the tax from the buyer as the installments fall due, the finance company should not report to the department of revenue the amount of tax collected since the total tax already has been reported by the seller.

Revised July 1, 1956-)) (1) **Introduction.** This rule explains the tax-reporting responsibilities of persons making installment sales of tangible personal property under the business and occupation (B&O), retail sales, and use taxes.

(2) **How is income from installment sales of tangible personal property reported?** The seller must report the full selling price of installment sales of tangible personal property in the tax-reporting period during which the sale is made. This is true even when the buyer pays the tax to the seller in installments over time.

(a) **Leases not taxable as installment sales.** A lease under WAC 458-20-211 (Leases or rentals of tangible per-

sonal property, bailments) is not taxable as an installment sale.

(b) **Interest income.** Persons who receive interest or finance charges from an installment sale must pay B&O tax under the service and other business activities classification on receipt of these amounts. Retail sales and use taxes do not generally apply to these amounts. Refer to WAC 458-20-109 (Finance charges, carrying charges, interest, penalties) for further information.

(c) **Assignment of rights to receive payments.** A seller may sell or assign the right to receive payments to another business. The assignee should not report the amount of any sales or use taxes collected because the seller is responsible for remitting the full amount of sales tax. For information on how to report a buyer's default on an installment obligation, refer to WAC 458-20-196 (Bad debts).

WSR 04-20-035

PROPOSED RULES

HORSE RACING COMMISSION

[Filed September 29, 2004, 2:11 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-16-111.

Title of Rule and Other Identifying Information: WAC 260-28-020 Stable names, 260-36-020 Jockeys, apprentices, owners and trainers, 260-36-030 Veterinarians and platers, 260-36-040 Personnel other than owners, trainers, and jockeys, 260-36-080 Duration of license, 260-36-085 License and fingerprint fees (new section), 260-36-090 Duplicate license cards, 260-36-100 Photographs and fingerprints, and 260-60-300 Prospective owner.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, on November 18, 2004, at 10:00 a.m.

Date of Intended Adoption: November 18, 2004.

Submit Written Comments to: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail rlopez@whrc.state.wa.us, fax (360) 459-6461, by November 1, 2004.

Assistance for Persons with Disabilities: Contact Patty Sorby by November 15, 2004.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The current license and registration fees fail to cover the true cost of administration as required by RCW 67.16.020(1). In order to meet the mandate of the law the commission plans to amend all the licensing rules in Title 260 WAC to increase license and registration fees to capture the true costs of administration. This will include amending the following rules by removing any reference to a specific fee amount: WAC 260-28-020 Stable names, 260-36-020 Jockeys, apprentices, owners, trainers, 260-36-030 Veterinarians and platers, 260-36-040 Registration of personnel other than owners, trainers and jockeys, 260-36-090 Duplicate license cards, and 260-60-300 Prospective owner. In addition, amendments will be made the [to] WAC 260-36-080, to assist our stakeholders in licensing issues between race seasons, and a new section is



being added to chapter 260-36 WAC (WAC 246-36-085 License and fingerprint fees) to list license fees for all types of licenses in one rule. Finally, the commission plans to use fingerprints to conduct background checks to determine the suitability of persons to participate in horse racing. In order to cover the costs associated with the submission of fingerprints to the Federal Bureau of Investigation the commission also intends on amending WAC 260-36-100 Photographs and fingerprints.

Statutory Authority for Adoption: RCW 67.16.020.

Statute Being Implemented: RCW 67.16.020(1).

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

Name of Proponent: Washington Horse Racing Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert M. Lechner, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

September 28, 2004

R. M. Lechner

Executive Secretary

**AMENDATORY SECTION** (Amending Order 79-06, filed 12/17/79)

**WAC 260-28-020 Stable names—Registration fees and restrictions.** Each stable name must be duly registered with the commission.

(1) ~~((The annual fee in Washington shall be \$25.00.~~

(2)) In applying to race under a stable name the applicant must disclose the identity or identities behind a stable name. If a partnership is involved in the identity behind a stable name, the rules covering partnerships must be complied with.

(3)) Changes in identities must be reported immediately to and approval obtained from the commission.

(4)) No person can use his real name for racing purposes so long as he has a registered one, without permission of the board of stewards.

(5)) A trainer who is a licensed owner or part owner may use a stable name as owner or part owner. However, no trainer may be licensed as trainer other than in his legal name.

(6)) Any person who has been registered under a stable name may, at any time, cancel it after he has given written notice to the commission.

(7)) A stable name may be changed at any time by registering a new stable name and by paying the fee as required above.

(8)) A person cannot register as his stable name one which has been registered by any other person with an association conducting a recognized meeting, or the Jockey Club (N.Y.) or with another racing authority.

(9)) A person may not register as his stable name one which is the real name of any owner of race horses, nor one which is the real or assumed name of any prominent person not owning race horses.

(10)) A stable name shall be plainly distinguishable from that of another duly registered stable name.

(11)) No stable name shall be used if in the judgment of the stewards it is being used for advertising purposes.

(12)) Any combination of more than three owners will be required to race under a stable name.

**AMENDATORY SECTION** (Amending Order 89-03, filed 6/9/89)

**WAC 260-36-020 Licenses required of jockeys, apprentices, owners, trainers.** All jockeys and apprentice jockeys must first secure occupational license before accepting a mount; no trial ride will be permitted without such occupational license, except as provided in WAC 260-32-020(1). Each owner and trainer must secure occupational license before entering a horse and the racing secretary shall be required to secure such occupational license number of owner and trainer making such entry. The license fee for jockeys, apprentices, owners, and trainers shall be for one year ~~((and shall be \$15.00)).~~

**AMENDATORY SECTION** (Amending WSR 04-15-039, filed 7/12/04, effective 8/12/04)

**WAC 260-36-030 Veterinarians and platers—License required.** The license fee for veterinarians and platers shall be for one year ~~((and shall be fifteen dollars)).~~ Veterinarians and platers must be approved by the commission before practicing their professions on the grounds of an association. Veterinarians licensed by the commission may apply for a trainer's license subject to the following conditions:

(1) The individual licensed by the commission as a veterinarian and trainer may treat, using veterinary methods, only those horses for which he/she is the trainer of record.

(2) The individual licensed by the commission as a veterinarian and trainer shall not practice veterinary medicine on any horse other than for which he/she is the trainer of record.

(3) During an emergency on the grounds of the racing association the individual licensed by the commission as a veterinarian and trainer may respond and assist at the scene of the emergency. Any veterinary treatment provided at the scene shall be reported in writing to the official veterinarian. The report shall include at a minimum the names of horses treated and treatment rendered.

**AMENDATORY SECTION** (Amending WSR 02-10-101, filed 4/30/02, effective 5/31/02)

**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 nonrestricted 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.

(3) 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.

AMENDATORY SECTION (Amending WSR 94-04-002, filed 1/20/94, effective 2/20/94)

**WAC 260-36-080 Duration of license.** Every (~~permit or~~) license issued by the commission shall expire on December 31st of the year for which it was issued(~~; Provided, however,~~) except as provided below.

(a) (~~all permits or~~) A license(s) shall be considered expired if the licensee is no longer performing the duties for which he or she was licensed, or, if applicable, the licensee is no longer employed by the employer who hired the licensee;

(b) The commission may, at its sole discretion, reinstate an expired license ((in cases where)) if the licensee is reemployed prior to December 31st of the year in which the license was issued((, or extend a license in cases where a license has been));

(c) The commission may establish an expiration date beyond December 31st if the license is being issued for a single race meeting which spans two calendar years;

(d) On recommendation of the executive secretary to the commission, the commission may extend the duration of a license of a class 1 racing association employee from December 31st of the year in which the license was issued to March 1st of the following year.

NEW SECTION

**WAC 260-36-085 License and fingerprint fees.** The following are the annual license fees for any person actively participating in racing activities:

Apprentice jockey	\$70.00
Assistant trainer	\$60.00
Association employee—management	\$30.00
Association employee—hourly/seasonal	\$10.00
Authorized agent	\$60.00
Bloodstock agent	\$20.00
Clocker	\$20.00
Daycare employees	\$10.00
Equine physical therapist	\$40.00
Exercise person	\$10.00
Groom	\$10.00
Honorary licensee	\$10.00
Jockey agent	\$50.00
Jockey	\$70.00
Other	\$20.00
Owner	\$70.00
Plater	\$40.00
Pony person	\$10.00
Prospective owner	\$70.00
Stable license	\$100.00
Trainer	\$70.00
Vendor	\$20.00
Veterinarian	\$70.00
Volunteer	\$10.00

In addition to the above fees, a \$10.00 fee will be added to cover the costs of conducting a fingerprint-based background check. The background check fee will be assessed only once annually regardless of the number of different types of licenses an individual possesses.

AMENDATORY SECTION (Amending Rules of racing, filed 4/21/61)

**WAC 260-36-100 ((Photographs and)) Fingerprints and photographs.** Every person (~~holding a permit to conduct pari-mutuel wagering in this state and every person who is a member of an association holding such a permit and every person who is an officer or director of a corporation which holds such a permit, and every employee of the holder of such permit in any capacity connected to any extent with the pari-mutuel wagering business in this state, and all trainers, jockeys, apprentices, grooms, exercise boys, managers, agents, blacksmiths, veterinarians, and like persons who actively participate in the racing activities of any such permit holders,~~) applying for a license to actively participate in racing shall furnish the commission((, on demand, for its files,)) his or her fingerprints and photograph((, which fingerprints and photograph shall be taken at such time and places and in such manner as the commission may from time to time direct and prescribe)) upon making an initial application for a license and at least once every three years thereafter. However, the commission, in its discretion, may require fingerprints from any applicant or licensee at any time.

PROPOSED

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 260-36-090 Duplicate license cards.

**AMENDATORY SECTION** (Amending WSR 96-12-008, filed 5/23/96, effective 6/23/96)

**WAC 260-60-300 Who may claim.** Who may claim: Owner, authorized agent or prospective owner possessing a claiming certificate.

(1) In claiming races, any horse is subject to be claimed for its entered price by any owner at that meeting or by a licensed authorized agent for the account of such owner. For the purpose of this rule an "owner" shall be deemed to be an owner as defined in WAC 260-12-010. Furthermore, such owner shall be registered in good faith for racing and has had a horse or horses occupying assigned stall space for the race meeting. The right to claim shall not be forfeited even though all horses occupying such stall space may have been eliminated.

(2) In addition to the above rule, any horse is subject to be claimed by a person or a licensed authorized agent for the account of such person, providing such person has applied to and has been approved by the commission as a prospective owner and has been issued a claiming certificate. The names of persons obtaining a claiming certificate shall be prominently displayed in the offices of the commission and the racing secretary. Once the prospective owner has successfully claimed a horse he/she must secure an owner's license on a timely basis. An applicant for a claim certificate shall submit to the Stewards:

(a) A completed application for a claiming permit and the ((\$25)) licensing fee;

(b) The name of a licensed trainer who will assume the care and responsibility for any horse claimed;

(c) The stewards shall issue a claim certificate upon satisfactory evidence that the applicant is eligible for an owner's license;

(d) The claim certificate shall expire with the conclusion of the race meeting at which it was issued, or upon the claim of a horse, or upon issuance or denial of an owner's license, whichever comes first;

(e) A claim certificate may be renewed by the stewards during the same year with no additional fee;

(f) A claiming certificate may be issued to a person who had been licensed as an owner during a previous race meet.

**WSR 04-20-042**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Management Services Administration)

[Filed September 30, 2004, 4:09 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-21-149.

Title of Rule and Other Identifying Information: Amending WAC 388-02-0215 What is the authority of the ALJ (administrative law judge)?

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503, on November 9, 2004, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 10, 2004.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on November 9, 2004.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by November 4, 2004, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule (a) amends subsection (4)(e) to permit the Board of Appeals (BOA) to review initial orders entered by Office of Administrative Hearings administrative law judges in cases of adult protective services findings of abandonment, abuse, financial exploitation or neglect under chapters 74.34, 74.39 and 74.39A RCW, and recently adopted new WAC 388-71-01235 through 388-71-01275; (b) revises language to clarify the scope [of] the rule in subsections (4)(l) and (o); and (c) updates WAC cross-references in subsections (4)(l) and (o).

Reasons Supporting Proposal: Proposed amendments: (1) Clarify procedures protecting the due process rights of alleged perpetrators in APS cases; and (2) clarify the rule and direct the public to current WAC references.

Statutory Authority for Adoption: RCW 34.05.020.

Statute Being Implemented: Chapter 34.05 RCW, Parts IV and V.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Brian Lindgren, Manager, Department of Social and Health Services, Board of Appeals, P.O. Box 45803, Olympia, WA 98504-5803, (360) 664-6093.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule is exempt under RCW 19.85.025 and 34.05.310(4). The proposed amendments to WAC 388-02-0215 (4)(e) amend procedures related to agency hearings. A small business economic impact statement is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule is a "procedural rule" related to agency hearing procedures and does not meet the definition of a "significant legislative rule" under RCW 34.05.328 (5)(c). A cost-benefit analysis is not required for procedural rules.

September 23, 2004

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-13-046, filed 6/11/03, effective 7/12/03)

**WAC 388-02-0215 What is the authority of the ALJ?**

(1) The ALJ must hear and decide the issues de novo (anew) based on what is presented during the hearing.

(2) As needed, the ALJ may:

(a) Determine the order for presenting evidence;  
 (b) Issue subpoenas or orders directing witnesses to appear or bring documents;

(c) Rule on objections, motions, and other procedural matters;

(d) Rule on an offer of proof made to admit evidence;

(e) Admit relevant evidence;

(f) Impartially question witnesses to develop the record;

(g) Call additional witnesses and request exhibits to complete the record;

(h) Give the parties an opportunity to cross-examine witnesses or present more evidence against the witnesses or exhibits;

(i) Keep order during the hearing;

(j) Allow or require oral or written argument and set the deadlines for the parties to submit argument or evidence;

(k) Permit others to attend, photograph or electronically record hearings, but may place conditions to preserve confidentiality or prevent disruption;

(l) Allow a party to waive rights given by chapters 34.05 RCW or 388-02 WAC, unless another law prevents it;

(m) Decide whether a party has a right to a hearing;

(n) Issue protective orders;

(o) Consider granting a stay if authorized by law or DSHS rule; and

(p) Take any other action necessary and authorized under these or other rules.

(3) The ALJ administers oaths or affirmations and takes testimony.

(4) The ALJ enters an initial order in those cases where the parties may request review of an initial order by a review judge. Cases where the parties may request review of an initial order by a review judge are those relating to:

(a) Adult family home licenses under chapter 388-76 WAC;

(b) Boarding home licenses under chapter 388-78A WAC;

(c) Resident protection program findings under WAC 388-97-077;

(d) Nursing home licenses under WAC 388-97-550 through 388-97-695;

(e) ~~((Placement of personal aides providing self directed care on a state registry under RCW 74.39A.050(9) and WAC 388-71-0150 and 388-71-0155))~~ Adult protective services findings of abandonment, abuse, financial exploitation or neglect under chapters 74.34, 74.39, 74.39A RCW and WAC 388-71-01235 through 388-71-01275;

(f) Where the client has requested a hearing under WAC 388-71-0560, the termination of a provider for placing clients in imminent jeopardy under RCW 74.39A.095(7) and WAC 388-71-0551;

(g) Where the client has requested a hearing under WAC 388-71-0560, the termination of a provider due to inadequate

performance or inability to deliver quality care under RCW 74.39A.095(7) and WAC 388-71-0540 and 388-71-0551;

(h) Where the client has requested a hearing under WAC 388-71-0560, the denial of a contract to a provider due to inability of the provider to appropriately meet the care needs of clients under RCW 74.39A.095(8) and WAC 388-71-0546;

(i) Where the client has requested a hearing under WAC 388-71-0560, the denial or termination of a contract and subsequent denial of payment to a provider due to a disqualifying crime or lack of character, competence, or suitability to maintain the health, safety, and well-being of clients under RCW 43.20A.710(5) and WAC 388-71-0540 (3) through (5);

(j) Social service eligibility under WAC 388-71-0400 through 388-71-0480, 388-71-0202, and 388-71-0203, and under chapter 388-72A WAC, except for WAC 388-72A-0055(2), 388-72A-0060(1), and 388-72A-0065 (4) through (6);

(k) Domestic violence perpetrator treatment program certification under chapter 388-60 WAC;

(l) Licensing or certification of ~~((child foster care))~~ homes, programs, facilities, providers, and agencies servicing children, juveniles, expectant mothers and developmentally disabled persons under chapter 74.15 RCW and chapters 388-140, 388-145, ~~388-147~~, 388-148 and 388-160 WAC;

(m) Child protective services findings of abuse and neglect under RCW 26.44.125 and chapter 388-15 WAC;

(n) Adoption support under WAC 388-27-0120 through 388-27-0390, for which a hearing has been held under WAC 388-27-0365;

(o) Child day care licenses under chapter 74.15 RCW and chapters 388-150, 388-151, ~~((and))388-155, 388-295 and 388-296~~ WAC;

(p) Background checks of protective payees under WAC 388-460-0025, for which a hearing has been held under WAC 388-460-0070;

(q) Background checks of child care providers and other persons under WAC 388-290-0143, for which a hearing has been held under WAC 388-290-0260 as part of the working connections child care program;

(r) Background checks of persons acting in the place of a parent under WAC 388-454-0006, for which a hearing has been held under WAC 388-472-0005 (1)(j);

(s) Claims of good cause for not cooperating with the division of child support under WAC 388-422-0020;

(t) Parent address disclosure under WAC 388-14A-2114 through 388-14A-2140;

(u) Chemical dependency treatment provider certification under chapter 388-805 WAC;

(v) Community residential services and support certification, for which a hearing has been held under WAC 388-820-920;

(w) Denial or termination of eligibility for services under WAC 388-825-030 and 388-825-035, for which a hearing has been held under WAC 388-825-120 (1)(a);

(x) Development or modification of an individual service plan under WAC 388-825-050, for which a hearing has been held under WAC 388-825-120 (1)(b);

(y) Authorization, denial, reduction, or termination of services under WAC 388-825-055, for which a hearing has been held under WAC 388-825-120 (1)(c);

(z) Licensed community facilities under RCW 74.15.210 and WAC 388-730-0090;

(aa) Community mental health and involuntary treatment program licenses under WAC 388-865-0480;

(bb) Medical, dental, or transportation services, for which a hearing has been held under WAC 388-526-2610;

(cc) Medical provider overpayments, for which a hearing has been held under WAC 388-502-0230(5) or 388-502-0240(17); or

(dd) Background checks under WAC 388-06-0110 that result in denial of authorization for unsupervised access to children or to individuals with developmental disabilities, for which a hearing has been held under WAC 388-06-0240(1); or

(ee) Cases for which a right to a hearing existed, if the request for a hearing was received by OAH or DSHS on or before November 14, 2002, and WAC 388-740-0060 and 388-891-0275 did not apply.

(5) The ALJ makes the final decision and enters the final order in all cases except those cases set forth in subsection (4) of this section.

(6) A review judge has the same authority as an ALJ when presiding at a hearing.

**WSR 04-20-051**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 (Board of Physical Therapy)  
 [Filed October 1, 2004, 10:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-07-195.

**Title of Rule and Other Identifying Information:** WAC 246-915-040 Licensure by endorsement—Applicants from approved schools, the proposed rule is required for house-keeping purposes. The current rule has not been updated in at least ten years. Currently, if a licensee has not worked in physical therapy in the last two years they may be granted licensure by endorsement under certain conditions. The proposed rule changes the length of time a physical therapist has not worked from two to three years. The three-year term is consistent with the language outlined in chapter 246-12 WAC, Administrative procedures and requirements for credentialed health care providers. The proposed rules also changes "continuing education" to "continuing competency." This language is consistent with current language outlined in WAC 246-915-085 Continuing competency.

**Hearing Location(s):** Department of Health, 310 Israel Road S.E., Room 152, Tumwater, WA 98501, on November 16, 2004, at 9:30 a.m.

**Date of Intended Adoption:** November 16, 2004.

**Submit Written Comments to:** Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, e-

mail kris.waidely@doh.wa.gov, fax (360) 664-9077, by November 5, 2004.

**Assistance for Persons with Disabilities:** Contact Kris Waidely, Program Manager, by November 5, 2004, (800) 833-6388 or (360) 236-4847.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The current rule includes language that states if a licensee has not worked in physical therapy in the last two years, the applicant may be granted licensure by endorsement under the following conditions. The proposed rule changes the length of time a physical therapist has not worked from two to three years. The proposed rule also changes the language for continuing education to continuing competency. The board would like the change made to be consistent with the language of WAC 246-915-085 which uses the continuing competency language rather than continuing education.

**Reasons Supporting Proposal:** The proposed changes extend physical therapy licensure eligibility requirements from two years to three years without employment and changes language from continuing education to continuing competency for consistency with WAC 246-915-085 Continuing competency.

**Statutory Authority for Adoption:** RCW 18.74.023.

**Statute Being Implemented:** RCW 18.74.023.

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

**Name of Proponent:** Department of Health, governmental.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4847.

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

**Small Business Economic Impact Statement**

**Proposed Amendatory Sections:** WAC 246-915-040 Licensure by endorsement—Applicants from approved schools, 246-915-050 Expired license, 246-915-100 Approved physical therapy schools, 246-915-105 Approved physical therapist assistant schools, and 246-915-180 Professional conduct principles.

**1. Briefly Describe the Proposed Rule:** The proposed rule amendments seek to increase the standards of appropriateness of physical therapy care in accordance with RCW 18.74.025.

**Changes for Clarification:**

- Extend physical therapy licensure eligibility requirements from two years to three years without employment.
- Change language from continuing education to continuing competency for board scrutiny of licensees that have not worked in physical therapy for three years.
- Amend the title of WAC 246-915-050 from expired license to reinstatement. The change better describes the intent of the section.
- Rephrase the reinstatement requirements for a practitioner whose license has been expired for over three years, and has not been in active practice in another

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United States jurisdiction. The change in language clarifies the authority of the board to decide on reexamination and/or other evidence necessary to ensure the applicant is professionally competent before returning to active practice in Washington state.

- Recognize and clarify the role of the Commission on Accreditation in Physical Therapy Education, the division within the American Physical Therapy Association responsible for establishing educational standards and developing appropriate systems for outcome measurements within United States physical therapy education programs. The current rule adopts the educational standards for United States physical therapy programs established by the American Physical Therapy Association.
- Recognize the role of the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education in establishing the education standards for physical therapist assistants. A board approved physical therapist assistant program shall mean a United States physical therapist assistant education program accredited by the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education or a United States military physical therapy technician program that is substantially equal to an accredited United States physical therapist assistant program. The regulation of physical therapist assistants is not authorized under chapter 18.74 RCW. While the supervising physical therapist is trained to provide the examination, evaluation, diagnosis, prognosis, and treatment plan, physical therapist assistants are considered paraprofessionals who work under the direction and supervision of the physical therapist and are trained to provide physical therapy interventions. Given that physical therapist assistants are not required to work under direct supervision and frequently work in unsupervised settings such as home health and public schools, this rule is necessary to establish that physical therapist assistants meet minimum educational qualifications in order to protect the public.

**Changes Imposing Additional Requirements:**

- Prohibit physical therapists from receiving reimbursement for self evaluation and self directed treatment. The restriction is necessary to protect the public from excessive charging and an over utilization of physical therapy services.
- Require physical therapists to only delegate physical therapy tasks to trained supportive personnel as defined in WAC 246-915-010 (4)(a) and (b). The amendment seeks to protect the public from the delegation of physical therapy services to untrained, unskilled, and unqualified individuals.

**2. Is a Small Business Economic Impact Statement (SBEIS) Required for this Rule?** No. Insurance companies spread the costs associated with self treatment among enrollees. Even though they use different methods of risk pooling to spread the extra costs, the share of the extra costs to small businesses do not seem to be significant.

The change of language in the reinstatement section (WAC 246-915-050) does not create any new requirements and there is no added financial impact to the approximately sixty-five reinstatement applicants each year. The associated costs for the proposed rule are zero because the change is for clarification.

The recognition of approved physical therapy schools (WAC 246-915-100) and approved physical therapist assistant schools (WAC 246-915-105) are meant to clarify the role of the Commission on Accreditation in Physical Therapy Education, the division within the American Physical Therapy Association responsible for establishing educational standards and developing appropriate systems for outcome measurements within United States physical therapy education programs and standards for physical therapist assistants. This rule amendment does not change current standards.

New requirements that prohibit physical therapists from receiving reimbursement for self evaluation and/or self directed treatment (WAC 246-915-180(10)) and the delegation of physical therapy tasks to trained personnel (WAC 246-915-180(11)) are meant to protect Washington state from excessive charging and overutilization of services. Only minimal costs will be generated for physical therapy practitioners who provide physical therapy services in a professional and ethical manner.

**3. Which Industries Are Affected by this Rule?** In preparing this small business economic impact statement (SBEIS), the Department of Health used the following SIC codes:

SIC	Description	Minor Impact Threshold (\$)
8051	Skilled nursing care facilities	195.64
8052	Intermediate care facilities	66.10
8059	Nursing and personal care, nec	66.10
8062	General medical & surgical hospital	396.57
8069	Specialty hospitals exc. Psychiatric	237.94
8082	Home health care services	122.94
8093	Specialty outpatient clinic, nec	116.33
8099	Health and allied services, nec	66.10

**4. How Are Small Businesses Involved in the Development of this Rule?** During the comment period, town meetings were held and draft rules were sent to all Washington state licensed physical therapists and all known physical therapist assistants through the Physical Therapy Association of Washington.

A copy of the statement may be obtained by contacting Kris Waidely, P.O. Box 47868, Olympia, WA 98504-7868, phone (360) 236-4847, fax (360) 664-9077, e-mail kris.waidely@doh.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kris Waidely, P.O. Box 47868,

Olympia, WA 98504-7868, phone (360) 236-4847, fax (360) 664-9077, e-mail kris.waidely@doh.wa.gov.

October 1, 2004  
Kris Waidely  
Program Manager

AMENDATORY SECTION (Amending Order 403B, filed 2/4/94, effective 3/7/94)

**WAC 246-915-040 Licensure by endorsement—Applicants from approved schools.** (1) Before licensure by endorsement is extended to any individual licensed to practice physical therapy under the law of another state, territory, or District of Columbia, the applicant shall have graduated from a board approved school, shall have taken the examination for physical therapy and shall have achieved a passing score approved by the board.

(2) If the decision to extend licensure by endorsement is based on an examination other than the examination approved in WAC 246-915-030(1), the board shall determine if such examination is equivalent to that required by the laws of this state.

(3) The board shall not recommend to the secretary that a person be licensed as a physical therapist under the licensure by endorsement provisions of RCW 18.74.060, unless said applicant shall have taken and passed the examination approved by the board, or other examination equivalent to that required by the laws of this state.

(4) If a licensee has not worked in physical therapy in the last ~~((two))~~ three years, the applicant may be granted licensure by endorsement under the following conditions:

(a) The board may require reexamination of an applicant who has not been actively engaged in lawful practice in another state or territory; or

(b) Waive reexamination in favor of evidence of continuing ~~((education))~~ competency satisfactory to the board.

**WSR 04-20-053**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
(Board of Physical Therapy)  
[Filed October 1, 2004, 10:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-07-173.

Title of Rule and Other Identifying Information: WAC 246-915-100 Approved physical therapy schools, RCW 18.74.030 directs that applicants hold a baccalaureate degree in physical therapy from a school that has been approved by the board. The current rule adopts the educational standards for United States physical therapy programs established by the American Physical Therapy Association and has been in effect since the inception of the American Physical Therapy Association's accreditation process in 1985. The proposed rule is required to recognize and clarify the role of the Commission on Accreditation in Physical Therapy Education, the division within the American Physical Therapy Association

responsible for establishing educational standards and developing appropriate systems for outcome measurements within United States physical therapy education programs.

Hearing Location(s): Department of Health, 310 Israel Road S.E., Room 152, Tumwater, WA 98501, on November 16, 2004, at 9:30 a.m.

Date of Intended Adoption: November 16, 2004.

Submit Written Comments to: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, e-mail kris.waidely@doh.wa.gov, fax (360) 664-9077, by November 5, 2004.

Assistance for Persons with Disabilities: Contact Kris Waidely, Program Manager, by November 5, 2004, TTY (800) 833-6388 or (360) 236-4847.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Physical therapy education and scopes of practice within countries outside the United States and Canada are significantly more restrictive and most often require the direct supervision of a physician. By recognizing the educational standards established by the American Physical Therapy Association, an organization responsible for the development of appropriate standards for the various elements of physical therapy practice within the United States, the board believes the goals and objectives for RCW 18.74.030 and 18.74.060 have been met. All known United States physical therapy education programs currently hold accreditation status with the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education. Consumers of physical therapy services will only benefit from the licensure of qualified physical therapists whose level of training has been proven to be consistent with the functions and services that fall within the physical therapy scope of practice in this state. There are currently more than two hundred physical therapy programs in this country. The board reviews and acts on approximately six hundred physical therapy applications each year. In the absence of a rule establishing the standards adopted by the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education, the board could potentially be faced with the review of more than two hundred physical therapy education programs every five years. According to the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education, this process utilizes the expertise of hundreds of academicians and clinical instructors across the United States and can take up to six months. The Board of Physical Therapy is made up of four physical therapists and one consumer member, all essentially volunteers. Both the time factor and prohibitive costs involved in this process would make this alternative impossible to implement and would create lengthy, unreasonable delays in the application process. This would result in limited access to physical therapy services throughout the state.

Statutory Authority for Adoption: RCW 18.74.023.

Statute Being Implemented: RCW 18.74.023.

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

Name of Proponent: Department of Health, governmental.



Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4847.

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

#### Small Business Economic Impact Statement

**Proposed Amendatory Sections:** WAC 246-915-040 Licensure by endorsement—Applicants from approved schools, 246-915-050 Expired license, 246-915-100 Approved physical therapy schools, 246-915-105 Approved physical therapist assistant schools, and 246-915-180 Professional conduct principles.

**1. Briefly Describe the Proposed Rule:** The proposed rule amendments seek to increase the standards of appropriateness of physical therapy care in accordance with RCW 18.74.025.

##### Changes for Clarification:

- Extend physical therapy licensure eligibility requirements from two years to three years without employment.
- Change language from continuing education to continuing competency for board scrutiny of licensees that have not worked in physical therapy for three years.
- Amend the title of WAC 246-915-050 from expired license to reinstatement. The change better describes the intent of the section.
- Rephrase the reinstatement requirements for a practitioner whose license has been expired for over three years, and has not been in active practice in another United States jurisdiction. The change in language clarifies the authority of the board to decide on reexamination and/or other evidence necessary to ensure the applicant is professionally competent before returning to active practice in Washington state.
- Recognize and clarify the role of the Commission on Accreditation in Physical Therapy Education, the division within the American Physical Therapy Association responsible for establishing educational standards and developing appropriate systems for outcome measurements within United States physical therapy education programs. The current rule adopts the educational standards for United States physical therapy programs established by the American Physical Therapy Association.
- Recognize the role of the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education in establishing the education standards for physical therapist assistants. A board approved physical therapist assistant program shall mean a United States physical therapist assistant education program accredited by the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education or a United States military physical therapy technician program that is substantially equal to an accredited United States physical therapist assistant program. The regulation of physical therapist assistants is not authorized under

chapter 18.74 RCW. While the supervising physical therapist is trained to provide the examination, evaluation, diagnosis, prognosis, and treatment plan, physical therapist assistants are considered paraprofessionals who work under the direction and supervision of the physical therapist and are trained to provide physical therapy interventions. Given that physical therapist assistants are not required to work under direct supervision and frequently work in unsupervised settings such as home health and public schools, this rule is necessary to establish that physical therapist assistants meet minimum educational qualifications in order to protect the public.

##### Changes Imposing Additional Requirements:

- Prohibit physical therapists from receiving reimbursement for self evaluation and self directed treatment. The restriction is necessary to protect the public from excessive charging and an over utilization of physical therapy services.
- Require physical therapists to only delegate physical therapy tasks to trained supportive personnel as defined in WAC 246-915-010 (4)(a) and (b). The amendment seeks to protect the public from the delegation of physical therapy services to untrained, unskilled, and unqualified individuals.

**2. Is a Small Business Economic Impact Statement (SBEIS) Required for this Rule?** No. Insurance companies spread the costs associated with self treatment among enrollees. Even though they use different methods of risk pooling to spread the extra costs, the share of the extra costs to small businesses do not seem to be significant.

The change of language in the reinstatement section (WAC 246-915-050) does not create any new requirements and there is no added financial impact to the approximately sixty-five reinstatement applicants each year. The associated costs for the proposed rule are zero because the change is for clarification.

The recognition of approved physical therapy schools (WAC 246-915-100) and approved physical therapist assistant schools (WAC 246-915-105) are meant to clarify the role of the Commission on Accreditation in Physical Therapy Education, the division within the American Physical Therapy Association responsible for establishing educational standards and developing appropriate systems for outcome measurements within United States physical therapy education programs and standards for physical therapist assistants. This rule amendment does not change current standards.

New requirements that prohibit physical therapists from receiving reimbursement for self evaluation and/or self directed treatment (WAC 246-915-180(10)) and the delegation of physical therapy tasks to trained personnel (WAC 246-915-180(11)) are meant to protect Washington state from excessive charging and overutilization of services. Only minimal costs will be generated for physical therapy practitioners who provide physical therapy services in a professional and ethical manner.

**3. Which Industries Are Affected by this Rule?** In preparing this small business economic impact statement (SBEIS), the Department of Health used the following SIC codes:



SIC	Description	Minor Impact Threshold (\$)
8051	Skilled nursing care facilities	195.64
8052	Intermediate care facilities	66.10
8059	Nursing and personal care, nec	66.10
8062	General medical & surgical hospital	396.57
8069	Specialty hospitals exc. Psychiatric	237.94
8082	Home health care services	122.94
8093	Specialty outpatient clinic, nec	116.33
8099	Health and allied services, nec	66.10

**4. How Are Small Businesses Involved in the Development of this Rule?** During the comment period, town meetings were held and draft rules were sent to all Washington state licensed physical therapists and all known physical therapist assistants through the Physical Therapy Association of Washington.

A copy of the statement may be obtained by contacting Kris Waidely, P.O. Box 47868, Olympia, WA 98504-7868, phone (360) 236-4847, fax (360) 664-9077, e-mail kris.waidely@doh.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. This rule change only clarifies existing standards. The rule does not impose any new standards.

August 30, 2004

Kris Waidely  
Program Manager

AMENDATORY SECTION (Amending Order 103B, filed 12/21/90, effective 1/31/91)

**WAC 246-915-100 Approved physical therapy schools.** The board adopts the standards of the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education for the approval of physical therapy schools. Individuals who have a baccalaureate degree in physical therapy or who have a baccalaureate degree and a certificate or advanced degree from an institution of higher learning accredited by the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education will be considered qualified under RCW 18.74.030(2).

**WSR 04-20-056**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed October 1, 2004, 12:47 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-06-055.

Title of Rule and Other Identifying Information: Amending WAC 388-97-125 Nursing homes—Physician services, this proposed amendment is based upon federal clarification by the federal agency, Centers for Medicare and Medicaid Services (CMS). CMS has outlined their clarification through a memo to all state survey agencies.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on November 9, 2004, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 10, 2004.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., November 9, 2004.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by November 5, 2004, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of amending this rule is to be consistent with recent federal clarification and state law requirement concerning physician visits and delegation of tasks in skilled nursing facilities and nursing facilities.

Reasons Supporting Proposal: To comply with federal regulations and state statutes.

Statutory Authority for Adoption: RCW 18.51.070 and 74.42.620.

Statute Being Implemented: RCW 74.42.200, 42 C.F.R. 483.40.

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

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

Name of Agency Personnel Responsible for Drafting: Lisa Yanagida, 640 Woodland Square Loop, (360) 725-2589; Implementation and Enforcement: Joyce Stockwell, 640 Woodland Square Loop, (360) 725-2404.

No small business economic impact statement has been prepared under chapter 19.85 RCW. It is unlikely that any licensed nursing homes regulated under chapters 18.51 and 74.42 RCW have fewer than fifty employees. In the event that there is such a nursing home, ADSA residential care services has analyzed its proposed rule and has concluded that they do not impose an increase in existing costs, an imposition of a new cost, or a decrease in benefit. This proposal for amendment is based upon federal clarification by the federal agency, Centers for Medicare and Medicaid Services (CMS) and existing state law requirements.

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b)(iii) the proposed changes in WAC 388-97-125 are exempt from a cost benefit analysis since the rule is adopting federal and state statutes or regulations without material change.

September 28, 2004

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

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AMENDATORY SECTION (Amending WSR 00-06-028, filed 2/24/00, effective 3/26/00)

**WAC 388-97-125 Physician services.** (1) The nursing home must ensure that the resident is seen by the physician whenever necessary.

(2) Except as specified in RCW 74.42.200, a physician must personally approve in writing a recommendation that an individual be admitted to a nursing home.

~~((2))~~ (3) The nursing home must ensure that:

(a) Except as specified in RCW 74.42.200, the medical care of each resident is supervised by a physician;

(b) Another physician supervises the medical care of residents when their attending physician is unavailable; and

(c) Physician services are provided twenty-four hours per day, in case of emergency.

~~((3))~~ (4) The physician must:

~~(a) ((Review the resident's total program of care, including medications and treatments, at each federally required visit;~~

~~(b))~~ Write, sign and date progress notes at each visit;

~~((and~~

~~(e))~~

(b) Sign and date all orders(~~(-~~

~~(4))~~; and

(c) In Medicare and Medicare/Medicaid certified facilities, review the resident's total program of care, including medications and treatments, at each federally required visit.

(5) Except as specified in subsections ~~((5) and~~ (6), (7), and (9) of this section, a physician may delegate tasks to a physician's assistant or advanced registered nurse practitioner who is:

(a) Licensed by the state;

(b) Acting within the scope of practice as defined by state law; and

(c) Under the supervision of the physician.

~~((5))~~ (6) The physician may not delegate a task when the delegation is prohibited under state law or by the facility's own policies.

~~((6) In the Medicare-certified portion of the facility))~~

(7) If the resident's primary payor source is Medicare, the physician may:

(a) Alternate federally required physician visits between personal visits by:

(i) The physician; and

(ii) An advanced registered nurse practitioner or physician's assistant; and

(b) Not delegate responsibility for the initial required physician visit. This initial visit must occur within the first thirty days of admission to the facility.

~~((7) In)~~

(8) If the resident's payor source is Medicaid~~((certified nursing facilities))~~, the physician may delegate any federally required physician task, including tasks which the regulations specify must be performed personally by the physician, to a physician's assistant or advanced registered nurse practitioner who is not an employee of the facility but who is working in collaboration with a physician.

~~((8))~~ (9) If the resident's payor source is not Medicare or Medicaid:

(a) In the Medicare only certified facility or in the Medicare certified area of a Medicare/Medicaid facility, the physician may alternate federally required physician visits between personal visits by the physician and an advanced registered nurse practitioner or physician's assistant. The physician may not delegate responsibility for the initial required physician visit.

(b) In the Medicaid only certified facility or in the Medicaid certified area of a Medicare/Medicaid facility, the physician may delegate any federally required physician task, including tasks which the regulations specify must be performed personally by the physician, to a physician's assistant or advanced registered nurse practitioner who is not an employee of the facility but who is working in collaboration with a physician.

(10) The following table describes the physician visit requirements related to Medicare or Medicaid certified area and payor type.

	<u>Beds in Medicare only certified area</u>	<u>Beds in Medicare/Medicaid certified area</u>	<u>Beds in Medicaid only certified area</u>
<u>Payor source: Medicare</u>	<u>Initial by physician; Physician may delegate alternate visits</u>	<u>Initial by physician; Physician may delegate alternate visits</u>	N/A
<u>Payor source: Medicaid</u>	N/A	<u>Delegate all tasks Nonemployee</u>	<u>Delegate all tasks Nonemployee</u>
<u>Payor source: Others: such as insurance, private pay, Veteran Affairs</u>	<u>Initial by physician; Physician may delegate alternate visits</u>	<u>Initial by physician; Physician may delegate alternate visits</u>	<u>Delegate all tasks Nonemployee</u>

(11) The attending physician, or the physician-designated advanced registered nurse practitioner or physician's assistant must:

(a) Participate in the interdisciplinary plan of care process as described in WAC 388-97-090;

(b) Provide to the resident, or where applicable the resident's surrogate decision maker, information so that the resi-

dent can make an informed consent to care or refusal of care (see WAC 388-97-060); and

(c) Order resident self-medication when appropriate.

~~((9))~~ (12) The nursing home must obtain from the physician the following medical information before or at the time of the resident's admission:

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(a) A summary or summaries of the resident's current health status, including history and physical findings reflecting a review of systems;

(b) Orders, as necessary for medications, treatments, diagnostic studies, specialized rehabilitative services, diet, and any restrictions related to physical mobility; and

(c) Plans for continuing care and discharge.

**WSR 04-20-067**  
**PROPOSED RULES**  
**STATE BOARD OF HEALTH**

[Filed October 4, 2004, 12:36 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-12-119.

**Title of Rule and Other Identifying Information:** WAC 246-101-015, 246-101-101, 246-101-201 and 246-101-301, notifiable conditions. The State Board of Health (SBOH) last updated the notifiable conditions chapter in 2000 adding eight "provisionally notifiable" conditions. These eight conditions include: Autism, Birth defects—Abdominal wall defects, Cerebral palsy, Fetal alcohol syndrome/fetal alcohol effects, Hepatitis B (chronic), Hepatitis C (acute and chronic), Herpes simplex (initial genital infection only), and Group A Streptococcus (invasive disease only) which are provisionally notifiable through August 2004. Provisionally notifiable conditions are conditions placed on the notifiable conditions list for four years in order for the Department of Health (DOH) to collect sufficient data and determine if conditions should be made permanently notifiable.

Additionally, the proposed rule will require laboratories to report cases of Hepatitis B (chronic), Hepatitis C (acute and chronic), and add the national case definitions for human disease caused by insect bites Arthropod Borne virus or arboviral diseases. This includes viral encephalitis (inflammation of the brain) only and removes viral encephalitis from the notifiable conditions list.

Finally, the last proposed change includes an update in terminology based on recommendations from the maternal and child health section of DOH. The terms Birth defects—Autism and Birth defects—Fetal alcohol syndrome/fetal alcohol effects will be updated to Birth defects—Autism spectrum disorders and Birth defects—Alcohol related birth defects.

The change to a permanently notifiable status requires health care providers, health care facilities, and laboratories to report the aforementioned conditions and diagnoses to public health officials.

**Hearing Location(s):** Kelso Red Lion Hotel, 510 Kelso Drive, Kelso, WA 98626, on November 10, 2004, at 1:30 p.m.

**Date of Intended Adoption:** November 10, 2004.

**Submit Written Comments to:** Jovi Swanson, 101 Israel Road, Tumwater, WA 98501, website <http://www3.doh.wa.gov/policyreview/>, fax (360) 586-7424, by November 1, 2004.

**Assistance for Persons with Disabilities:** Contact Jovi Swanson by November 1, 2004, TTY (800) 833-6388 or (360) 236-4028.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The purpose of the proposal is to ensure continued reporting of specific conditions and diagnoses by health care providers, laboratories, and facilities to public health officials. The proposal amends WAC 246-101-015, 246-101-101, 246-101-201, and 246-101-301 by striking the provisional status for the eight provisionally notifiable conditions, making seven of the conditions permanently notifiable, moving Hepatitis B and Hepatitis C from a voluntary reporting status to a mandatory reporting status for laboratories, adding the new national case definitions endorsed by the Centers for Disease Control and Prevention Arboviral Disease and eliminating the term viral encephalitis, and updating the terminology within birth defects.

**Reasons Supporting Proposal:** Notifiable conditions reporting provides the information necessary for public health officials to track communicable diseases and other conditions. The data collected in notifiable conditions reporting are critical to local health departments and the Department of Health to protect the public health by tracking communicable diseases and other conditions. Public health professionals use these data to treat persons already ill, provide preventative therapies, and to assess broader patterns of disease, historical trends, and geographic clustering.

**Statutory Authority for Adoption:** RCW 43.20.050 and 70.24.125.

**Statute Being Implemented:** RCW 43.20.050 and 70.24.125.

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

**Name of Proponent:** Washington State Board of Health and State Department of Health, governmental.

**Name of Agency Personnel Responsible for Drafting:** Jovi Swanson, 101 Israel Road, Tumwater, WA 98501, (360) 236-4028; **Implementation and Enforcement:** Maria Couragen, 7211 Cleanwater Lane, Building 14, Olympia, WA 98504-7833, (360) 236-3458; Wendy Krier, 7211 Cleanwater Lane, Building 14, Olympia, WA 98504-7833, (360) 236-3440; Mira Leslie, 1610 N.E. 150th Street, MSTP K-19, Shoreline, WA 98155-7224, (206) 361-2930; and Riley Peters, 7171 Cleanwater Lane, Building 10, Tumwater, WA 98504-7835, (360) 236-2323.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.030 an agency shall prepare a small business economic impact statement whenever a regulation imposes more than minor costs. The current proposed rule does not impose more than minor costs on small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Jovi Swanson, Department of Health, 101 Israel Road, Town Center 1, Tumwater, WA 98501,

phone (360) 236-4028, fax (360) 586-7424, e-mail jovi.swanson@doh.wa.gov.

September 30, 2004  
 Craig McLaughlin  
 Acting Executive Director

**AMENDATORY SECTION** (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

**WAC 246-101-015 Provisional condition notification.** This section describes how conditions can become notifiable; what period of time conditions are provisionally notifiable; what analyses must be accomplished during provisional notification status; the transition of provisionally notifiable conditions to permanent notification or deletion of notification requirements. The department's goal for provisionally notifiable conditions is to collect enough information to determine whether requiring notification improves public health.

(1) The state health officer may:

(a) Request reporting of cases and suspected cases of disease and conditions in addition to those required in Tables HC-1, Lab-1, and HF-1 on a provisional basis for a period of time less than forty-eight months when:

(i) The disease or condition is newly recognized or recently acknowledged as a public health concern;

(ii) Epidemiological investigation based on notification of cases may contribute to understanding of the disease or condition;

(iii) There is reason to expect that the information acquired through notification will assist the state and/or local health department to design or implement intervention strategies that will result in an improvement in public health; and

(iv) Written notification is provided to all local health officers regarding:

(A) Additional reporting requirements; and

(B) Rationale or justification for specifying the disease or condition as notifiable.

(b) Request laboratories to submit specimens indicative of infections in addition to those required in Table Lab-1 on a provisional basis for a period of time less than forty-eight months, if:

(i) The infection is of public health concern;

(ii) The department has a plan for using data gathered from the specimens; and

(iii) Written notification is provided to all local health officers and all laboratory directors explaining:

(A) Actions required; and

(B) Reason for the addition.

(2) Within forty months of the state health officer's designation of a condition as provisionally notifiable in subsection (1) of this section, or requests for laboratories to submit specimens indicative of infections in subsection (2) of this section, the department will conduct an evaluation for the notification requirement that:

(a) Estimates the societal cost resulting from the provisionally notifiable condition;

(i) Determine the prevalence of the provisional notifiable condition; and

(ii) Identify the quantifiable costs resulting from the provisionally notifiable condition; and

(iii) Discuss the qualitative costs resulting from the provisionally notifiable condition.

(b) Describes how the information was used and how it will continue to be used to design and implement intervention strategies aimed at combating the provisionally notifiable condition;

(c) Verifies the effectiveness of previous intervention strategies at reducing the incidence, morbidity, or mortality of the provisional notifiable condition;

(d) Identifies the quantitative and qualitative costs of the provisional notification requirement;

(e) Compares the costs of the provisional notification requirement with the estimated cost savings resulting from the intervention based on the information provided through the provisional notification requirement;

(f) Describes the effectiveness and utility of using the notifiable conditions process as a mechanism to collect these data; and

(g) Describes that a less burdensome data collection system (example: biennial surveys) would not provide the information needed to effectively establish and maintain the intervention strategies.

(3) Based upon the evaluation in subsection (2) of this section, the board will assess results of the evaluation after the particular condition is notifiable or the requirement for laboratories to submit specimens indicative of infections has been in place for no longer than forty months. The board will determine based upon the results of the evaluation whether the provisionally notifiable condition or the requirement for laboratories to submit specimens indicative of infections should be:

(a) Permanently notifiable in the same manner as the provisional notification requirement;

(b) Permanently notifiable in a manner that would use the evaluation results to redesign the notification requirements; or

(c) Deleted from the notifiable conditions system.

~~(4) ((The following conditions are provisionally notifiable through the date indicated:~~

~~(a) Autism (through August, 2004);~~

~~(b) Cerebral palsy (through August, 2004);~~

~~(c) Fetal alcohol syndrome/Fetal alcohol effects (through August, 2004);~~

~~(d) Hepatitis B, chronic—Initial diagnosis, and previously unreported prevalent cases (through August, 2004);~~

~~(e) Hepatitis C—Initial diagnosis, and previously unreported prevalent cases (through August, 2004);~~

~~(f) Herpes simplex (initial genital infection, only) (through August, 2004);~~

~~(g) Streptococcus, Group A (invasive disease only indicated by blood, spinal fluid or other normally sterile site) (through August, 2004); and~~

~~(h) Birth defects—Abdominal wall defects (through August, 2004).~~

(5)) The department shall have the authority to declare an emergency and institute notification requirements under the provisions of RCW 34.05.350.

**AMENDATORY SECTION** (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

**WAC 246-101-101 Notifiable conditions and the health care provider.** This section describes the conditions that Washington's health care providers must notify public health authorities of on a statewide basis. The board finds that the conditions in the table below (Table HC-1) are notifiable for the prevention and control of communicable and noninfectious diseases and conditions in Washington. Principal health care providers shall notify public health authorities of these conditions as individual case reports using procedures

described throughout this chapter. Other health care providers in attendance shall notify public health authorities of the following notifiable conditions, unless the condition notification has already been made. Local health officers may require additional conditions to be notifiable within the local health officer's jurisdiction.

WAC 246-101-105, 246-101-110, 246-101-115, and 246-101-120 also include requirements for how notifications shall be made, when they shall be made, the content of these notifications, and how information regarding notifiable conditions cases must be handled and may be disclosed.

Table HC-1 (Conditions Notifiable by Health Care Providers)

Notifiable Condition	Time frame for Notification	Notifiable to Local Health Department	Notifiable to State Department of Health
Acquired Immunodeficiency Syndrome (AIDS)	Within 3 work days	√	
Animal Bites	Immediately	√	
Arboviral Disease	Within 3 work days	√	
Asthma, occupational	Monthly		√
Birth Defects – Autism (( <del>Provisional through August, 2004</del> )) <u>Spectrum Disorders</u>	Monthly		√
Birth Defects – Cerebral Palsy (( <del>Provisional through August, 2004</del> ))	Monthly		√
Birth Defects – ((Fetal)) Alcohol (( <del>Syndrome/Fetal Alcohol Effects (Provisional through August, 2004)</del> )) <u>Related Birth Defects</u>	Monthly		√
Botulism (foodborne, infant, and wound)	Immediately	√	
Brucellosis ( <i>Brucella</i> species)	Immediately	√	
Campylobacteriosis	Within 3 work days	√	
Chancroid	Within 3 work days	√	
<i>Chlamydia trachomatis</i> infection	Within 3 work days	√	
Cholera	Immediately	√	
Cryptosporidiosis	Within 3 work days	√	
Cyclosporiasis	Within 3 work days	√	
Diphtheria	Immediately	√	
Disease of suspected bioterrorism origin (including): • Anthrax • Smallpox	Immediately	√	
Disease of suspected foodborne origin (communicable disease clusters only)	Immediately	√	

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Notifiable Condition	Time frame for Notification	Notifiable to Local Health Department	Notifiable to State Department of Health
Disease of suspected water-borne origin (communicable disease clusters only)	Immediately	√	
<del>((Encephalitis, viral</del>	<del>Within 3 work days</del>	<del>÷))</del>	
Enterohemorrhagic <i>E. coli</i> (shiga-like toxin producing infections only) such as <i>E. coli</i> O157:H7 Infection	Immediately	√	
Giardiasis	Within 3 work days	√	
Gonorrhea	Within 3 work days	√	
Granuloma inguinale	Within 3 work days	√	
<i>Haemophilus influenzae</i> (invasive disease, children under age 5)	Immediately	√	
Hantavirus pulmonary syndrome	Within 3 work days	√	
Hemolytic uremic syndrome	Immediately	√	
Hepatitis A (acute infection)	Immediately	√	
Hepatitis B (acute infection)	Within 3 work days	√	
Hepatitis B surface antigen + pregnant women	Within 3 work days	√	
Hepatitis B (chronic) – Initial diagnosis, and previously unreported prevalent cases ( <del>((Provisional through August, 2004)))</del>	Monthly	√	
Hepatitis C – Acute and chronic ( <del>((Provisional through August, 2004)))</del>	Monthly	√	
Hepatitis (infectious), unspecified	Within 3 work days	√	
Herpes simplex, neonatal and genital (initial infection only) ( <del>((Provisional through August, 2004)))</del>	Within 3 work days	√	
Human immunodeficiency virus (HIV) infection	Within 3 work days	√	
Legionellosis	Within 3 work days	√	
Leptospirosis	Within 3 work days	√	
Listeriosis	Immediately	√	
Lyme Disease	Within 3 work days	√	
Lymphogranuloma venereum	Within 3 work days	√	
Malaria	Within 3 work days	√	
Measles (rubeola)	Immediately	√	
Meningococcal disease	Immediately	√	
Mumps	Within 3 work days	√	
Paralytic shellfish poisoning	Immediately	√	

Notifiable Condition	Time frame for Notification	Notifiable to Local Health Department	Notifiable to State Department of Health
Pertussis	Immediately	√	
Pesticide poisoning (hospitalized, fatal, or cluster)	Immediately		√
Pesticide poisoning (all other)	Within 3 work days		√
Plague	Immediately	√	
Poliomyelitis	Immediately	√	
Psittacosis	Within 3 work days	√	
Q Fever	Within 3 work days	√	
Rabies (Confirmed Human or Animal)	Immediately	√	
Rabies (Including use of post-exposure prophylaxis)	Within 3 work days	√	
Relapsing fever (borreliosis)	Immediately	√	
Rubella (including congenital rubella syndrome)	Immediately	√	
Salmonellosis	Immediately	√	
Serious adverse reactions to immunizations	Within 3 work days	√	
Shigellosis	Immediately	√	
<del>((Streptococcus, Group A, Invasive (Indicated by blood, spinal fluid or other normally sterile site) (Provisional through August, 2004)</del>	<del>Within 3 work days</del>	<del>√</del>	
Syphilis	Within 3 work days	√	
Tetanus	Within 3 work days	√	
Trichinosis	Within 3 work days	√	
Tuberculosis	Immediately	√	
Tularemia	Within 3 work days	√	
Typhus	Immediately	√	
Vibriosis	Within 3 work days	√	
Yellow fever	Immediately	√	
Yersiniosis	Within 3 work days	√	
Other rare diseases of public health significance	Immediately	√	
Unexplained critical illness or death	Immediately	√	

**AMENDATORY SECTION** (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

**WAC 246-101-201 Notifiable conditions and laboratories.** This section describes the conditions about which Washington's laboratories must notify public health authorities of on a statewide basis. The board finds that the conditions in the table below (Table Lab-1) are notifiable for the prevention and control of communicable and noninfectious diseases and conditions in Washington. The board also finds that submission of specimens for many of these conditions

will further prevent the spread of disease. Laboratory directors shall notify public health authorities of positive cultures and preliminary test results as individual case reports and provide specimen submissions using procedures described throughout this chapter. Local health officers may require additional conditions to be notifiable within the local health officer's jurisdiction.

WAC 246-101-205, 246-101-210, 246-101-215, 246-101-220, 246-101-225, and 246-101-230 also include requirements for how notifications and specimen submis-

sions are made, when they are made, the content of these notifications and specimen submissions, and how informa-

tion regarding notifiable conditions cases must be handled and may be disclosed.

Table Lab-1 (Conditions Notifiable by Laboratory Directors)

Notifiable Condition	Time frame for Notification	Notifiable to Local Health Department	Notifiable to Department of Health	Specimen Submission to Department of Health (Type & Timing)
<u>Arboviral Disease (Isolation; Detection of Viral Nucleic Acid or Antibody)</u>	<u>2 days</u>	√		
Blood Lead Level	Elevated Levels – 2 Days Nonelevated Levels – Monthly		√	
Botulism (Foodborne)	Immediately	√		Serum and Stool - If available, submit suspect foods (2 days)
Botulism (Infant)	Immediately	√		Stool (2 days)
Botulism (Wound)	Immediately	√		Culture, Serum, Debrided tissue, or Swab sample (2 days)
Brucellosis ( <i>Brucella species</i> )	2 days	√		Subcultures (2 days)
CD4+ (T4) lymphocyte counts less than 200 and/or CD4+ (T4) percents less than fourteen percent of total lymphocytes (patients aged thirteen or older)	Monthly	Only when the local health department is designated by the Department of Health	√	
<i>Chlamydia trachomatis</i> infection	2 days	√		
Cholera	Immediately	√		Culture (2 days)
Cryptosporidiosis	2 days	√		
Cyclosporiasis	2 days	√		Specimen (2 days)
Diphtheria	2 days	√		Culture (2 days)
Disease of Suspected Bioterrorism Origin (examples): • Anthrax • Smallpox	Immediately	√		Culture (2 days)
Enterohemorrhagic <i>E. coli</i> (shiga-like toxin producing infections only) such as <i>E. coli</i> O157:H7 Infection	2 days	√		Culture (2 days)
Gonorrhea	2 days	√		
Hepatitis A (IgM positive)	2 days	√		
<u>Hepatitis B (chronic) – Initial diagnosis, and previously unreported prevalent cases</u>	<u>Monthly</u>	√		
<u>Hepatitis C – Acute and chronic</u>	<u>Monthly</u>	√		

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Notifiable Condition	Time frame for Notification	Notifiable to Local Health Department	Notifiable to Department of Health	Specimen Submission to Department of Health (Type & Timing)
Human immunodeficiency virus (HIV) infection (including positive Western Blot assays, P24 antigen or viral culture tests)	2 days	Only when the local health department is designated by the Department of Health	√ (Except King County)	
Human immunodeficiency virus (HIV) infection (positive results on HIV nucleic acid tests (RNA or DNA))	Monthly	Only when the local health department is designated by the Department of Health	√ (Except King County)	
Listeriosis	2 days	√		
Measles (rubeola)	Immediately	√		Serum (2 days)
Meningococcal disease	2 days	√		Culture (Blood/CSF or other sterile sites) (2 days)
Pertussis	2 days	√		
Plague	Immediately	√		Culture or other appropriate clinical material (2 days)
Rabies (human or animal)	Immediately	√ (Pathology Report Only)		Tissue or other appropriate clinical material (Upon request only)
Salmonellosis	2 days	√		Culture (2 days)
Shigellosis	2 days	√		Culture (2 days)
Syphilis				Serum (2 days)
Tuberculosis	2 days		√	Culture (2 days)
Tuberculosis (Antibiotic sensitivity for first isolates)	2 days		√	
Tularemia				Culture or other appropriate clinical material (2 days)
Other rare diseases of public health significance	Immediately	√		

Additional notifications that are requested but not mandatory include:

(1) Laboratory directors may notify either local health departments or the department or both of other laboratory results ((including hepatitis B and hepatitis C)) through cooperative agreement.

(2) Laboratory directors may submit malaria cultures to the state public health laboratories.

**AMENDATORY SECTION** (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

**WAC 246-101-301 Notifiable conditions and health care facilities.** This section describes the conditions that Washington's health care facilities must notify public health authorities of on a statewide basis. The board finds that the conditions in the table below (Table HF-1) are notifiable for the prevention and control of communicable and noninfectious diseases and conditions. Local health officers may require additional conditions to be notifiable within the local health officer's jurisdiction. Health care facilities are required to notify public health authorities of cases that occur in their

facilities. Health care facilities may choose to assume the notification for their health care providers for conditions designated in Table HF-1. Health care facilities may not assume the reporting requirements of laboratories that are components of the health care facility. Local health officers may require additional conditions to be notifiable within the local health officer's jurisdiction.

WAC sections 246-101-305, 246-101-310, 246-101-315, and 246-101-320 also include requirements for how notifications shall be made, when they are made, the content of these notifications, and how information regarding notifiable conditions cases must be handled and may be disclosed.

Table HF-1 (Conditions Notifiable by Health Care Facilities)

Notifiable Condition	Time frame for Notification	Notifiable to Local Health Department	Notifiable to State Department of Health
Acquired Immunodeficiency Syndrome (AIDS)	Within 3 work days		√
Animal Bites	Immediately	√	
Arboviral Disease	Within 3 work days	√	
Asthma, occupational	Monthly		√
Birth Defects – Abdominal Wall Defects (inclusive of gastroschisis and omphalocele) ( <del>Provisional through August, 2004</del> )	Monthly		√
Birth Defects – Autism ( <del>Provisional through August, 2004</del> ) <u>Spectrum Disorders</u>	Monthly		√
Birth Defects – Cerebral Palsy ( <del>Provisional through August, 2004</del> )	Monthly		√
Birth Defects – Down Syndrome	Monthly		√
Birth Defects – Fetal Alcohol ( <del>Syndrome/Fetal Alcohol Effects Provisional through August, 2004</del> ) <u>Related Birth Defects</u>	Monthly		√
Birth Defects – Hypospadias	Monthly		√
Birth Defects – Limb reductions	Monthly		√
Birth Defects – Neural Tube Defects (inclusive of anencephaly and spina bifida)	Monthly		√
Birth Defects – Oral Clefts (inclusive of cleft lip with/without cleft palate)	Monthly		√
Botulism (foodborne, infant, and wound)	Immediately	√	
Brucellosis ( <i>Brucella</i> species)	Immediately	√	
Cancer ( <i>See chapter 246-430 WAC</i> )	Monthly		√
Chancroid	Within 3 work days	√	
<i>Chlamydia trachomatis</i> infection	Within 3 work days	√	
Cholera	Immediately	√	
Cryptosporidiosis	Within 3 work days	√	
Cyclosporiasis	Within 3 work days	√	
Diphtheria	Immediately	√	

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Notifiable Condition	Time frame for Notification	Notifiable to Local Health Department	Notifiable to State Department of Health
Disease of suspected bioterrorism origin (including): • Anthrax • Smallpox	Immediately	√	
Disease of suspected food-borne origin (communicable disease clusters only)	Immediately	√	
Disease of suspected water-borne origin (communicable disease clusters only)	Immediately	√	
<del>((Encephalitis, viral</del>	<del>Within 3 work days</del>	<del>(-))</del>	
Enterohemorrhagic <i>E. coli</i> (shiga-like toxin producing infections only) such as <i>E. coli</i> O157:H7 Infection	Immediately	√	
Giardiasis	Within 3 work days	√	
Gonorrhea	Within 3 work days	√	
Granuloma inguinale	Within 3 work days	√	
Gunshot wounds (nonfatal)	Monthly		√
<i>Haemophilus influenzae</i> (invasive disease, children under age 5)	Immediately	√	
Hantavirus pulmonary syndrome	Within 3 work days	√	
Hemolytic uremic syndrome	Immediately	√	
Hepatitis A (acute infection)	Immediately	√	
Hepatitis B (acute infection)	Within 3 work days	√	
Hepatitis B surface antigen + pregnant women	Within 3 work days	√	
Hepatitis B (chronic) – Initial diagnosis, and previously unreported prevalent cases <del>((Provisional through August, 2004))</del>	Monthly	√	
Hepatitis C – Acute and chronic <del>((Provisional through August, 2004))</del>	Monthly	√	
Hepatitis (infectious), unspecified	Within 3 work days	√	
Human immunodeficiency virus (HIV) infection	Within 3 work days	√	
Legionellosis	Within 3 work days	√	
Leptospirosis	Within 3 work days	√	
Listeriosis	Immediately	√	
Lyme Disease	Within 3 work days	√	
Lymphogranuloma venereum	Within 3 work days	√	
Malaria	Within 3 work days	√	
Measles (rubeola)	Immediately	√	

PROPOSED

Notifiable Condition	Time frame for Notification	Notifiable to Local Health Department	Notifiable to State Department of Health
Meningococcal disease	Immediately	√	
Mumps	Within 3 work days	√	
Paralytic shellfish poisoning	Immediately	√	
Pertussis	Immediately	√	
Pesticide poisoning (hospitalized, fatal, or cluster)	Immediately		√
Plague	Immediately	√	
Poliomyelitis	Immediately	√	
Psittacosis	Within 3 work days	√	
Q Fever	Within 3 work days	√	
Rabies (Confirmed Human or Animal)	Immediately	√	
Rabies (Use of post-exposure prophylaxis)	Within 3 work days	√	
Relapsing fever (borreliosis)	Immediately	√	
Rubella (including congenital rubella syndrome)	Immediately	√	
Salmonellosis	Immediately	√	
Serious adverse reactions to immunizations	Within 3 work days	√	
Shigellosis	Immediately	√	
<del>((Streptococcus, Group A-Invasive (Indicated by blood, spinal fluid or other normally sterile site) (Provisional-through August, 2004)</del>	<del>Within 3 work days</del>	<del>√</del>	
Syphilis	Within 3 work days	√	
Tetanus	Within 3 work days	√	
Trichinosis	Within 3 work days	√	
Tuberculosis	Immediately	√	
Tularemia	Within 3 work days	√	
Typhus	Immediately	√	
Vibriosis	Within 3 work days	√	
Yellow fever	Immediately	√	
Yersiniosis	Within 3 work days	√	
Other rare diseases of public health significance	Immediately	√	
Unexplained critical illness or death	Immediately	√	

PROPOSED

**WSR 04-20-068**  
**PROPOSED RULES**  
**STATE BOARD OF HEALTH**  
 (Board of Physical Therapy)  
 [Filed October 4, 2004, 12:39 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-07-178.

Title of Rule and Other Identifying Information: WAC 246-915-050 Reinstatement, if a practitioner has allowed their license to expire for over three years and the practitioner has not been in active practice in another United States jurisdiction, the practitioner must successfully pass the examination as provided in RCW 18.74.035, and meet the requirements of chapter 246-12 WAC, Part 2. Rules are required to allow the board to waive reexamination and to impose any other requirements necessary to ensure professional competence before allowing the practitioner to reinstate their license to practice. In addition, rules are required to change the current title of the rule from "expired license" to "reinstatement." The change better describes the intent of the section.

Hearing Location(s): Department of Health, 310 Israel Road S.E., Room 152, Tumwater, WA 98501, on November 16, 2004, at 9:30 a.m.

Date of Intended Adoption: November 16, 2004.

Submit Written Comments to: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, e-mail kris.waidely@doh.wa.gov, fax (360) 664-9077, by November 5, 2004.

Assistance for Persons with Disabilities: Contact Kris Waidely, Program Manager, by November 5, 2004, TTY (800) 833-6388 or (360) 236-4847.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule gives the board latitude in determining whether or not an individual has maintained some level of professional competence. Proof of professional competence should not be limited to reexamination except where no other alternatives exist. Under the proposal the board could require a period of clinical observation to assure the public that the practitioner is apprised of current practices and trends. Currently, the rules require reexamination for a practitioner whose license has been expired for two years and has not been in active practice in another United States jurisdiction. The board fees two years is too restrictive and would like the term changed to three years.

Reasons Supporting Proposal: The proposed rule creates a reasonable opportunity for applicants to show, on a case-by-case basis, proof of competence through clinical observations, proof of professional practice in a related or allied health care field, etc. Increasing clarity in the language benefits those seeking reinstatement. The board worked closely with stakeholders to develop a rule that was worded in a way that recognizes the board's expertise in these matters but at the same time, does not limit reinstatement applicants to retaking the national exam, which if failed, could jeopardize their licensure status in other states. The change of language does not create any new requirements and there is no added financial impact.

Statutory Authority for Adoption: RCW 18.74.023.

Statute Being Implemented: RCW 18.74.023.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4847.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because the cost to implement the proposed rules does not exceed the threshold. The more than minimum cost threshold from "804 Office of Clinics and Other Healthcare Practitioners" is set at \$110.00.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kris Waidely, P.O. Box 47868, Olympia, WA 98504-7868, phone (360) 236-4847, fax (360) 664-9077, e-mail kris.waidely@doh.wa.gov.

August 30, 2004

Kris Waidely

Program Manager

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-915-050 ((Expired license-)) Reinstatement.** (1) If the license has expired for three years or less, the practitioner must meet the requirements of chapter 246-12 WAC, Part 2.

(2) If the license has expired for over three years, and the practitioner has been in active practice in another United States jurisdiction, the practitioner must:

(a) Submit verification of active practice from any other United States jurisdiction;

(b) Meet the requirements of chapter 246-12 WAC, Part 2.

(3) If the license has expired for over three years, and the practitioner has not been in active practice in another United States jurisdiction, the practitioner must((:

~~(a) Successfully pass the examination as provided in RCW 18.74.035. The board may waive reexamination in favor of evidence of continuing competency satisfactory to the board;~~

~~(b) Must meet the requirements of chapter 246-12 WAC, Part 2)) meet the requirements of chapter 246-12 WAC, Part 2. Before recommending reinstatement, the board may require reexamination and may impose any other requirements necessary to ensure professional competence and protect the public.~~

**WSR 04-20-069**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 (Board of Physical Therapy)  
 [Filed October 4, 2004, 12:43 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-07-177.

Title of Rule and Other Identifying Information: WAC 246-915-180 Professional conduct principles, the proposed changes to the rule prohibit physical therapists from receiving reimbursement for evaluating or treating him or herself. The restriction is necessary to protect the public from excessive charging and an overutilization of physical therapy services. The proposed rule also requires physical therapists to only delegate physical therapy tasks to trained supportive personnel. The amendment seeks to protect the public from the delegation of physical therapy services to untrained, unskilled, and unqualified individuals.

Hearing Location(s): Department of Health, 310 Israel Road S.E., Room 152, Tumwater, WA 98501, on November 16, 2004, at 9:30 a.m.

Date of Intended Adoption: November 16, 2004.

Submit Written Comments to: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, e-mail kris.waidely@doh.wa.gov, fax (360) 664-9077, by November 5, 2004.

Assistance for Persons with Disabilities: Contact Kris Waidely, Program Manager, by November 5, 2004, TTY (800) 833-6388 or (360) 236-4847.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Under RCW 18.74.023, the Board of Physical Therapy is empowered to adopt rules relating to standards of appropriateness of physical therapy care. The proposed rule protects the public from excessive charging and overutilization of physical therapy services and protects the public from the delegation of physical therapy services to untrained, unskilled, and unqualified individuals.

Reasons Supporting Proposal: By limiting the definition of a "physical therapist assistant" to those who have training as a physical therapist assistant and by requiring the physical therapist to only delegate services to individuals who meet the definition of trained supportive personnel, the board believes the public is reasonably protected. The proposed rule also addresses the concerns of professional conduct by adding an additional requirement "physical therapists shall not receive reimbursement for evaluating or treating him or herself."

Statutory Authority for Adoption: RCW 18.74.023.

Statute Being Implemented: RCW 18.74.023 and 18.130.050(12).

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4847.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because the cost to implement the proposed rules does not exceed the threshold. The more than minimum cost threshold from "804 Office of Clinics and Other Healthcare Practitioners" is set at \$110.00.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kris Waidely, P.O. Box 47868, Olympia, WA 98504-7868, phone (360) 236-4847, fax (360) 664-9077, e-mail kris.waidely@doh.wa.gov.

August 30, 2004

Kris Waidely

Program Manager

AMENDATORY SECTION (Amending Order 259B, filed 3/24/92, effective 4/24/92)

**WAC 246-915-180 Professional conduct principles.**

(1) The patient's lawful consent is to be obtained before any information related to the patient is released, except to the consulting or referring authorized health care practitioner and/or authorized governmental agency(s).

(a) Physical therapists are responsible for answering legitimate inquiries regarding a patient's physical dysfunction and treatment progress, and

(b) Information is to be provided to insurance companies for billing purposes only.

(2) Physical therapists are not to compensate or to give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity in a news item. A paid advertisement is to be identified as such unless it is apparent from the context it is a paid advertisement.

(3) It is the licensee's responsibility to report any unprofessional, incompetent or illegal acts (~~which~~) that are in violation of chapter 18.74 RCW or any rules established by the board.

(4) It is the licensee's responsibility to recognize the boundaries of his or her own professional competencies and that he or she uses only those in which he or she can prove training and experience.

(5) Physical therapists shall recognize the need for continuing education and shall be open to new procedures and changes.

(6) It is the licensee's responsibility to represent his or her academic credentials in a way that is not misleading to the public.

(7) It is the responsibility of the physical therapist to refrain from undertaking any activity in which his or her personal problems are likely to lead to inadequate performance or harm to a client and/or colleague.

(8) A physical therapist shall not use or allow to be used any form of public communication or advertising connected with his or her profession or in his or her professional capacity as a physical therapist which:

- (a) Is false, fraudulent, deceptive, or misleading;
- (b) Uses testimonials;
- (c) Guarantees any treatment or result;
- (d) Makes claims of professional superiority.

(9) Physical therapists are to recognize that each individual is different from all other individuals and to be tolerant of and responsive to those differences.

(10) Physical therapists shall not receive reimbursement for evaluating or treating him or herself.

(11) Physical therapists shall only delegate physical therapy tasks to trained supportive personnel as defined in WAC 246-915-010 (4)(a) and (b).

**WSR 04-20-070**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 (Board of Physical Therapy)  
 [Filed October 4, 2004, 12:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-07-174.

Title of Rule and Other Identifying Information: WAC 246-915-105 Approved physical therapist programs, physical therapist assistants are not regulated in Washington but it is estimated that there are five hundred physical therapist assistants providing services to Washington citizens. In view of the fact that a physical therapist assistant may treat up to four patients per hour, it is plausible that as many as sixteen thousand patients per day receive physical therapy services from a physical therapist assistant in Washington. The costs associated with inadequate, negligent or incompetent physical therapy care by a poorly trained physical therapist assistant carry the potential for unnecessary treatments, prolonged treatments, extended recuperation periods, serious or life-threatening health risks, unnecessary physical discomfort, and added financial burdens to patients, insurance companies and state and federal health care funds. The proposed rule establishes minimum education standards that have been proven to be consistent with the functions and services that fall within the physical therapy scope of practice in this state.

Hearing Location(s): Department of Health, 310 Israel Road S.E., Room 152, Tumwater, WA 98501, on November 16, 2004, at 9:30 a.m.

Date of Intended Adoption: November 16, 2004.

Submit Written Comments to: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, e-mail kris.waidely@doh.wa.gov, fax (360) 664-9077, by November 5, 2004.

Assistance for Persons with Disabilities: Contact Kris Waidely, Program Manager, by November 5, 2004, TTY (800) 833-6388 or (360) 236-4847.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 18.74.023 (7) authorizes the Board of Physical Therapy to define and specify the education and training requirements of physical therapist assistants and physical therapy aides. Physical therapist assistants are technically educated at the two-year associate degree level. While the supervising physical therapist is trained to provide the examination, evaluation, diagnosis, prognosis and treatment plan, physical therapist assistants are considered paraprofessionals who work under the direction

and supervision of the physical therapist and are trained to provide physical therapy interventions. Given that physical therapist assistants are not required to work under direct supervision and frequently work in unsupervised settings such as home health and public schools, this rule is necessary to establish that assistants meet minimum educational qualifications in order to protect the public from harm.

Reasons Supporting Proposal: By statute, the board is authorized to define and specify the education and training of physical therapist assistants. Since the board is not authorized to regulate physical therapist assistants, the only alternative is to establish minimum educational standards and require the regulated physical therapist to only utilize individuals who meet this educational standard.

Statutory Authority for Adoption: RCW 18.74.023.

Statute Being Implemented: RCW 18.74.023.

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

Name of Proponent: Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4847.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because the cost to implement the proposed rules does not exceed the threshold. The more than minimum cost threshold from "804 Office of Clinics and Other Healthcare Practitioners" is set at \$110.00.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kris Waidely, P.O. Box 47868, Olympia, WA 98504-7868, phone (360) 236-4847, fax (360) 664-9077, e-mail kris.waidely@doh.wa.gov.

August 30, 2004

Kris Waidely

Program Manager

NEW SECTION

**WAC 246-915-105 Approved physical therapist assistant schools.** A board approved physical therapist assistant program shall mean a United States physical therapist assistant education program accredited by the American Physical Therapy Association's Commission on Accreditation in Physical Therapy Education or a United States military physical therapy technician program that is substantially equivalent to an accredited United States physical therapist assistant program.

**WSR 04-20-075**  
**PROPOSED RULES**  
**HIGHLINE COMMUNITY COLLEGE**

[Filed October 4, 2004, 2:48 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-17-078.

Title of Rule and Other Identifying Information: Chapter 132I-116 WAC, Parking and traffic regulations and chapter 132I-168A WAC, Use of the library, housekeeping, change of appeal period and moving fines from WAC.

Hearing Location(s): Highline Community College, 2400 South 240th Street, Building 2, Room 101, Des Moines, WA 98198, on November 9, 2004, at 12:00 p.m.

Date of Intended Adoption: November 9, 2004.

Submit Written Comments to: Connie Johnson, Highline Community College, MS 1-1, P.O. Box 98000, Des Moines, WA 98198, e-mail cjohnson@highline.edu, fax (206) 870-3754, by November 8, 2004.

Assistance for Persons with Disabilities: Contact Connie Johnson by November 8, 2004, TTY (206) 870-4853.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Revisions to existing rules to perform housekeeping, change appeals periods, and move fines from WAC.

Reasons Supporting Proposal: Housekeeping is for clarification; changing appeal periods is for ease of enforcement and clarification of process; and moving fines from WAC is more efficient so that code does not have to be revised any time fines change.

Statutory Authority for Adoption: Chapter 34.05 RCW et seq. and RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The changes proposed will result in more efficient use of state resources by reducing the amount of time needed for ongoing rule changes.

Name of Proponent: Highline Community College, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Laura Saunders, 2400 South 240th Street, Des Moines, WA 98198, (206) 878-3710.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not significant rules.

A cost-benefit analysis is not required under RCW 34.05.328. Not significant rules.

October 1, 2004  
Laura Saunders  
Vice-President  
for Administration

AMENDATORY SECTION (Amending Order 020, filed 6/26/84)

**WAC 132I-116-020 Definitions.** As used in this document, the following words shall mean:

(1) **College:** Highline Community College, or any additional community college hereafter established with Community College District 9, state of Washington, and collectively, those responsible for its control and operations.

(2) **College community:** Trustees, students, employees, and guests on college owned or controlled facilities.

(3) **College facilities:** Includes any or all property controlled or operated by the college.

(4) **Student:** Includes all persons attending or enrolled at the college, both full time and part time.

(5) **Campus police chief:** An employee of Highline Community College District 9, state of Washington, who is responsible to the vice-president for administration for campus security, safety, parking, and traffic control.

(6) **Vehicle:** An automobile, truck, motor-driven cycle, scooter, or any vehicle powered by an engine. Also included will be bicycles and other nonengine vehicles.

(7) **Visitor:** Any person(s) who comes on to the campus as guest(s) or to visit the campus for meetings and/or other purposes.

(8) **School year:** Unless otherwise designated, the time period commencing with the summer quarter of the community college calendar year and extending through the subsequent fall, winter, and spring quarters.

AMENDATORY SECTION (Amending Order 020, filed 6/26/84)

**WAC 132I-116-040 Parking and traffic responsibility.** The vice-president for administration is responsible for parking and traffic management on campus. In general, the responsibility is delegated to the ((~~campus police~~)) safety and security chief who is to coordinate with the ((~~dean~~)) vice-president of students. Likewise, duly appointed ((~~campus~~)) safety and security officers and other safety and security employees of Highline Community College shall be delegated the authority to enforce all college parking and traffic regulations.

AMENDATORY SECTION (Amending Order 020, filed 6/26/84)

**WAC 132I-116-050 Permits required for vehicles on campus.** No person shall park or leave any vehicle, whether attended or unattended, upon the campus of Highline Community College without a permit issued by the ((~~campus~~)) safety and security office. All persons parking on the campus will be given a reasonable time to secure a temporary or permanent permit from the ((~~campus~~)) safety and security office.

(1) A valid permit is:

(a) A current Highline Community College vehicle permit displayed in accordance with instructions.

(b) A temporary or guest permit authorized by the ((~~campus~~)) safety and security office and displayed in accordance with instructions.

(2) Parking permits are not transferable, except as provided in WAC 132I-116-100.

(3) The college reserves the right to refuse the issuance of a parking permit.

AMENDATORY SECTION (Amending Order 020, filed 6/26/84)

**WAC 132I-116-070 Authorization for issuance of permits.** The ((~~campus~~)) safety and security office is authorized to issue parking permits to students, faculty, and staff members of the college pursuant to the following regulations:



(1) Students may be issued a parking permit upon the registration of his vehicle with the ((campus)) safety and security office at the beginning of each academic period.

(2) Faculty and staff members may be issued a parking permit upon the registration of their vehicles at the time they begin their employment at the college.

(3) Full-time faculty and staff personnel may be issued a second car permit for another personally owned vehicle. A condition of issuance is that at no time will more than one vehicle be parked on campus.

(4) Car pool permits ((may be purchased by)) are issued to faculty, staff, and students. A car pool is defined as being from two to five persons. One transferable permit will be issued by the ((campus)) safety and security office for each car pool. This permit is transferable only among the registered members of the car pool. This permit will be displayed in accordance with the instructions provided with the permit. A condition of issuance is that at no time will more than one vehicle owned by members of the pool be parked on campus.

(5) ((Campus)) Safety and security may issue temporary and special parking permits when such permits are necessary to enhance the business or operation of the college.

(6) Any permit-holder may obtain temporary parking permits at the ((campus)) safety and security office without charge for an unregistered vehicle when necessary due to the nonavailability of his registered vehicle.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-116-090 Display of permit.** ((The parking permit issued by the college shall be permanently affixed on the inside of the rear window on the lower left corner directly behind the driver. If the vehicle is a convertible or a truck camper, or has no permanently fixed rear window, the permit shall be displayed on the front windshield.)) Permits must be hung in the front window from the rearview mirror. Permits not displayed in accordance with the provisions of this section shall not be valid and vehicles displaying the improper placed permit shall be subject to citation. Permits shall be displayed on the front fender of a motorcycle, scooter, or bicycle.

AMENDATORY SECTION (Amending Order 020, filed 6/26/84)

**WAC 132I-116-100 Transfer of permits.** Parking permits are ((not)) transferable between vehicles registered to the permit holder. ((If a vehicle is sold or traded, a new permit will be issued to the permit holder at no additional cost if the permit holder does the following:

(1) Records invalid permit number;

(2) Removes invalid permit;

(3) Brings invalid permit or remnant thereof and permit number to the campus security office. This office shall then issue the permit holder a new parking permit. Subject vehicle will then be registered under the new number.

(4)) Permits may be reissued as authorized by the ((campus police)) safety and security chief.

AMENDATORY SECTION (Amending Order 003, filed 9/27/73)

**WAC 132I-116-130 Responsibility of person to whom permit issued.** The person to whom a permit is issued is responsible for all violations of the parking and traffic rules and regulations involving the vehicle for which the permit was issued ((and to which it was affixed)). Provided, however, that such responsibility shall not relieve other persons who violate these rules and regulations. In the event that a vehicle in violation is not registered with the college, the current registered owner will be responsible for the violation(s) of the campus regulations.

AMENDATORY SECTION (Amending Order 020, filed 6/26/84)

**WAC 132I-116-150 Parking within designated spaces.** (1) Any person parking a vehicle on Highline Community College property shall park his vehicle in designated parking areas only. These areas are marked by a curb, white lines, or signs. Parking on or over a line constitutes a violation.

(2) No vehicle may be parked any place where official signs prohibit parking, or within ten feet of a fire hydrant; on any area which has been landscaped or designed for landscaping; or any cement walkway or unpaved pathway designated for pedestrian use, except for the purposes of maintenance by an appropriate Highline Community College employee or by an agent from an outside firm employed by Highline Community College, or in the case of emergency vehicles.

(3) No motorcycles, motorized bicycles, scooters, or bicycles shall be parked inside a building, near a building, or on a path or sidewalk. Bicycles must be secured to racks as provided.

(4) Vehicles which have been parked in excess of 72 hours and which appear to be inoperative or abandoned may be impounded and stored at the expense of either or both owner and operator thereof.

(5) Personnel who require parking longer than normal parking hours may apply through the safety and security office for permission.

(6) All vehicles shall follow traffic arrows and other markings established for the purposes of directing traffic on campus.

(7) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated within the parking area. The fact that other vehicles may have been so parked as to require the vehicle parked to occupy a portion or more than one space or stall shall not constitute an excuse for a violation of this section.

(8) ((Designated parking areas on campus for student use will be open from 6:30 a.m. to 10:45 p.m., Monday through Friday. In addition, the Midway Drive in Theater parking lot (when designated), is available for student parking between 7:30 a.m. and 5:00 p.m., Monday through Friday.

(9)) No vehicle shall be parked on the campus except in those areas set aside and designated pursuant to WAC 132I-116-140.

AMENDATORY SECTION (Amending Order 020, filed 6/26/84)

**WAC 132I-116-190 Regulatory signs and directions.** The ~~((campus police))~~ safety and security chief is authorized to erect signs, barricades, and other structures and to paint marks or other directions upon the entry ways and streets on campus and upon the various parking lots owned or operated by the college. Such signs, barricades, structures, markings, and directions shall be so made and placed as to best effectuate the objectives of these rules and regulations, in the opinion of the vice-president for administration or his designee. Drivers of vehicles shall observe and obey the signs, barricades, structures, markings, and directions erected pursuant to this section. Drivers shall also comply with the directions given them by the ~~((campus))~~ safety and security officer or other ~~((campus))~~ safety and security personnel in the control and regulation of traffic.

AMENDATORY SECTION (Amending Order 020, filed 6/26/84)

**WAC 132I-116-210 Pedestrian's right of way.** (1) The operator of a vehicle shall yield right of way, slowing down or stopping, if need be, to ~~((se))~~ yield to any pedestrian, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible or unsafe for the driver to yield.

(2) Whenever any vehicle slows or stops so as to yield to pedestrian traffic, the operator of any other vehicle approaching from the rear shall not overtake and pass such a vehicle which has slowed or stopped to yield to pedestrian traffic.

(3) Where a sidewalk is provided, pedestrian shall proceed upon such a sidewalk.

AMENDATORY SECTION (Amending Order 020, filed 6/26/84)

**WAC 132I-116-222 Impounding of vehicles.** Any vehicle parked upon lands devoted to the educational, recreational, or parking activities of Highline Community College in violation of these regulations, including the motor vehicle and other traffic laws of the state of Washington and the traffic code of the city of Des Moines as incorporated in WAC 132I-116-030, may be impounded and taken to such place for storage as the ~~((campus police))~~ safety and security chief selects. The expense of such impounding and storage shall be charged to the owner or operator of the vehicle and paid by him prior to its release. The college and its employees shall not be liable for loss or damage of any kind resulting from such immobilization, impounding, and/or storage.

Impounding of vehicles shall include but not be limited to the following:

- (1) Blocking roadway which blocks the flow of traffic;
- (2) Blocking walkway which impedes the flow of pedestrian traffic;
- (3) Blocking a fire hydrant or ~~((fire land lane))~~ fire lane;
- (4) Creating a safety hazard in the opinion of the ~~((campus police))~~ safety and security chief or his designee;
- (5) Blocking another legally parked car;

- (6) Parking in a marked "tow-away" zone;
- (7) Having an accumulation of four outstanding parking/traffic violations;
- (8) Illegally parking in a handicapped parking space.

AMENDATORY SECTION (Amending Order 020, filed 6/26/84)

**WAC 132I-116-230 Report of accident.** The operator of any vehicle involved in an accident on campus resulting in injury to or death of any person or ~~((total or claimed))~~ damage to either ~~((or both))~~ vehicles of ~~((any amount))~~ \$500.00 or more, shall within 24 hours report such accident to the ~~((campus police))~~ safety and security chief. This does not relieve any person so involved in an accident from his responsibility to file a state of Washington motor vehicle accident report within 24 hours after such accident.

AMENDATORY SECTION (Amending Order 020, filed 6/26/84)

**WAC 132I-116-240 Specific traffic and parking regulations and restrictions authorized.** Upon special occasions or during emergencies, the ~~((campus police))~~ safety and security chief is authorized to impose additional traffic and parking regulations and restrictions consistent with the objectives specified in WAC 132I-116-010.

AMENDATORY SECTION (Amending Order 020, filed 6/26/84)

**WAC 132I-116-260 Issuance of traffic citations.** Upon the violation(s) of any of the rules and regulations contained in this document the ~~((campus police))~~ safety and security chief or subordinates are authorized to issue traffic citations, setting forth the date, the approximate time, permit number, license number, name of permit holder, infraction, officer, and schedule of fines. Such traffic citations may be served by attaching or affixing a copy thereof in some prominent place outside such vehicle or by personally serving the operator. Violation(s) of the college parking and traffic rules and regulations refers to:

- (1) No parking permit displayed. Highline Community College parking ~~((deal))~~ permit is necessary when parking in any area on campus. The permit must be prominently displayed.
- (2) Failure to stop at stop sign/signals. The failure to bring a vehicle to a complete stop at properly erected and identified stop signs/signals.
- (3) Failure to yield right of way. The fact of depriving another vehicle or pedestrian of the right of way at an intersection or crosswalk.
- (4) Improper parking. Parking a vehicle in areas that are intended for purposes more than parking, i.e., fire lanes, driveways, sidewalks, lawns, or taking more than one parking stall.
- (5) Parking in the wrong area. Parking in faculty/staff areas, disabled persons area, or visitor area and/or any other area differing from the locations indicated on the issued permit.

(6) Negligent/reckless driving. The operation of a vehicle in such a manner as to place person(s) or property in danger of injury or grievous harm.

(7) Speeding. The operation of a vehicle in such a manner as to exceed the posted speed limits.

(8) Wrong way on one-way roadways. Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by official traffic control devices.

(9) Permits not displayed pursuant to the provisions of this chapter shall not be valid.

(10) Other violations. Clearly indicated and an actual violation of the law or traffic ordinances. The violation must be recorded in the space provided on HCC parking/traffic citation.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-116-270 Fines and penalties.** (1) Fines may be levied for all violations of the rules and regulations contained in WAC 132I-116-260.

In addition to a fine imposed under these regulations, illegally parked vehicle(s) may be taken to a place for storage as the ((campus police)) safety and security chief selects. The expenses of such impoundings and storage shall be the responsibility of the registered owner or driver of the vehicle. The college shall not be liable for loss or damage of any kind resulting from such impounding and storage.

(2) Parking and traffic fines and penalties schedule shall be adopted by the board of trustees.

(3) An accumulation of traffic violations by a student shall be cause for disciplinary action, and the ((dean)) vice-president of students may initiate disciplinary proceedings against such students.

(4) An accumulation of traffic violations by faculty or staff members shall be turned over to the controller for the collection of fines not received by the vice-president for administration, or his designee.

(5) Parking and traffic violations will be processed by the college. Parking and traffic fines are to be paid to the ((campus)) safety and security office.

(6) ~~((The schedule of fines shall be reviewed by a parking advisory committee appointed by the student affairs council as requested by the dean of students or the vice president.~~

(7)) Parking and traffic fines shall be charged for offenses as indicated in a separate document.

((8)) (7) In the event a student fails or refuses to pay a fine, the following may result:

- (a) Student may not be eligible to register;
- (b) Student may not be able to obtain a transcript or his grades or credits;
- (c) Student may not receive a degree until all fines are paid;
- (d) Student may be denied future parking privileges;
- (e) Vehicle may be impounded.

((9)) (8) Parking and traffic fines are due twenty days from the date of citation. Provided that if an appeal is taken,

such fine shall be due twenty days from the date of service upon the violator of the result of the appeal.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-116-275 Schedule of fines and penalties.** Highline Community College parking and traffic fine schedule ((is as follows:

* <del>Parked in wrong area (student in staff or visitor area)</del>	\$5.00
** <del>Parked in no parking zone</del>	5.00
** <del>Parked in firelane</del>	5.00
** <del>improperly parked — i.e., parked in a manner to obstruct traffic; occupying more than one space or over separator line; backed into stall (must be head in); space not designated for parking</del>	5.00
** <del>No current HCC parking permit displayed</del>	5.00
* <del>No parking permit displayed (Fine will be reduced to one dollar if the citation is returned to the campus security office within five school days from date of issuance and a current parking permit is picked up during the five school day period.)</del>	5.00

**First violation only:**

\*\* all of the above fines are \$5.00 for the first offense, and all subsequent offenses are \$15.00 each.

No current handicap permit	\$25.00
Speeding	10.00
Reckless/negligent driving	10.00
Failure to yield right of way	10.00
Failure to stop for stop sign	10.00
Wrong way on one way road	10.00
Others — i.e., use of permit for vehicle other than to which registered; improper display of permit; use of forged, lost, or stolen permit	5.00

~~Effective Winter Quarter 1992))~~

is listed in the Highline Community College budget book on file in the Highline Community College library and adopted by the board of trustees.

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

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-116-285 Schedule of parking fees.** Highline Community College parking fees are ((as follows:

PROPOSED

**Parking Fees:**

Students registered for 0-5 credits	\$5.00 per quarter
Students registered for 6 or more credits	\$8.00 per quarter
Part-time faculty and staff	\$5.00 per quarter
Full-time faculty and staff	\$8.00 per quarter
Motorcycles, motorbikes, scooters	\$5.00 per quarter
Additional, replacement second car	\$3.00 per quarter
Car pool permits (5 or more people)	No charge
Each additional vehicle in car pool (5 or more people)	No charge
Senior citizens registering under tuition waiver	\$3.00 per quarter
Annual permits (4 quarters)	\$29.00
Annual permits (3 quarters)	\$24.00
Special rates (summer quarters)	\$5.00 per quarter

listed in the Highline Community College budget book on file in the Highline Community College library and adopted by the board of trustees.

((All other registered students, i.e., community service self-supporting programs, GED will pay a \$.25 daily fee, any other exceptions must see the campus police chief in the campus security office. These fees include the state sales tax as required.))

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-116-300 Appeal of fines and penalties.** Any fines and penalties levied against a violator of the rules and regulations set forth herein, may be appealed. The appeal must be made in writing, within twenty calendar days from the date of the citation, to the ((campus police)) safety and security chief, who will:

- (1) Review the appeal to determine whether a satisfactory solution, to all parties, can be reached without further administrative action.
- (2) If the appellant is not satisfied with the decision of the ((campus police)) safety and security chief, an appeal may be made, in writing, to the college's vice-president for administration within twenty-one calendar days of the appellant's receipt of the decision. Within twenty working days from the receipt of any such appeal, the college's vice-president for administration shall render a written decision. The ((dean of administration's)) decision will be final.
- (3) The final legal recourse for an appellant is to the Washington state superior court system.

(4) In the event that the appeal involves an impounded vehicle, the owner of such vehicle shall have the right to a hearing within forty-eight hours of a request, or the first workday after impoundment if the vehicle is impounded on a Friday or on a Thursday if a three-day weekend, whichever is longer, for such, before the ((campus police)) safety and security chief. The owner of the vehicle shall also be entitled to a release of his vehicle upon payment of a bond in the amount of the sum of the impoundment costs and the total of all fines due and owing. If at the hearing it is shown that the vehicle was improperly impounded, the owner of the vehicle shall be entitled to a refund of the costs of impoundment.

(5) In all appeals under this section, the appellant carries the burden of proof, which shall be a preponderance of the evidence.

**Chapter 132I-168A WAC**

**((USE OF THE)) HIGHLINE COMMUNITY COLLEGE LIBRARY**

AMENDATORY SECTION (Amending Order 012, filed 10/31/75)

**WAC 132I-168A-010 Purpose of the library.** ((Highline Community College library, in its role of cooperating against the abridgment of free expression and free access to ideas, provides public information and enlightenment through its responsibility to maintain books and other materials of value for their wide range of information, interest, viewpoints and enlightenment on the problems and issues of our times. Just as its doors remain open to all individuals, regardless of age, sex, race, religion, national origin or socio-political views, so its shelves remain open to all books regardless of the author's age, sex, race, religion, national origin or socio-political viewpoint. Further, Highline Community College's library perceives itself as challenger to all attempts at censorship and/or proscription of views of either patron or authors because it is an educational institution for democratic living.)) (1) Highline Community College library, through its role of supporting free expression and free access to ideas, assists the college in achieving the college's mission of superior education for its diverse community. The library provides both on-site and remote access to information and knowledge. The library endeavors to provide access to books and other materials of value for their wide range of information, interest, viewpoints and enlightenment on the problems and issues of our times. Just as the library's doors remain open to all individuals, regardless of age, ability, gender, sexual orientation, race, religion, national origin or socio-political views, so the library's collection remains open to all material regardless of author's age, ability, gender, sexual orientation, race, religion, national origin or socio-political viewpoint. Further, Highline Community College library, as part of an educational institution in a democratic society, perceives itself as challenger to all attempts at censorship and/or proscription of views of either patron or creator.

- (2) The library maintains, and makes available to all users, written policies and procedures on:
  - (a) Collection development;
  - (b) Hours of service;
  - (c) Circulation periods;
  - (d) Availability of resources;
  - (e) Borrowing and access;
  - (f) Fees;
  - (g) Consideration and complaint processes; and
  - (h) Protection of library records.

PROPOSED

AMENDATORY SECTION (Amending Order 012, filed 10/31/75)

**WAC 132I-168A-050 ((Borrower classification.))**

**Library use.** Consistent with a community college ((being the symbol of a community's recognition of the value of education, the library acts as Highline college's emissary to all those acknowledging that value and actively seeking it. Within this principle are readily identifiable groups that have varying demands upon existing facilities. These groups are as follows:

- (1) Currently enrolled students
- (2) All faculty and staff of Highline Community College
- (3) The community at large which includes former students and graduated alumni
- (4) Other libraries

Patrons wishing to retain anonymity against future searches of library records may make special arrangements to check out materials on a disposable book card. Books, packages, briefcases and similar receptacles are subject to inspection upon leaving the library. Library privileges may be refused to patrons who repeatedly cause disturbances and have been forewarned of the possibility of such action)) as an active and integral part of the community, the library's materials and services are a public resource available to the surrounding community. Within this principle, the library's primary clientele are students, faculty, and staff of Highline Community College. The library also welcomes students from other Washington community and technical colleges and the community at large. The resources of the library are also available for sharing with other libraries within the state and globally.

AMENDATORY SECTION (Amending 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-168A-090 Schedule of ((fines)) fees and charges.** ((1) Fines. The schedule of fines and charges is posted at the circulation desk and is available through the office of the director of the library. All patrons are subject to uniform application of this schedule. There are no fines levied for overdue materials that are in regular circulation. Fines are charged for overdue reserve, overnight, reference and special collections materials as follows:

- (a) For materials under two to twenty four hour circulation, fines are levied at a rate of \$.25/library hour up through the first four hours inclusive and \$.10/library hour thereafter.
- (b) For materials under three day loan, fines are levied at a rate of \$.50/library day.
- (c) For periodicals, fines are levied at a rate of \$.25/library day per item up to a maximum of \$2.00.

(2) Damage and replacement charges.

(a) Damage charges for all library materials, regardless of classification, will reflect the cost of repair but will not exceed the cost of replacement. Damages to special collection materials will be determined by the director of the library or his delegate. Charges for damaged reprints reflect the current copy machine rates.

(b) Replacement charges are \$2.00 over the current list price of the lost or missing item. This rate for replacement applies to all library materials except:

(i) Vertical file materials which are assessed at \$2.00 per item;

(ii) Special collection materials which are assessed as determined by the director of the library or his delegate, and;

(iii) Periodical materials which are assessed at \$2.00 above the current list price for each periodical in addition to which bound periodicals will have an additional charge levied to reflect the cost of replacement and the cost of binding in volumes.

(3) Notification of overdue materials will be by mail to the address listed on the book card, registration roster or in the office of the registrar. Notice of materials placed on reserve may be by telephone and/or by mail. Responsibility for correct address information lies with the patron exclusively.

(4) Anyone owing over a total of \$50.00 in fines, damages and/or replacement charges shall have library privileges withheld as notified, in writing, by the director of the library or his delegate.

(5) Failure to return library materials and/or to settle disputes concerning fines, damages or replacement fees by the end of the quarter during which the material was circulated or the fine or fee was incurred may result in having library privileges suspended until the dispute is satisfactorily settled.

(6) Fines accrue from the first day or hour such materials are overdue.

(7) Failure to accommodate a library hold or recall effort may result in fines or similar appropriate disciplines.

(8) College employees who are terminating their employment at Highline Community College may have outstanding fines and/or charges deducted from final paychecks or may have final paychecks withheld until charges are paid.) The schedule of fines and charges is posted at the library circulation desk and is available through the office of the dean of instructional resources. All patrons are subject to uniform application of this schedule.

(1) Damage charges. Damage charges for all library materials, regardless of type or classification, will reflect the cost of repair but will not exceed the cost of replacement. Damage charges for special collection materials will be determined by the dean of instructional resources.

(2) Replacement charges are levied for lost or nonreturned items, and for damaged items where the cost of repair exceeds the cost of replacement. Replacement charges are based on the current purchase price of the item plus the item-processing fee outlined in the schedule of fees and charges.

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92, effective 8/21/92)

**WAC 132I-168A-100 Appeals of ((fines)) fees and charges.** (1) Library patrons wishing to appeal ((fines)) fees and/or charges assessed by the library may do so by completing library forms found at the circulation desk. Completed forms are to be filed with ((a librarian at)) the director of circulation services at the plaza level circulation desk. Failure to file this form within ((twenty library)) one day(s) of the assessment of the fine or charge in question or within ((twenty)) one day(s) of the time the library patron was made aware of the ((fine)) fee or should have been aware of

the ~~((fine))~~ fee shall be deemed a waiver of the right to appeal.

(2) Upon receipt of a properly filed request for a brief adjudicative proceeding, the ~~((librarian))~~ dean of instructional resources shall conduct a hearing. Within ten days of such hearing, the ~~((librarian))~~ dean shall serve the patron with an initial order either upholding or denying the patron's appeal. Such order shall comply with the requirements of RCW 34.05.485 and WAC 10-08-210.

(3) If the initial order is considered unsatisfactory, the library patron may file an appeal with the ~~((appropriate dean))~~ vice-president of academic affairs or his or her designee. Such request shall be made in writing, shall clearly state the grounds for the appeal, and shall be postmarked within twenty-one days of the date of service of the initial order. Failure to file this request within twenty-one ~~((library))~~ days shall be deemed as acceptance of the disposition proposed by the ~~((director))~~ dean.

(4) The ~~((dean's))~~ vice-president's decision shall be final.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132I-168A-030	Definition of terms.
WAC 132I-168A-040	Classification of materials.
WAC 132I-168A-060	Periods of circulation.
WAC 132I-168A-070	Holds, recalls and searches.
WAC 132I-168A-080	Return of library materials.

#### **WSR 04-20-076**

#### **PROPOSED RULES**

#### **DEPARTMENT OF ECOLOGY**

[Order 04-06—Filed October 4, 2004, 4:14 p.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 04-13-124.

Title of Rule and Other Identifying Information: Chapter 173-322 WAC, Remedial action grants and loans, this chapter establishes requirements for a program of grants and loans to local governments for remedial actions pursuant to RCW 70.105D.070. The intent of the grant and loan program is to encourage and expedite the cleanup of hazardous waste sites and lessen the impact of the cleanup on ratepayers and taxpayers. Remedial action grants and loans are intended to supplement local government funding and funding from other sources to carry out required remedial actions.

Hearing Location(s): Ecology Headquarters Building, 300 Desmond Drive S.E., Lacey, WA 98503, on December 9, 2004, at 6:30 p.m.; and at the Ecology Eastern Regional Office, North 4601 Monroe, Spokane, WA 99205-1295, December 14, 2004, at 6:30 p.m.

Date of Intended Adoption: February 15, 2005.

Submit Written Comments to: Diane Singer, P.O. Box 47600, Olympia, WA 98504-7600, e-mail [dire461@ecy.wa.gov](mailto:dire461@ecy.wa.gov), fax (360) 407-7157, by December 31, 2004.

Assistance for Persons with Disabilities: Contact Solid Waste and Financial Assistance Program by December 1, 2004, TTY (800) 833-6388 or (360) 407-6900.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The primary "driver" behind these proposed rule revisions is amendments made to the MTCA after the remedial action grant rule was originally adopted in 1990. New methamphetamine-lab and derelict-vessel grant programs established under the MTCA now need to be incorporated into the grant rules.

A number of other issues will also be addressed during rule-amendment process, to bring the rule up-to-date. These issues include the need to raise the funding cap for independent, voluntary cleanups (voluntary cleanup program); to define "innovative technology" and clarify when the use of innovative technologies is eligible for additional funding; to improve the readability of the rule; to establish grant eligibility for assessments and cleanups conducted under federal administrative orders; and to make cleanups completed or negotiated under federal orders prior to the effective date of the rule, eligible to compete for grant funding.

Reasons Supporting Proposal: Ecology proposes to revise the remedial action grants and loans rule to make the rule consistent with MTCA amendments since the last rule amendments, including methamphetamine laboratory assessment and cleanup and derelict vessels. Ecology will incorporate criteria or outline a program for area-wide groundwater remediation, raise the cap (dollar amount) for independent cleanups performed under the voluntary cleanup program (VCP); define and clarify innovative technology; improve the readability of the rule; and address some general consistency issues. Additionally, language will be included to make cleanups mandated by a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) administrative order or consent decree (AOC) and unilateral administrative agreed orders (UAO) eligible to receive remedial action grant funding.

Statutory Authority for Adoption: RCW 70.105D.70 [70.105D.070] authorizes ecology to adopt rules to issue and enforce grants and loans for actions authorized under chapter 70.105D RCW.

Statute Being Implemented: Chapter 70.105D RCW.

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

Name of Proponent: Washington Department of Ecology, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Diane Singer, Headquarters, Olympia, (360) 407-6062.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has determined that the proposed rule does not affect business because the rule provides the framework for the state to provide grants and/or loans funds to local government to clean up their own remedial action sites.

A cost-benefit analysis is not required under RCW 34.05.328. The department has determined that this rule is an interpretative rule, not requiring a cost-benefit analysis.

October 4, 2004  
Polly Zehm  
Deputy Director

**AMENDATORY SECTION** (Amending WSR 93-24-047, filed 11/23/93, effective 12/24/93)

**WAC 173-322-010 Purpose and authority.** This chapter recognizes that the state contains hundreds of hazardous waste sites which threaten the state's water resources, including those used for public drinking water; that many of our municipal landfills are current or potential hazardous waste sites and present serious threats to human health and the environment; and that the costs of eliminating these threats in many cases are beyond the financial means of local governments and ratepayers.

This chapter establishes requirements for a program of grants and loans to local governments for remedial action pursuant to RCW 70.105D.070 (3)(a) and (7). ~~((The department may provide grants to local governments for remedial actions including site hazard assessments, site studies and remediations, and safe drinking water actions.))~~ The intent of the remedial action grants and loans is to encourage and expedite the cleanup of hazardous waste sites and to lessen the impact of the cleanup on ratepayers and taxpayers. The remedial action grants and loans shall be used to supplement local government funding and funding from other sources to carry out required remedial action.

**AMENDATORY SECTION** (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

**WAC 173-322-020 Definitions.** Unless otherwise defined in this chapter, words and phrases used in this chapter shall be defined according to WAC 173-340-200.

~~((“Act” means the “Model Toxics Control Act,” chapter 70.105D RCW.~~

~~“Agreed order” means an order issued under WAC 173-340-530.))~~ “Abandoned or derelict vessels” means vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel.

“Area-wide ground water contamination” means multiple adjacent properties with different ownership affected by hazardous substances from multiple sources that have resulted in commingled plumes of contaminated ground water that are not practicable to address separately.

“Cleanup action” means any remedial action, except interim actions, taken at a site to eliminate, render less toxic, stabilize, contain, immobilize, isolate, treat, destroy, or remove a hazardous substance that complies with ~~((cleanup standards, utilizes permanent solutions to the maximum extent practicable, and includes adequate monitoring to ensure the effectiveness of the cleanup action.~~

~~“Consent order” means an order issued under chapter 90.48 or 70.105B RCW))~~ WAC 173-340-350 through 173-340-390.

“Coordinated water system plan” means a plan for public water systems within a critical water supply service area which identifies the present and future water system concerns and sets forth a means for meeting those concerns in the most efficient manner possible pursuant to chapter 246-293 WAC.

“Decree” or “consent decree” means a consent decree issued under WAC 173-340-520 or the federal cleanup law. ~~((“Consent decree” is synonymous with decree.))~~

“Department” means the department of ecology.

~~((“Disposal” means a remedial action which removes hazardous substances from the site and places the hazardous substances in an engineered, regulatory-complaint facility as a final destination.~~

~~“Enforcement order” means an order issued under WAC 173-340-540.))~~ “Economically disadvantaged county” means a county that meets the following criteria:

- The per capita income of the county, as measured by the latest official estimate of the Washington state office of financial management, is in the lower twenty counties in the state; and

- The county is economically distressed, as defined by chapter 43.165 RCW.

The department will include a list of counties which are economically disadvantaged in the following publication: Washington state department of ecology, “Remedial Action Program Guidelines,” Publication No. 99-505.

“Federal cleanup law” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq.

“Grant agreement” means a binding agreement between the local government and the department that authorizes the ~~((transfer))~~ disbursement of funds to the local government to reimburse it for a portion of expenditures in support of a specified scope of services.

“Hazard ranking” means the ranking for hazardous waste sites used by the department pursuant to ~~((chapter 70.105D))~~ RCW 70.105D.030 (2)(b) and WAC 173-340-330.

“Hazardous substances” means any hazardous substance(s) as defined in WAC 173-340-200.

“Hazardous waste site” means any facility where there has been confirmation of a release or threatened release of a hazardous substance that requires remedial action.

“Independent remedial actions” means remedial actions conducted without department oversight or approval and not under an order or consent decree.

“Initial containment of methamphetamine lab sites” means the first location where hazardous substances are confined by a container, vessel, barrier, or structure, whether natural or constructed, with a defined boundary, and that prevents or minimizes its release into the environment.

“Innovative technology” means new technologies that have been demonstrated to be technically feasible under certain site conditions, but have not been widely used under different site conditions. Innovative technology also means the innovative use of existing technologies that have been established for use under certain site conditions, but not the conditions that exist at the hazardous waste site for which a remedial action grant is sought. Innovative technology has limited performance and cost data available.



"Interim action" means a remedial action conducted under WAC 173-340-430 ~~((that partially addresses the cleanup of a site)).~~

"Loan agreement" means a binding agreement between the local government and the department that authorizes the disbursement of funds to the local government that must be repaid. The loan agreement includes terms such as interest rates and repayment schedule, scope of work, performance schedule, and project budget.

"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.

~~("Minimum functional standards" means the requirements of chapters 173-304 and 173-351 WAC, the minimum functional standards for solid waste handling-))~~ "Methamphetamine lab site assessment" means the actions taken by a local health department or district under WAC 246-205-520 through 246-205-560, including posting the property, inspecting the property, determining whether the property is contaminated, posting contaminated property, and notifying occupants, property owners, and other persons with an interest in the contaminated property.

"Model Toxics Control Act" or "act" means chapter 70.105D RCW, first passed by the voters in the November 1988 general election as Initiative 97 and as since amended by the legislature.

"National Priorities List ~~((NPL))~~" or "NPL" means a list of hazardous waste sites at which the ~~((United States))~~ U.S. Environmental Protection Agency intends to proceed with enforcement or cleanup action.

"No further action (NFA) determination" means ~~((an))~~ a written opinion issued by the department under WAC 173-340-515 (5)(b) that the independent remedial actions performed at a hazardous waste site meet the substantive requirements of chapter 173-340 WAC and that no further remedial action is required at the hazardous waste site. The opinion is advisory only and not binding on the department.

"Order" means an order issued under chapter 70.105D RCW, including enforcement orders issued under WAC 173-340-540 and agreed orders issued under WAC 173-340-530, or an order issued under the federal cleanup law, including unilateral administrative orders (UAO) and administrative orders on consent (AOC).

"Oversight costs" are remedial action costs of the department or the ~~((United States))~~ U.S. Environmental Protection Agency reasonably attributable to the administration of an order or decree for remedial action at a hazardous waste site.

"Oversight remedial actions" means remedial actions conducted under an order or decree.

"Partial funding" means funding less than the maximum percentage of eligible costs allowed under this chapter.

"Pilot study" means an experiment in remedial action method, with the purpose of testing the suitability of a particular cleanup technology or process for remedial action at a particular site.

"Potentially liable person ~~((PLP))~~" or "PLP" means any person whom the department finds, based on credible evidence, to be liable under RCW 70.105D.040.

"Potentially responsible party" or "PRP" means "covered persons" as defined under section 9607 (a)(1) through (4) of the federal cleanup law (42 U.S.C. Sec. 9607(a)).

"Private right of action" means a legal claim authorized by RCW 70.105D.080 under which a person may recover costs of remedial action from other persons liable under the act.

"Public water system" means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including any collection, treatment, storage, or distribution facilities under control of the purveyor and used primarily in connection with the system and collection or pretreatment storage facilities not under control of the purveyor but primarily used in connection with such system.

"Purveyor" means an agency or subdivision of the state or a municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity that owns or operates a public water system, or the authorized agent of such entities.

"Recycling" means a remedial action which permanently removes hazardous substances from the site and successfully directs the material into a new product suitable for further industrial or consumer use.

"Remedial action" means any action or expenditure consistent with the purposes of chapter 70.105D RCW to identify, eliminate, or minimize any threat ~~((or potential threat))~~ posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

"Remedial design (RD)" means an engineering study during which technical plans and specifications are developed to guide subsequent cleanup action at a hazardous waste site.

"Remedial investigation/feasibility study ~~((RI/FS))~~" or "RI/FS" means a ~~((study))~~ remedial action that consists of activities conducted under WAC 173-340-350 intended to collect, develop, and evaluate sufficient information regarding a site to enable the selection of a cleanup action under WAC 173-340-360 through 173-340-390.

"Retroactive costs" means costs incurred prior to the date of the grant agreement.

"Safe drinking water" means water meeting drinking water quality standards set by chapter 246-290 WAC.

"Safe drinking water action" means an action by a local government purveyor or other purveyor to provide safe drinking water through public water systems to areas contaminated by or threatened by contamination from hazardous waste sites.

"Site" means any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft; or any site or area where a hazardous substance, other than a legal consumer product in



consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

"Site hazard assessment" means a remedial action that consists of an investigation performed under WAC 173-340-320.

("Site study and remediation" means remedial investigation, feasibility study, pilot study, remedial design, interim action or cleanup action at hazardous waste sites:)

"Treatment" means a remedial action which permanently destroys, detoxifies, or recycles hazardous substances.

AMENDATORY SECTION (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

**WAC 173-322-030 Relation to other legislation and administrative rules.** (1) Nothing in this chapter shall influence, affect, or modify department programs, regulations, or enforcement of applicable laws relating to hazardous waste investigation and cleanup.

(2) Nothing in this chapter shall modify the ~~((legal settlements and))~~ order~~((s))~~ or decree the department has secured with potentially liable persons for remedial action. The execution of remedies pursuant to ~~((court))~~ the order or decree shall in no way be contingent upon the availability of grant funding.

(3) All grants and loans shall be subject to existing accounting and auditing requirements of state laws and regulations applicable to the issuance of grants ~~((funds))~~ and loans.

AMENDATORY SECTION (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

**WAC 173-322-040 ~~((Applicant eligibility.))~~ Administration.** ~~((1))~~ All applicants must be local governments as defined in this chapter.

~~(2) Site study and remediation grants. Eligibility for site study and remediation grants is limited to applicants that meet the following standards:~~

~~(a) The applicant must be a local government that is a potentially liable person (PLP) at a hazardous waste site; or owns a site but is not a PLP; or applies for a remediation grant for area-wide ground-water contamination. The local government may be the sole PLP, or there may be other PLPs at the site.~~

~~(b) The local government must meet one of the following standards:~~

~~(i) The department must have required the local government to perform some phase of remedial action, or have approved or reviewed a completed remedial action. That requirement, approval or review shall take one of the following forms:~~

~~(A) A consent decree under chapter 70.105D or 70.105B RCW requiring remedial action at the site; or~~

~~(B) An enforcement order or an agreed order under chapter 70.105D or 70.105B RCW prior to March 1, 1989, requiring remedial action at the site; or~~

~~(C) An enforcement order, consent order or consent decree under chapter 90.48 RCW requiring remedial action at the site or an amendment to such an order subsequent to March 1, 1989; or~~

~~(D) An underground storage tank (UST) compliance order; or~~

~~(E) A no further action (NFA) determination issued after completion of an independent remedial action.~~

~~(ii) The local government which is also a potentially responsible party under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) must have entered into a decree requiring remedial action at a hazardous waste site with the United States Environmental Protection Agency, provided that such agreement has been signed or acknowledged by the department in writing as a sufficient basis for remedial action grant funding.~~

~~(iii) The local government must have signed an agreement with the department requiring another PLP to perform remedial action at a landfill site and that agreement must take one of the forms specified in (b)(i) of this subsection. The local government must also have entered into an agreement with that PLP to reimburse the PLP for a portion of incurred remedial action costs with the sole purpose of providing relief to ratepayers and/or taxpayers from some remedial action costs.~~

~~(3) Safe drinking water action grants. Eligibility for safe drinking water action grants is limited to applicants who meet the following standards:~~

~~(a) The applicant must be a local government purveyor as defined in WAC 173-322-020 or be a local government applying on behalf of a purveyor.~~

~~(b) The subject water system must be in an area determined by the department of ecology to be a hazardous waste site or threatened by contamination from a hazardous waste site.~~

~~(c) The subject water system must exhibit levels of contamination which exceed the primary maximum contaminant levels (MCLs) set by WAC 246-290-310 or EPA standards as determined by the department of health, or exhibit levels of contamination which exceed the standards set by WAC 173-340-700 through 173-340-760 as determined by the department of ecology, or be certified by the state department of health that a contaminant threatens the safety and reliability of a public water system which cannot be remedied solely by operational solutions. Contaminants must include at least one hazardous substance. If the contaminant is a nitrate or a trihalomethane, it must be determined to have originated from a hazardous waste site.~~

~~(d) An order or decree must be issued to the identified potentially liable persons requiring that safe drinking water be provided to the contaminated area as part of a remedial action. The department may waive this requirement if it has determined that no viable potentially liable persons exist, or if public health would be threatened from unreasonable delays associated with the search for potentially liable persons, or the order or decree process.~~

~~(e) If water line extensions are included in the proposed projects, such extensions must be consistent with the coordinated water system plan and growth management plan for the geographic area containing the affected water supplies.~~

~~(f) The applicant must be in substantial compliance, as determined by the department of health, with applicable rules~~

of the Washington state board of health or the department of health, as contained in chapter 246-290 WAC (Public water supplies), chapter 246-292 WAC (Water works operator certification), chapter 246-293 WAC (Water System Coordination Act), and chapter 246-294 WAC (Drinking water operating permits).

(4) Site hazard assessment grants. The purpose of site hazard assessment grants is to involve local health districts and departments in assessing the degree of contamination at suspected hazardous waste sites according to WAC 173-340-320. While enabling local health districts or departments to participate in the scoring and ranking process, the department retains the authority to review and verify the results of a site hazard assessment and to establish the hazard ranking of the site. Eligibility for site hazard assessment grants is limited to applications that meet the following standards:

(a) The applicant must be a local health district or department.

(b) The scope of work for a site hazard assessment must conform to WAC 173-340-320 and prescribed guidelines issued by the department.

(c) The assessment must be for sites agreed to by the department. (1) Notice of availability. Local governments will be periodically informed of the availability of remedial action grant and loan funding.

(2) Application package. An application package will be sent to all parties expressing interest in remedial action grants or loans and to all local governments that have been required by decree or order to perform remedial actions. Application packages will include guidelines and application forms.

(3) Application guidance. The department will prepare a guidance manual on a biennial basis to assist grant and loan applicants and to facilitate compliance with this regulation.

(4) Application period. The application for a remedial action grant or loan must be submitted to the department within the period specified in this chapter for the particular type of grant or loan.

(5) Application form. The application for a remedial action grant or loan must be completed on forms provided by the department.

(6) Appropriation of funds. Grants and loans will be awarded within the limits of available funds. The obligation of the department to make grant payments or provide loans is contingent upon the availability of funds through legislative appropriation and allotment, and such other conditions not reasonably foreseeable by the department rendering performance impossible. When the grant or loan crosses over bienniums, the obligation of the department is contingent upon the legislative appropriation of funds for the next biennium.

(7) Allocation of funds. In conjunction with the biennial program report and program plan required by WAC 173-340-340, the department will prepare an administrative allocation from the legislative appropriation of the local toxics control account for funding remedial action grants and loans. Within that administrative allocation, the department will allocate subamounts for each type of remedial action grant or loan. The allocations shall be based on estimated costs for work on eligible sites which are identified in the program plan for the biennium.

(8) Funding. Remedial action grants and loans shall be used to supplement local government funding and funding from other sources to carry out required remedial action.

(9) Department discretion. The department may fund all or portions of eligible grant or loan applications.

(10) Indemnification. To the extent that the Constitution and laws of the state of Washington permit, the grantee or loan recipient shall indemnify and hold the department harmless, from and against, any liability for any or all injuries to persons or property arising from the negligent act or omission of the grantee or loan recipient arising out of a grant or loan contract.

(11) Administrative requirements. All grants and loans administered by the department under this chapter shall comply with the requirements set forth in the following publication: Washington state department of ecology, "Administrative Requirements for Ecology Grants and Loans," Publication No. 91-18.

AMENDATORY SECTION (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

WAC 173-322-050 ((Project and cost eligibility))  
Fiscal controls. (((1) Costs for site study and remediation:

(a) Eligible costs include reasonable costs, including sales tax, incurred in performing:

(i) Remedial investigations;

(ii) Feasibility studies;

(iii) Remedial designs;

(iv) Pilot studies;

(v) Interim actions;

(vi) Landfill closures as required by chapters 173-304 and 173-351 WAC if included in the order or decree for remedial action;

(vii) Other remedial action included in the order or decree for remedial action, or included as part of the independent remedial action for which a no further action (NFA) determination is issued;

(viii) Capital costs of long term monitoring systems; and

(ix) Operating and maintenance costs incurred during the first year of accomplishing the cleanup action after facilities and equipment have been installed or constructed.

(b) Ineligible costs:

(i) Retroactive costs except as limited by WAC 173-322-100;

(ii) Legal fees and penalties;

(iii) Oversight costs;

(iv) Operating and maintenance costs after the first year of accomplishing the remedial action;

(v) Operating and maintenance costs of long term monitoring; and

(vi) At sites other than landfills, additional ineligible costs will include costs incurred to meet departmental requirements for source control and prevention.

(2) Costs for safe drinking water actions:

(a) Eligible costs include reasonable costs, including sales tax, incurred for:

(i) Water supply source development and replacement, including pumping and storage facilities, source meters, and reasonable appurtenances;

~~(ii) Transmission lines between major system components, including inter-ties with other water systems;~~

~~(iii) Treatment equipment and facilities;~~

~~(iv) Distribution lines from major system components to system customers or service connections;~~

~~(v) Fire hydrants;~~

~~(vi) Service meters;~~

~~(vii) Project inspection, engineering, and administration;~~

~~(viii) Other costs identified by the state department of health as necessary to provide a system that operates in compliance with federal and state standards, or by the coordinated water system plan as necessary to meet required standards;~~

~~(ix) Other costs identified by the department of ecology as necessary to protect a public water system from contamination from a hazardous waste site or to determine the source of such contamination;~~

~~(x) Individual service connections, including any fees and charges, provided that property owners substantially participate in financing the cost of such connections;~~

~~(xi) Drinking water well abandonment for wells identified by the department as an environmental safety or health hazard according to WAC 173-160-415; and~~

~~(xii) Interim financing where necessary as a prerequisite to local government issuance of revenue bonds.~~

~~(b) Ineligible costs include:~~

~~(i) Legal fees and penalties;~~

~~(ii) Ecology oversight costs;~~

~~(iii) Operating and maintenance costs;~~

~~(iv) Retroactive costs except as limited by WAC 173-322-100;~~

~~(v) Natural resource damage assessment; and~~

~~(vi) Costs for source control or pollution prevention activities at sites other than landfills.~~

~~(3) Costs for site hazard assessments. Eligible costs include costs for activities performed pursuant to WAC 173-340-320 and enabling local health districts or departments to participate in the department's site ranking and priority setting process.~~

~~(4) Costs must be eligible under this section and must be approved by the department in order to be eligible for reimbursement.)) (1) **General.** The department will establish reasonable costs for all grants and loans, require applicants to manage projects in a cost-effective manner, and ensure that all potentially liable persons assume responsibility for remedial action.~~

~~(2) **Partial funding.** The department retains the authority to issue grants or loans which reimburse the recipient for less than the maximum percentage allowable under WAC 173-322-060 through 173-322-130.~~

~~(3) **Cap on-site funding.**~~

~~(a) For oversight remedial actions, after the remedial investigation and feasibility study have been completed and a final remedial action plan has been developed by an eligible applicant, the department and the applicant will establish a final cleanup budget and negotiate grant and loan agreements. The funding provided under these agreements will be the final department remedial action fund commitment for cleanup at that hazardous waste site. Grant and loan agreements may be amended, but requests to increase the remedial~~

~~action budget at that site will receive a lower priority than other applications.~~

~~(b) For independent remedial actions where a no further action (NFA) determination is issued after the cleanup has been completed, the grant amount shall not exceed two hundred thousand dollars per site.~~

~~(4) **Retroactive funding.** Retroactive costs are not eligible for funding, except as provided under this chapter for each type of grant or loan.~~

~~(5) **Reimbursement of grant funds.** If the department awards remedial action funds to a local government that successfully pursues a private right of action or a claim for insurance proceeds, then the department shall be reimbursed for a proportional share of the moneys received, after the local government's legal fees in pursuing such actions have been deducted.~~

~~(6) **Repayment of grant funds.** If the department provides the local government with an area-wide ground water remedial action grant for conducting remedial action on property owned by private parties, then the grant amount shall be partially repaid to the department. The terms and amount of repayment shall be included in the grant agreement between the local government and the department.~~

~~(7) **Financial reporting.** Where the department provides the local government with a remedial action grant or loan, the local government must submit a copy of its "Comprehensive Annual Financial Report" following its publication, for the year in which the grant is issued and for each year the grant is in effect.~~

~~(8) **Financial responsibility.** As established by the Model Toxics Control Act, chapter 70.105D RCW, and implementing regulations, the potentially liable persons (PLPs) bear financial responsibility for remedial action costs. The remedial action grant and loan programs may not be used to circumvent the responsibility of a PLP.~~

**AMENDATORY SECTION** (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

**WAC 173-322-060 ((Application process.)) **Site hazard assessment grants.** ((1) Application period. The department shall determine appropriate application periods.**

~~(2) Grant applications must:~~

~~(a) Include a commitment by the applicant for local funds to match grant funds according to the requirements of WAC 173-322-090.~~

~~(b) For site study and remediation projects include a scope of work which accomplishes the requirements of an order or decree.~~

~~(c) For safe drinking water action projects, include a scope of work necessary to provide safe drinking water to the area threatened or contaminated.~~

~~(d) For site hazard assessment projects, include a scope of work which conforms to the requirements of WAC 173-340-320(4).~~

~~(e) For independent remedial actions, include a description of the remedial action for which a no further action (NFA) determination was issued and include a copy of the NFA determination document.)) (1) **Purpose.** The purpose of the site hazard assessment grant program is to involve~~

local health districts and departments in assessing the degree of contamination at suspected hazardous waste sites according to WAC 173-340-320. While enabling local health districts or departments to participate in the scoring and ranking process, the department retains the authority to review and verify the results of a site hazard assessment and to establish the hazard ranking of the site.

(2) **Applicant eligibility.** To be eligible for a site hazard assessment grant, the applicant must meet the following requirements:

(a) The applicant must be a local health district or department;

(b) The site must be located within the jurisdiction of the applicant;

(c) The department has agreed that the applicant may conduct the site hazard assessment; and

(d) The scope of work for the site hazard assessment must conform to WAC 173-340-320 and applicable department guidelines.

(3) **Application process.**

(a) **Submittal.** The application for a site hazard assessment grant may be submitted to the department at any time.

(b) **Content.** The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the applicant eligibility requirements in subsection (2) of this section;

(ii) A description of the environmental benefits of the project;

(iii) A copy of the scope of work which conforms to the requirements of WAC 173-340-320 and applicable department guidelines;

(iv) A budget for the scope of work; and

(v) A description of all current or potential sources of funding, including other grants or loans.

(4) **Application evaluation and prioritization.**

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for site hazard assessment grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Potential public health or environmental threat from the sites;

(ii) Ownership of the sites. Publicly owned sites will receive priority over privately owned sites; and

(iii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

(5) **Cost eligibility.** Costs must be eligible under this section and must be approved by the department in order to be eligible for reimbursement. Eligible costs include costs for activities performed pursuant to WAC 173-340-320 and enabling local health districts or departments to participate in the department's site ranking and priority-setting process.

(6) **Retroactive cost eligibility.** Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application; or

(b) The department provided only partial funding under a prior grant agreement because funds were not available.

(7) **Funding.** The applicant shall be eligible to receive funding for up to one hundred percent of eligible project costs.

AMENDATORY SECTION (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

WAC 173-322-070 (~~(Application evaluation and prioritization.)~~) **Oversight remedial action grants.** ~~((1) When pending grant applications or anticipated demand for site study and remediation grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:~~

~~(a) Relative hazard ranking as determined by the department in accordance with WAC 173-340-330 or the United States Environmental Protection Agency's National Priorities List ranking. Higher ranking sites will receive a higher funding priority.~~

~~(b) Evidence that the grant will expedite cleanup.~~

~~(c) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.~~

~~(2) When pending grant applications or anticipated demand for safe drinking water action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:~~

~~(a) Relative risk to human health as jointly determined by the department of ecology, in accordance with WAC 173-340-330, and the department of health, in accordance with WAC 246-290-310. Sites with greater risk will receive higher funding priority.~~

~~(b) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.~~

~~(c) Ownership of the water system to be extended or improved. Local government owned systems will receive higher funding priority than other systems.~~

~~(d) Number of people served by the water system and per capita cost of remediation.~~

~~(3) When pending grant applications or anticipated demand for site hazard assessment grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:~~

~~(a) Potential public health or environmental threat from the sites.~~

~~(b) Ownership of the sites. Publicly owned sites will receive priority over privately owned sites.~~

~~(c) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.)~~ (1) **Purpose.** The purpose of the oversight remedial action grant program is to provide funding to local governments that conduct remedial actions under an order or decree. The grants are intended to encourage and expedite remedial action and to lessen the impact of the cost of such action on ratepayers and taxpayers.

(2) **Applicant eligibility.** Except as provided under subsection (3) of this section, to be eligible for an oversight

remedial action grant, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The applicant must be a potentially liable person or a potentially responsible party at the hazardous waste site; and

(c) The applicant must meet one of the following criteria:

(i) The applicant is required by the department to conduct remedial action under an order or decree issued under chapter 70.105D RCW;

(ii) The applicant is required by the U.S. Environmental Protection Agency to conduct remedial action under an order or decree issued under the federal cleanup law and the order or decree has been signed or acknowledged in writing by the department as a sufficient basis for remedial action grant funding; or

(iii) The applicant has signed an order or decree issued under chapter 70.105D RCW requiring a potentially liable person (PLP) other than the applicant to conduct remedial action at a landfill site and the applicant has entered into an agreement with the PLP to reimburse the PLP for a portion of the remedial action costs incurred under the order or decree for the sole purpose of providing relief to ratepayers and/or taxpayers from remedial action costs.

(3) **Retroactive applicant eligibility.** To be eligible to receive an oversight remedial action grant for an order issued under the federal cleanup law prior to the effective date of the 2005 amendments to this chapter, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The applicant was required by the U.S. Environmental Protection Agency to conduct remedial action under an order issued under the federal cleanup law;

(c) The order has been signed or acknowledged in writing by the department as a sufficient basis for remedial action grant funding; and

(d) The applicant must submit to the department a grant application within six months after the effective date of the 2005 amendments to this chapter.

(4) **Application process.**

(a) **Submittal.** Except as provided under subsection (3) of this section, the application for an oversight remedial action grant must be submitted to the department within sixty days of the effective date of the order or decree.

(b) **Content.** The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the eligibility requirements in subsection (2) of this section;

(ii) A description of the history of the site, the current status of the site, and the remedial actions to be performed at the site under the order or decree;

(iii) A description of the environmental benefits of the project;

(iv) A copy of the order or decree;

(v) A copy of the scope of work which accomplishes the requirements of the order or decree;

(vi) A budget for the scope of work;

(vii) A description of all current or potential sources of funding including, but not limited to, other grants or loans, contributions from private right of action, and proceeds from insurance claims;

(viii) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds; and

(ix) If the applicant claims the use of innovative technology under subsection (7)(c)(i) of this section, a justification for the claim.

(5) **Application evaluation and prioritization.**

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for oversight remedial action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Relative hazard ranking as determined by the department in accordance with WAC 173-340-330 or the U.S. Environmental Protection Agency's National Priorities List ranking. Higher ranking sites will receive a higher funding priority;

(ii) Evidence that the grant will expedite cleanup;

(iii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

(6) **Cost eligibility.** Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) **Eligible costs.** Eligible costs for oversight remedial action grants include, but are not limited to, the reasonable costs for the following:

(i) Remedial investigations;

(ii) Feasibility studies;

(iii) Remedial designs;

(iv) Pilot studies;

(v) Interim actions;

(vi) Cleanup actions;

(vii) Landfill closures required under chapters 173-304, 173-350 and 173-351 WAC, if also required as a remedial action under the order or decree;

(viii) Capital costs of long-term monitoring systems; and

(ix) Operating and maintenance costs incurred during the first year of accomplishing the cleanup action after facilities and equipment have been installed or constructed.

(b) **Ineligible costs.** Ineligible costs for oversight remedial action grants include, but are not limited to, the following:

(i) Retroactive costs, except as provided under subsection (7) of this section;

(ii) Oversight costs;

(iii) Operating and maintenance costs of long-term monitoring systems;

(iv) Operating and maintenance costs incurred after the first year of accomplishing the cleanup action;

(v) Natural resource damage assessment costs and natural resource damages;

(vi) Legal costs including, but not limited to, the cost of pursuing private right of action or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees; and

(vii) In-kind services.

(7) Retroactive cost eligibility. Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application;

(b) The department provided only partial funding under a prior grant agreement because funds were not available;

(c) The costs were incurred conducting independent remedial actions and those actions are incorporated as part of the order or decree; or

(d) The applicant is eligible under subsection (3) of this section.

(8) Funding and reimbursement.

(a) Adjustment of eligible costs. If an order or decree requires a potentially liable person (PLP) or a potentially responsible party (PRP) other than a local government to conduct remedial action, then the department shall deduct the financial contribution of that PLP or PRP from the amount eligible for grant funding to the applicant. If the applicant has successfully pursued a private right of action for contribution or a claim for insurance proceeds, then the department shall deduct the moneys received from the amount eligible for grant funding to the applicant.

(b) Funding of eligible costs. Except as provided under (c) of this subsection, the applicant shall be eligible to receive funding for up to fifty percent of eligible project costs.

(c) Additional funding. The applicant shall be eligible to receive funding in excess of the limit set forth in (b) of this subsection under the following circumstances:

(i) The applicant used innovative technology. If the applicant utilizes innovative technology, as defined in WAC 173-322-020, as part of the cleanup action and the eligible project costs exceed four hundred thousand dollars, then the applicant shall be eligible to receive additional funding up to fifteen percent of eligible project costs. The applicant must include justification for the innovative technology claim in the grant application.

(ii) The county is economically disadvantaged. If the applicant is a county, or is located within a county, that is economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive additional funding up to twenty-five percent of eligible project costs.

(d) Match requirement. The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or the department's share of the moneys identified under (e) of this subsection to meet the match requirement.

(e) Reimbursement of grant funds. If the applicant successfully pursues a private right of action for contribution or a claim for insurance proceeds, then the department shall be reimbursed for a proportional share of the moneys

received, after the local government's legal fees in pursuing such actions have been deducted.

AMENDATORY SECTION (Amending WSR 93-24-047, filed 11/23/93, effective 12/24/93)

WAC 173-322-080 ((Allocation of grant funding-))  
Independent remedial action grants. ((In conjunction with the biennial program report and program plan required by WAC 173-340-340, the department will prepare an administrative allocation from the legislative appropriation of the local toxics control account for funding remedial action grants. Within that administrative allocation, the department will allocate subamounts for site study and remediation grants, safe drinking water action grants, and site hazard assessment grants. The allocations shall be based on estimated costs for work on eligible sites which are identified in the program plan for the biennium-)) (1) Purpose. The purpose of the independent remedial action grant program is to provide funding to local governments that have successfully cleaned up hazardous waste sites through independent remedial action. Independent remedial actions are remedial actions that are voluntarily initiated and conducted without department oversight or approval. The grants are intended to encourage and expedite independent remedial action and to lessen the impact of the cost of such action on ratepayers and taxpayers.

(2) Applicant eligibility. To be eligible for an independent remedial action grant, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The applicant must be a potentially liable person or potentially responsible party at the hazardous waste site or have an ownership interest in the hazardous waste site;

(c) The applicant must have completed independent remedial actions at the hazardous waste site and received from the department a no further action (NFA) determination; and

(d) The eligible project costs are less than four hundred thousand dollars.

(3) Application process.

(a) Submittal. The application for an independent remedial action grant must be submitted to the department within sixty days of receipt of the no further action (NFA) determination.

(b) Content. The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the eligibility requirements in subsection (2) of this section;

(ii) A description of the independent remedial action for which the department issued a no further action (NFA) determination;

(iii) A description of the environmental benefits of the project;

(iv) A copy of the independent remedial action report required under WAC 173-340-515(4);

(v) A copy of the document containing the no further action (NFA) determination;



(vi) A description of the costs incurred in performing the independent remedial actions;

(vii) A description of all current or potential sources of funding including, but not limited to, other grants or loans, contributions from private right of action, and proceeds from insurance claims; and

(viii) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

**(4) Application evaluation and prioritization.**

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for independent remedial action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the date the department receives completed applications.

(5) Cost eligibility. Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) Eligible costs. Eligible costs for independent remedial action grants include, but are not limited to, the reasonable costs for the following:

(i) Remedial investigations;

(ii) Feasibility studies;

(iii) Remedial designs;

(iv) Pilot studies;

(v) Interim actions;

(vi) Cleanup actions;

(vii) Capital costs of long-term monitoring systems;

(viii) Operating and maintenance costs incurred during the first year of accomplishing the cleanup action after facilities and equipment have been installed or constructed; and

(ix) Development of the independent remedial action report required under WAC 173-340-515(4).

(b) Ineligible costs. Ineligible costs for independent remedial action grants include, but are not limited to, the following:

(i) Retroactive costs, except as provided under subsection (6) of this section;

(ii) Cost of technical consultations provided by the department under WAC 173-340-515(5), including any deposit for such consultations;

(iii) Operating and maintenance costs of long-term monitoring systems;

(iv) Operating and maintenance costs incurred after the first year of accomplishing the cleanup action;

(v) Natural resource damage assessment costs and natural resource damages;

(vi) Legal costs including, but not limited to, the cost of pursuing private right of action or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees; and

(vii) In-kind services.

(6) Retroactive cost eligibility. Retroactive costs are eligible for reimbursement if the costs were incurred within five years of the date of the grant application. Retroactive costs incurred more than five years before the date of the grant application are not eligible for reimbursement unless:

(a) The department unreasonably delayed the processing of the grant application; or

(b) The department provided only partial funding under a prior grant agreement because funds were not available.

**(7) Funding and reimbursement.**

(a) Adjustment of eligible costs. If the applicant has successfully pursued a private right of action for contribution or a claim for insurance proceeds, then the department shall deduct the moneys received from the amount eligible for grant funding to the applicant.

(b) Funding of eligible costs. Except as provided under (c) of this subsection, the applicant shall be eligible to receive funding for up to fifty percent of eligible project costs.

(c) Additional funding. If the applicant is a county, or is located within a county, that is economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive funding for up to seventy-five percent of eligible project costs.

(d) Match requirement. The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or the department's share of the moneys identified under (e) of this subsection to meet the match requirement.

(e) Reimbursement of grant funds. If the applicant successfully pursues a private right of action for contribution or a claim for insurance proceeds, then the department shall be reimbursed for a proportional share of the moneys received, after the local government's legal fees in pursuing such actions have been deducted.

AMENDATORY SECTION (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

WAC 173-322-090 ((State assistance share, local cash match, economic disadvantage, and role of potentially liable persons-)) **Area-wide ground water remedial action grants.** ((1) Except as otherwise provided in this section, costs eligible for site study and remediation and safe drinking water action grants will be considered for grant funding at up to fifty percent, except in the case of site study and remediation grants with eligible costs of over two hundred thousand dollars, local governments who utilize treatment, recycling and/or disposal as part or all of the cleanup action shall be eligible to receive an additional fifteen percent. Independent remedial action grant funds are available only for projects with eligible costs of less than two hundred thousand. The additional fifteen percent funds do not apply to independent remedial actions.

(2) Costs for site hazard assessments which are eligible under WAC 173-322-050(3) will be considered for grant funding of up to one hundred percent.

(3) Costs for area-wide ground water contamination remediation grants will be considered for grant funding of more than fifty percent. Local governments shall be required

to obtain partial reimbursement from PLPs. Reasonable measures shall be taken by local governments to maximize reimbursement. The amount of grant funds and how much to pay back will be determined by the department on a case-by-case basis.

(4) Grant funding for economically disadvantaged local governments:

(a) In addition to grant funding under subsection (1) of this section, economically disadvantaged local governments may apply for up to twenty five percent supplemental funding. This additional funding will be contingent on satisfactory demonstration of extraordinary financial need.

(b) A local government is considered economically disadvantaged if it is a county, or a local government within a county, which meets both of the following criteria:

(i) Per capita income, as measured by the latest official estimate of the Washington state office of financial management, is in the lower twenty counties in the state; and

(ii) It is economically distressed as defined by chapter 43.165 RCW.

(c) The department will include a list of counties which are economically disadvantaged as defined herein in the guidelines for remedial action grants to be published on a biennial basis.

(5) For applicants eligible for site study and remediation grants, if a decree or order requires a potentially liable person (PLP) other than a local government to conduct remedial action, the financial contribution of that PLP will be deducted from the amount eligible for grant funding to the local government.

(6) For applicants eligible for safe drinking water action grants, funding from either the local government or the PLP may be used to match remedial action grant funds.

(7) As established by the Model Toxics Control Act, chapter 70.105D RCW, and implementing regulations, the potentially liable persons bear financial responsibility for remedial action costs. The remedial action grant program may not be used to circumvent the PLP responsibility.) (1) **Purpose.** The purpose of the area-wide ground water remedial action grant program is to provide funding to local governments that facilitate the cleanup and redevelopment of property within their jurisdictions where the ground water has been contaminated by hazardous substances from multiple sources. The grants are intended to encourage and expedite the investigation and cleanup of area-wide ground water contamination.

(2) **Applicant eligibility.** To be eligible for an area-wide ground water remedial action grant, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The hazardous waste site must involve area-wide ground water contamination, as defined in WAC 173-322-020;

(c) The applicant must be a potentially liable person or a potentially responsible party at the hazardous waste site, have an ownership interest in the hazardous waste site, or apply on behalf of property owners affected by the hazardous waste site to facilitate area-wide ground water action;

(d) The area-wide ground water action must be required under an order or decree or be approved by the department. If the action is required under an order or decree issued under the federal cleanup law, then the order or decree must have been signed or acknowledged in writing by the department as a sufficient basis for remedial action grant funding;

(e) The applicant must agree to conduct or manage the area-wide ground water action specified in the grant agreement; and

(f) The applicant must have entered into a reimbursement agreement with potentially liable persons, potentially responsible parties, and affected property owners to partially reimburse the applicant for the costs incurred implementing the area-wide ground water action specified in the grant agreement.

### (3) Application process.

(a) **Submittal.** If the area-wide ground water remedial actions are required under an order or decree, then the grant application must be submitted to the department within sixty days of the effective date of the order or decree. If the area-wide ground water remedial actions are not required under an order or decree, then the grant application may be submitted to the department at any time.

(b) **Content.** The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the eligibility requirements in subsection (2) of this section;

(ii) A description of the history of the site, the sources of the area-wide ground water contamination, the current status of the site, and the remedial actions to be performed at the site to address the area-wide ground water contamination;

(iii) A description of the environmental benefits of the project;

(iv) A copy of the order or decree, if applicable;

(v) A copy of the scope of work that specifies the remedial actions to be performed at the site to address the area-wide ground water contamination;

(vi) A budget for the scope of work;

(vii) A description of all current or potential sources of funding including, but not limited to, other grants or loans, contributions from private right of action, and proceeds from insurance claims;

(viii) A copy of the reimbursement agreement with affected property owners;

(ix) A commitment by the applicant to partially reimburse the department from funds obtained from affected property owners; and

(x) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

### (4) Application evaluation and prioritization.

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.



(b) When pending grant applications or anticipated demand for area-wide ground water remedial action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Relative hazard ranking as determined by the department in accordance with WAC 173-340-330 or the U.S. Environmental Protection Agency's National Priorities List ranking. Higher ranking sites will receive a higher funding priority;

(ii) Evidence that the grant will expedite cleanup; and  
(iii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

(5) Cost eligibility. Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) Eligible costs. Eligible costs for area-wide ground water remedial action grants include, but are not limited to, the reasonable costs for the following:

(i) Remedial investigations;  
(ii) Feasibility studies;  
(iii) Remedial designs;  
(iv) Pilot studies;  
(v) Interim actions;  
(vi) Cleanup actions;  
(vii) Capital costs of long-term monitoring systems; and  
(viii) Operating and maintenance costs incurred during the first year of accomplishing the cleanup action after facilities and equipment have been installed or constructed.

(b) Ineligible costs. Ineligible costs for area-wide ground water remedial action grants include, but are not limited to, the following:

(i) Retroactive costs, except as provided under subsection (6) of this section;

(ii) Oversight costs;  
(iii) Operating and maintenance costs of long-term monitoring systems;

(iv) Operating and maintenance costs incurred after the first year of accomplishing the cleanup action;

(v) Natural resource damage assessment costs and natural resource damages;

(vi) Legal costs including, but not limited to, the cost of pursuing private right of action or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees; and  
(vii) In-kind services.

(6) Retroactive cost eligibility. Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application;

(b) The department provided only partial funding under a prior grant agreement because funds were not available; or

(c) The costs were incurred conducting independent remedial actions and those actions are incorporated as part of the order or decree.

(7) Funding and reimbursement.

(a) Adjustment of eligible costs. If an order or decree requires a potentially liable person (PLP) or a potentially

responsible party (PRP) other than a local government to conduct remedial action, then the department shall deduct the financial contribution of that PLP or PRP from the amount eligible for grant funding to the applicant. If the applicant has successfully pursued a private right of action for contribution or a claim for insurance proceeds, then the department shall deduct the moneys received from the amount eligible for grant funding to the applicant.

(b) Funding of eligible costs. The applicant shall be eligible to receive funding for up to one hundred percent of eligible project costs.

(c) Match requirement. The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or the department's share of the moneys identified under (d) of this subsection to meet the match requirement.

(d) Reimbursement of grant funds. If the applicant successfully pursues a private right of action for contribution or a claim for insurance proceeds, then the department shall be reimbursed for a proportional share of the moneys received, after the local government's legal fees in pursuing such actions have been deducted.

(e) Repayment of grant funds. If the property impacted by the area-wide ground water contamination is owned by private parties, then the grant amount shall be partially repaid to the department. The terms and amount of repayment shall be included in the grant agreement between the applicant and the department. The applicant shall obtain partial reimbursement from potentially liable persons and potentially responsible parties. Reasonable measures shall be taken by the applicant to maximize reimbursement.

AMENDATORY SECTION (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

WAC 173-322-100 ((Fiscal controls.)) Safe drinking water action grants. (((1) The department will establish reasonable costs for all grants, require applicants to manage projects in a cost effective manner, and ensure that all potentially liable persons (PLPs) assume responsibility for remedial action.

(2) The department retains the authority to issue grants which reimburse the recipient for less than the maximum percentage allowable under WAC 173-322-090.

(3) Cap on site funding. Except for independent remedial actions where a no further action (NFA) determination is issued after cleanup has been completed, after the remedial investigation and feasibility study have been completed and a final remedial action plan has been developed by an eligible applicant, the department and the applicant will establish a final cleanup budget and negotiate a grant agreement. The grant amount in this agreement will be the final department remedial action grant fund commitment for cleanup at that hazardous waste site. Grant agreements may be amended, but requests to increase the remedial action grant budget at that site will receive a lower priority than other applications.

(4) Retroactive funding. Grant funding of costs already incurred prior to the date of the grant agreement may be allowed to local governments where the order or decree with

the department, if any, postdates March 1, 1989, and under one or more of the following circumstances:

(a) If the grant application period is closed when the order or decree becomes effective;

(b) If the department unreasonably delays the processing of a remedial action grant application;

(c) If there are inadequate funds in the local toxics control account to cover the entire scope of work required by decree or order; and/or

(d) If remedial actions not required by decree or order have proceeded, grants for this work may be made if the department later formally includes such work items in a decree or order, or for independent remedial actions conducted no earlier than five years before the date of application if a no further action (NFA) determination is given for that independent remedial action.

(5) Reimbursement of grant funds. If the department awards remedial action funds to a local government that successfully pursues a private right of action against a PLP who has not settled with the department or successfully pursues a claim for insurance proceeds, then the department shall be reimbursed for a proportional share of the moneys received, after the local government's legal fees in pursuing such actions have been deducted.

(6) Repayment of grant funds. Where the department provides a remediation grant for area-wide ground water contamination to a local government, the grant amount shall be partially repaid to the department where ownership of property affected by the grant is held by private parties. The terms and amount of repayment will be included in the grant agreement between the local government and the department.)) (1) **Purpose.** The purpose of the safe drinking water action grant program is to assist local governments, or a local government applying on behalf of a purveyor, in providing safe drinking water to areas contaminated by, or threatened by contamination from, hazardous waste sites.

(2) **Applicant eligibility.** To be eligible for a safe drinking water action grant, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The applicant must be a purveyor, as defined in WAC 173-322-020, or the applicant must be applying on behalf of a purveyor;

(c) The applicant must be in substantial compliance, as determined by the department of health, with applicable rules of the state board of health or the department of health, as contained in chapter 246-290 WAC (Public water supplies), chapter 246-292 WAC (Water works operator certification), chapter 246-293 WAC (Water System Coordination Act), and chapter 246-294 WAC (Drinking water operating permits);

(d) The public water system must be located in an area determined by the department to be a hazardous waste site or threatened by contamination from a hazardous waste site;

(e) The public water system must exhibit levels of contamination which exceed the primary maximum contaminant levels (MCLs) established by the state board of health and set forth in WAC 246-290-310, exhibit levels of contamination which exceed the cleanup standards established by the

department of ecology under WAC 173-340-700 through 173-340-760, or be certified by the state department of health that a contaminant threatens the safety and reliability of a public water system which cannot be remedied solely by operational solutions. Contaminants must include at least one hazardous substance. If the contaminant is a nitrate or trihalomethane, it must be determined to have originated from a hazardous waste site;

(f) An order or decree must require safe drinking water action. The department may waive this requirement if it has determined that no viable potentially liable person (PLP) exists or that public health would be threatened from unreasonable delays associated with the search for PLPs or the development of an order or decree. If the safe drinking water action is required under an order or decree issued under the federal cleanup law, then the order or decree must have been signed or acknowledged in writing by the department as a sufficient basis for remedial action grant funding; and

(g) If the safe drinking water action includes water line extensions, then the extensions must be consistent with the coordinated water system plan and growth management plan for the geographic area containing the affected water supplies.

### (3) **Application process.**

(a) **Submittal.** If the safe drinking water actions are required under an order or decree, then the grant application must be submitted to the department within sixty days of the effective date of the order or decree. If the safe drinking water actions are not required under an order or decree, then the grant application may be submitted to the department at any time.

(b) **Content.** The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the eligibility requirements in subsection (2) of this section;

(ii) A description of the history of the site, the current status of the site, the threat posed by the site to the public water system, and the remedial actions to be performed at the site to address that threat;

(iii) A description of the environmental benefits of the project;

(iv) A copy of the order or decree, if applicable;

(v) A copy of the scope of work that specifies the remedial actions to be performed at the site to address the threat to the public water system;

(vi) A budget for the scope of work;

(vii) A description of all current or potential sources of funding including, but not limited to, other grants or loans, contributions from private right of action, and proceeds from insurance claims; and

(viii) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

### (4) **Application evaluation and prioritization.**

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of

funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for safe drinking water action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Relative risk to human health as jointly determined by the department of ecology, in accordance with WAC 173-340-330, and the department of health, in accordance with WAC 246-290-310. Sites with greater risk will receive higher funding priority;

(ii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work;

(iii) Ownership of the water system to be extended or improved. Local government-owned systems will receive higher funding priority than other systems; and

(iv) Number of people served by the water system and per capita cost of remediation.

(5) Cost eligibility. Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) Eligible costs. Eligible costs for safe drinking water action grants include, but are not limited to, the reasonable costs for the following:

(i) Water supply source development and replacement, including pumping and storage facilities, source meters, and reasonable appurtenances;

(ii) Transmission lines between major system components, including inter-ties with other water systems;

(iii) Treatment equipment and facilities;

(iv) Distribution lines from major system components to system customers or service connections;

(v) Bottled water, as an interim action;

(vi) Fire hydrants;

(vii) Service meters;

(viii) Project inspection, engineering, and administration;

(ix) Individual service connections, including any fees and charges, provided that property owners substantially participate in financing the cost of such connections;

(x) Drinking water well abandonment for wells identified by the department as an environmental safety or health hazard according to WAC 173-160-415;

(xi) Interim financing where necessary as a prerequisite to local government issuance of revenue bonds;

(xii) Other costs identified by the department of health as necessary to provide a system that operates in compliance with federal and state standards, or by the coordinated water system plan as necessary to meet required standards; and

(xiii) Other costs identified by the department as necessary to protect a public water system from contamination from a hazardous waste site or to determine the source of such contamination.

(b) Ineligible costs. Ineligible costs include, but are not limited to, the following:

(i) Retroactive costs, except as provided under subsection (6) of this section;

(ii) Oversight costs;

(iii) Operating and maintenance costs;

(iv) Natural resource damage assessment costs and natural resource damages;

(v) Legal costs including, but not limited to, the cost of pursuing private right of action or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees; and

(vi) In-kind services.

(6) Retroactive cost eligibility. Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application;

(b) The department provided only partial funding under a prior grant agreement because funds were not available; or

(c) The costs were incurred conducting independent remedial actions and those actions are incorporated as part of the order or decree.

(7) Funding and reimbursement.

(a) Adjustment of eligible costs. If an order or decree requires a potentially liable person (PLP) or a potentially responsible party (PRP) other than a local government to conduct remedial action, then the department shall deduct the financial contribution of that PLP or PRP from the amount eligible for grant funding to the applicant. If the applicant has successfully pursued a private right of action for contribution or a claim for insurance proceeds, then the department shall deduct the moneys received from the amount eligible for grant funding to the applicant.

(b) Funding of eligible costs. Except as provided under (c) of this subsection, the applicant shall be eligible to receive funding for up to fifty percent of eligible project costs.

(c) Additional funding. If the applicant is a county, or is located within a county, that is economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive funding for up to seventy-five percent of eligible project costs.

(d) Match requirement. The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or the department's share of the moneys identified under (e) of this subsection to meet the match requirement.

(e) Reimbursement of grant funds. If the applicant successfully pursues a private right of action for contribution or a claim for insurance proceeds, then the department shall be reimbursed for a proportional share of the moneys received, after the local government's legal fees in pursuing such actions have been deducted.

AMENDATORY SECTION (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

WAC 173-322-110 ((Grant administration.)) **Methamphetamine lab site assessment and cleanup grants.** (((1) Local governments will be periodically informed of the availability of remedial action grant funding.

(2) A grant application package will be sent to all parties expressing interest in remedial action grants and to all local governments that have been required by decree or order to

perform remedial actions. Grant application packages will include grant guidelines and application forms.

(3) Application must be made within sixty days after the date that a decree or order becomes effective or for independent remedial actions, within sixty days of receipt of a no further action (NFA) determination.

(4) The department will prepare a guidance manual on a biennial basis to assist grant applicants and to facilitate compliance with this regulation.

(5) Appropriation and allocation of funds. Grants will be awarded within the limits of available funds. The obligation of the department to make grant payments is contingent upon the availability of funds through legislative appropriation and allotment, and such other conditions not reasonably foreseeable by the department rendering performance impossible. When the grant crosses over bienniums, the obligation of the department is contingent upon the legislative appropriation of funds for the next biennium.

(6) Remedial action grants shall be used to supplement local government funding and funding from other sources to carry out required remedial action.

(7) The department may fund all or portions of eligible grant applications.

(8) To the extent that the Constitution and laws of the state of Washington permit, the grantee shall indemnify and hold the department harmless, from and against, any liability for any or all injuries to persons or property arising from the negligent act or omission of the grantee arising out of a grant contract.

(9) All grants under this chapter shall be consistent with "Administrative Requirements for Ecology Grants and Loans" WDOE publication No. 91-18, revised October 2000.) (1) **Purpose.** The purpose of the methamphetamine lab site assessment and cleanup grant program is to provide funding to local health districts and departments that assess and cleanup sites of methamphetamine production. The program is not intended to assist local health districts and departments in the initial containment of methamphetamine lab sites.

(2) **Applicant eligibility.** To be eligible for a methamphetamine lab site assessment and cleanup grant, the applicant must meet the following requirements:

(a) The applicant must be a local health district or department;

(b) The methamphetamine lab site must be located within the jurisdiction of the applicant; and

(c) The scope of work for the assessment or cleanup of a methamphetamine lab site must conform to chapter 246-205 WAC and applicable board of health and department of health guidelines. The scope of work for the methamphetamine lab site assessment must also conform to WAC 173-340-320 and applicable department of ecology guidelines.

**(3) Application process.**

(a) **Submittal.** The application for a methamphetamine lab site assessment and cleanup grant may be submitted to the department at any time.

(b) **Content.** The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the applicant eligibility requirements in subsection (2) of this section;

(ii) A description of the work completed under the prior grant agreement, if applicable;

(iii) A description of the anticipated work to be completed under the grant;

(iv) A budget for the anticipated work;

(v) A description of the environmental benefits of the project;

(vi) A description of all current or potential sources of funding including, but not limited to, other grants or loans, contributions from private right of action, and proceeds from insurance claims; and

(vii) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

**(4) Application evaluation and prioritization.**

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for methamphetamine lab site assessment and cleanup grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

(i) Potential public health or environmental threat from the methamphetamine lab sites;

(ii) Ownership of the methamphetamine lab sites. Publicly owned sites will receive priority over privately owned sites; and

(iii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

(5) **Cost eligibility.** Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) **Eligible costs.** Eligible costs for methamphetamine lab site assessment and cleanup grants include, but are not limited to, the reasonable costs for the following:

(i) Posting the property, as defined in WAC 246-205-010 and required under WAC 246-205-520;

(ii) Inspecting the property and determining whether the property is contaminated, as required under WAC 246-205-530;

(iii) Posting contaminated property, as defined in WAC 246-205-010 and required under WAC 246-205-560;

(iv) Notifying occupants, property owners, and other persons with an interest in the contaminated property, as required under WAC 246-205-560;

(v) Cleaning up contaminated publicly owned property, as required under WAC 246-205-570, including performing a precleanup site assessment, developing and implementing the cleanup work plan, performing a post-cleanup site assessment, and developing a cleanup report. Eligible costs include the costs incurred by an authorized contractor and the cost of overseeing the work performed by the contractor;

(vi) Overseeing the cleanup of contaminated privately owned property, as required under WAC 246-205-570 and 246-205-580, including reviewing cleanup work plans and reports and inspecting the property during and subsequent to the cleanup;

(vii) Disposal of contaminated property, as defined in WAC 246-205-010, if the property is publicly owned;

(viii) Releasing the property for use, as required under WAC 246-205-580;

(ix) County fees related to deed notification; and

(x) Equipment and training, if approved by the department in advance.

(b) Ineligible costs. Ineligible costs for methamphetamine lab site assessment and cleanup grants include, but are not limited to, the following:

(i) Retroactive costs, except as provided under subsection (6) of this section;

(ii) Initial containment of methamphetamine lab sites, as defined in WAC 173-322-020;

(iii) Restricting access to privately owned property, except as required under chapter 246-205 WAC;

(iv) Cleaning up privately owned contaminated property;

(v) Disposal of contaminated property, as defined in WAC 246-205-010, if the property is privately owned;

(vi) Disposal of property that is not contaminated, as defined in WAC 246-205-010;

(vii) Natural resource damage assessment costs and natural resource damages;

(viii) Legal costs including, but not limited to, the cost of pursuing private right of action or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees;

(ix) Education and outreach activities; and

(x) In-kind services.

(6) Retroactive cost eligibility. Retroactive costs are not eligible for reimbursement unless:

(a) The department unreasonably delays the processing of the grant application; or

(b) The department provided only partial funding under a prior grant agreement because funds were not available.

(7) Funding and reimbursement.

(a) Adjustment of eligible costs. If the applicant has successfully pursued a private right of action for contribution or a claim for insurance proceeds, then the department shall deduct the moneys received from the amount eligible for grant funding to the applicant.

(b) Funding of eligible costs. The applicant shall be eligible to receive funding for up to one hundred percent of eligible methamphetamine lab site assessment costs. Except as provided under (c) of this subsection, the applicant shall also be eligible to receive funding for up to fifty percent of eligible methamphetamine lab site cleanup costs.

(c) Additional funding. If the applicant is a county, or is located within a county, that is economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive funding for up to seventy-five percent of eligible methamphetamine lab site cleanup costs.

(d) Match requirement. The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or the department's share of the moneys identified under (e) of this subsection to meet the match requirement.

(e) Reimbursement of grant funds. If the applicant successfully pursues a private right of action for contribution or a claim for insurance proceeds, then the department shall be reimbursed for a proportional share of the moneys received, after the local government's legal fees in pursuing such actions have been deducted.

AMENDATORY SECTION (Amending Order 97-09A, filed 2/12/01, effective 3/15/01)

WAC 173-322-120 ((Loans.)) Derelict vessel remedial action grants. ((The department may award a loan or combination loan and grant to a grant applicant. Loan terms and the repayment provisions of a loan shall be established on a case-by-case basis under an agreement between the local government and the department.)) (1) Purpose. The purpose of the derelict vessel remedial action grant program is to provide funding to local governments that clean up and dispose of hazardous substances from abandoned or derelict vessels that pose a threat to human health or the environment.

(2) Applicant eligibility. To be eligible for a derelict vessel remedial action grant, the applicant must meet the following requirements:

(a) The applicant must be a local government, as defined in WAC 173-322-020;

(b) The vessel must be an abandoned or derelict vessel, as defined in WAC 173-322-020; and

(c) The applicant must be the owner of the abandoned or derelict vessel.

(3) Application process.

(a) Submittal. The application for a derelict vessel remedial action grant may be submitted to the department at any time.

(b) Content. The grant application must be completed on forms provided by the department and include the following:

(i) Sufficient evidence to demonstrate compliance with the applicant eligibility requirements in subsection (2) of this section;

(ii) A description of the vessel, the types and quantities of hazardous substances located within the vessel, the threat posed by the vessel to human health and the environment, the remedial actions to be performed to address that threat, and the authority under which the remedial action will be performed;

(iii) A copy of the scope of work that specifies the remedial actions to be performed to address the threat;

(iv) A description of the environmental benefits of the project;

(v) A budget for the scope of work;

(vi) A description of all current or potential sources of funding including, but not limited to, other grants or loans, contributions from private right of action, and proceeds from insurance claims; and

(vii) A commitment by the applicant to provide the required matching funds and a description of the sources of those funds.

**(4) Application evaluation and prioritization.**

(a) The grant application will be evaluated by the department for completeness and adequacy. After the application has been completed, the department and the applicant will negotiate the scope of work and budget for the grant. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant.

(b) When pending grant applications or anticipated demand for derelict vessel remedial action grants exceed the amount of funds available, the department may prioritize applications or limit grant awards based on the following:

- (i) Relative risk to human health and the environment;
- (ii) Evidence that the grant will expedite cleanup; and
- (iii) Relative readiness of the applicant to proceed promptly to accomplish the scope of work.

**(5) Cost eligibility.** Costs must be eligible under this section and be approved by the department in order to be eligible for reimbursement.

(a) **Eligible costs.** Eligible costs for a derelict vessel remedial action grant include, but are not limited to, the reasonable costs for the following:

- (i) Remedial investigation of the vessel, including sampling and analysis; and
- (ii) Removal and disposal of hazardous substances and materials designated as dangerous wastes under chapter 173-303 WAC.

(b) **Ineligible costs.** Ineligible costs for a derelict vessel remedial action grant include, but are not limited to, the following:

- (i) Retroactive costs, except as provided in subsection (6) of this section;
- (ii) Administrative cost of taking ownership of the vessel;
- (iii) Removal and disposal of materials that are hazardous substances or designated as dangerous wastes under chapter 173-303 WAC;
- (iv) Disposal of the vessel at a landfill, including transport of the vessel;
- (v) Disposal of the vessel at sea;
- (vi) Natural resource damage assessment costs and natural resource damages;
- (vii) Legal costs including, but not limited to, the cost of pursuing private right of action or insurance claims, the cost of administrative hearings, the cost of pursuing penalties or civil or criminal actions against persons, the cost of penalties incurred by the applicant, the cost of defending actions taken against the applicant, and attorney fees; and

(viii) In-kind services.

**(6) Retroactive cost eligibility.** Retroactive costs are not eligible for reimbursement unless:

- (a) The department unreasonably delays the processing of the grant application; or
- (b) The department provided only partial funding under a prior grant agreement because funds were not available.

**(7) Funding and reimbursement.**

(a) **Adjustment of eligible costs.** If the applicant has successfully pursued a private right of action for contribution or a claim for insurance proceeds, then the department shall deduct the moneys received from the amount eligible for grant funding to the applicant.

(b) **Funding of eligible costs.** Except as provided under (c) of this subsection, the applicant shall be eligible to receive funding for up to fifty percent of eligible project costs, not to exceed twenty-five thousand dollars.

(c) **Additional funding.** If the applicant is a county, or is located within a county, that is economically disadvantaged, as defined in WAC 173-322-020, then the applicant shall be eligible to receive funding for up to seventy-five percent of eligible project costs, not to exceed twenty-five thousand dollars.

(d) **Match requirement.** The applicant shall fund those eligible costs not funded by the department under the grant. The applicant may not use in-kind services or the department's share of the moneys identified under (e) of this subsection to meet the match requirement.

(e) **Reimbursement of grant funds.** If the applicant successfully pursues a private right of action for contribution or a claim for insurance proceeds, then the department shall be reimbursed for a proportional share of the moneys received, after the local government's legal fees in pursuing such actions have been deducted.

**NEW SECTION**

**WAC 173-322-130 Loans.** (1) **Purpose.** This section establishes requirements for a program of remedial action loans to local governments under RCW 70.105D.070 (3)(a) and (7). The loan program shall be limited to providing loans to supplement local government funding and funding from other sources to meet the match requirements for oversight remedial action grants. The intent of the loan program is to encourage and expedite the cleanup of hazardous waste sites and to lessen the impact of the cleanup cost on ratepayers and taxpayers.

(2) **Applicant eligibility.** To be eligible for a loan, the applicant must meet the following requirements:

- (a) The applicant must be a local government, as defined in WAC 173-322-020;
- (b) The applicant must meet the eligibility requirements for an oversight remedial action grant set forth in WAC 173-322-070(2);

(c) The applicant must agree to undergo an independent third-party financial review to determine its financial need for the loan, ability to repay the loan, and inability to obtain funds from any other source. The financial review shall be conducted at the direction and cost of the department; and

(d) The hazardous waste site must present an immediate danger to human health and the environment.

**(3) Application process.**

(a) **Submittal.** The loan application must be submitted to the department at the same time as the associated oversight remedial action grant application.

(b) **Content.** The loan application must be completed on forms provided by the department and include the following:



(i) Sufficient evidence to demonstrate the applicant's financial need for the loan, ability to repay the loan, and inability to obtain matching funds from any other source;

(ii) Sufficient evidence that the hazardous waste site presents an immediate danger to human health and the environment; and

(iii) A copy of the applicant's most recent Comprehensive Annual Financial Report.

**(4) Application evaluation and prioritization.**

(a) The department will evaluate the loan application together with the associated oversight remedial action grant application. The grant and loan applications will be evaluated by the department for completeness and adequacy. After the grant and loan applications have been completed, the department and the applicant will negotiate a scope of work and budget for the grant and loan. The department will consider cost eligibility and other sources of funding when negotiating the scope of work and budget for the grant and loan.

(b) The department will fund the loan from the same fund allocation used to fund the associated oversight remedial action grant. When the demand for funds allocated for oversight remedial action grants and loans exceeds the amount of funds available, the department will prioritize the associated grant and loan applications together using the criteria set forth in WAC 173-322-070(5).

**(5) Cost eligibility.** The eligible costs for the loan program shall be the same as the eligible costs for the oversight remedial action grant program set forth in WAC 173-322-070(6).

**(6) Retroactive cost eligibility.** The eligibility of retroactive costs for the loan program shall be the same as the eligibility of retroactive costs for the oversight remedial action grant program set forth in WAC 173-322-070(7).

**(7) Funding and repayment.**

(a) **General.** If the department provides the applicant an oversight remedial action grant and the grant is funded to the maximum extent allowed under WAC 173-322-070(8), then the department may also provide the applicant a loan to enable the applicant to meet the match requirement for the grant. The loan shall be used to supplement local government funding and funding from other sources to meet the match requirement.

(b) **Department funding of match requirement.** The department may provide a loan to the applicant for up to one hundred percent of the match requirement for the oversight remedial action grant.

(c) **Local government funding of match requirement.** The applicant shall fund those eligible costs not funded by the department under the grant or loan. The applicant may not use in-kind services or the department's share of the moneys identified under WAC 173-322-070 (8)(d) to meet the match requirement.

(d) **Repayment of loan.** The terms and conditions for repayment of the loan shall be based on the applicant's ability to repay the loan, as determined by an independent third-party financial review. The independent third-party financial review shall be conducted at the direction and cost of the department.

**WSR 04-20-078**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed October 5, 2004, 9:44 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-13-132.

Title of Rule and Other Identifying Information: Factory assembled structures' rules (chapters 296-150C, 296-150F, 296-150M, 296-150T, and 296-150V WAC).

Hearing Location(s): Department of Labor and Industries, Room S119, 7273 Linderson Way S.E., Olympia, WA 98504, on November 12, 2004, at 9:00 a.m.

Date of Intended Adoption: December 14, 2004.

Submit Written Comments to: Christine Swanson, Department of Labor and Industries, Specialty Compliance Services, P.O. Box 44400, Olympia, WA 98504-4400, e-mail copc235@lni.wa.gov, fax (360) 902-5292, by November 1, 2004.

Assistance for Persons with Disabilities: Contact Christine Swanson by November 1, 2004, TTY (360) 902-5797 or (360) 902-6411.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to:

- Adopt the most recent International Building Codes (based on 2003 legislative changes) and other nationally recognized codes and standards.
- Make clarifying and housekeeping changes.
- Moved the electrical inspection fee for factory assembled structures (FAS) to the FAS rules. This will reduce the costs to the manufacturers, as they will not be paying for the double inspections.
- Currently when conversion vending units come to Washington state from another state and it has been constructed for more than six months and has not been altered, the unit is exempt from L&I's rules. However, we do not issue an insignia for the structure stating it is exempt. Department of Health (DOH) requires that L&I inspect the unit before DOH will certify it, therefore the unit must come back to L&I for inspection and issuance of insignia if the structure is deemed safe. This is causing businesses to come back to L&I three and four times when it is not needed. We are proposing to provide an exempt insignia through a one-time fee for inspection and the insignia. This will remove the need for businesses to pay more than once for an inspection.

Rule Sections Affected: Repealing WAC 296-150C-1345 May the electrical disconnect required for mechanical equipment be inside of or mounted on the equipment? and 296-150F-0615 May the electrical disconnect required for mechanical equipment be inside of or mounted on the equipment?; amending WAC 296-150C-0020 What definitions apply to this chapter?, 296-150C-0800 What manufacturing codes apply to commercial coaches?, 296-150C-0910 Minimum uniform and concentrated live loads, 296-150C-1080

PROPOSED

PROPOSED

What design and construction requirements apply to a commercial coach chassis?, 296-150C-1150 Hallways, 296-150C-1175 Glass and glazed openings, 296-150C-1180 Commercial coach exits, 296-150C-1510 Air ducts—Expandable or multiple commercial coach connections, 296-150C-1520 Air ducts—Duct and plenum insulation, 296-150C-3000 Commercial coach fees, 296-150F-0605 May the required toilet facilities be located in an adjacent building?, 296-150F-3000 Factory-built housing and commercial structure fees, 296-150M-0120 Where can I obtain technical assistance regarding manufactured (mobile) homes?, 296-150M-0260 Who do I contact for replacement HUD labels?, 296-150M-0302 What are some examples of work to manufactured or mobile homes that either require or do not require a permit and inspection?, 296-150M-0310 What happens if I fail to get your approval prior to altering a manufactured home?, 296-150M-0614 How may I obtain a copy of the American National Standards Institute (ANSI) A225.1-Manufactured Homes Installation?, 296-150T-3000 Factory-built temporary worker housing fees, 296-150V-1180 What requirements apply to conversion vendor unit exits on all units approved after December 31, 1999? and 296-150V-3000 Conversion vendor units and medical units—Fees; and new section WAC 296-150V-0200 Who must obtain conversion vendor unit or medical unit insignia?

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: Chapter 43.22 RCW and chapter 291, Laws of 2003 (SHB 1734).

Statute Being Implemented: Chapter 43.22 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: See Purpose above.

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

Name of Agency Personnel Responsible for Drafting: Christine Swanson, Tumwater, Washington, (360) 902-6411; Implementation and Enforcement: Pete Schmidt, Tumwater, Washington, (360) 902-5571.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The exempt criteria in RCW 34.05.310 (4)(c) and (d) which is referenced in RCW 19.85.025(3) exempts this rule from the small business economic impact statement requirement. This rule:

- Is based on Washington state statute (chapter 291, Laws of 2003 (SHB 1734));
- Clarifies language of the rule without changing its effect; and
- Decreases costs to business.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required by RCW 34.05.328 as this rule making is exempt under RCW 34.05.328 (5)(b)(iii) and (iv). This rule:

- Is based on Washington state statute (chapter 291, Laws of 2003 (SHB 1734));
- Clarifies language of the rule without changing its effect; and
- Decreases costs to business.

October 5, 2004  
Paul Trause  
Director

**AMENDATORY SECTION** (Amending WSR 04-12-048, filed 5/28/04, effective 6/30/04)

**WAC 296-150T-3000 Factory-built temporary worker housing fees.**

<b>INITIAL FILING FEE</b>	\$44.00
<b>DESIGN PLAN FEES:</b>	
INITIAL ONE YEAR DESIGN	\$126.90
RENEWAL FEE	\$44.00
RESUBMIT FEE	\$63.20
ADDENDUM (Approval expires on same date as original plan)	\$63.20
ELECTRONIC PLAN SUBMITTAL FEE \$4.70 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	\$75.00
<b>APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS</b>	<b>\$11.90</b>
<b>DEPARTMENT INSPECTION FEES</b>	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$63.20
TRAVEL (Per hour)*	\$63.20
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	



PROPOSED

AIRFARE***	
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (Per hour*)	\$63.20
TRAVEL (Per hour*)	\$63.20
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
FIRST SECTION	\$177.90
EACH ADDITIONAL SECTION	\$17.30
REISSUED-LOST/DAMAGED	\$44.00
<b><u>ELECTRICAL COMMERCIAL/INDUSTRIAL</u></b>	
Electrical Service/feeders Ampacity	201 plus
Service/feeder	\$184.30
Additional Feeder	\$35.00
<b><u>ELECTRICAL MULTIFAMILY RESIDENTIAL</u></b>	
Electrical Service/feeders	201 plus
Service/feeder	\$97.80
Additional Feeder	\$25.00
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$63.20
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free per year)	\$11.90
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments	
** Per state guidelines	
*** Actual charges incurred	

**AMENDATORY SECTION** (Amending WSR 99-13-010, filed 6/4/99, effective 7/5/99)

**WAC 296-150F-0605 May the required toilet facilities be located in an adjacent building?** Under the following conditions, the department will allow the required toilet facilities to be located in adjacent building(s):

(1) The manufacturer shall note in the plan submittal that the requirements of ((~~UBC~~)) IBC Chapter 29, Section 2902

and ((~~Table 29-A~~)) Section 2902.1, as amended by the state building code must be verified by the building official; and

(2) A Notification to Local Enforcement Agency (NLEA) must accompany each unit so that the requirements of ((~~UBC~~)) IBC Chapter 29, Section 2902 and ((~~Table 29-A~~)) Section 2902.1 as amended by the state building code can be verified by the building official.

**AMENDATORY SECTION** (Amending WSR 04-12-048, filed 5/28/04, effective 6/30/04)

**WAC 296-150F-3000 Factory-built housing and commercial structure fees.**

<b>INITIAL FILING FEE</b>	\$55.70
<b>DESIGN PLAN FEES:</b>	
INITIAL FEE - MASTER DESIGN (CODE CYCLE)	\$274.50
INITIAL FEE - ONE YEAR DESIGN	\$160.90
RENEWAL FEE	\$55.70
RESUBMIT FEE	\$80.40
ADDENDUM (Approval expires on same date as original plan.)	\$80.40
ELECTRONIC PLAN SUBMITTAL FEE \$4.70 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	

PROPOSED

<b>ELECTRICAL PLAN REVIEW</b> (When required by chapter 296-46A WAC, Plan review for educational, institutional or health care facilities and other buildings):		
Electrical Plan submission fee		\$61.30
Service/feeder Ampacity:		
0 - 100		\$27.20
101 - 200		\$33.90
201 - 400		\$63.40
401 - 600		\$74.90
601 - 800		\$96.40
801 - 1000		\$118.00
Over 1000		\$128.00
Over 600 volts surcharge		\$20.30
Thermostats:		
First		\$12.10
Each additional		\$3.00
Low voltage fire alarm and burglar alarm:		
Each control panel and up to four circuits or zones		\$11.00
Each additional circuit or zone		\$2.00
Generators, refer to appropriate service/feeder ampacity fees		
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>		
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) will be charged per hour or fraction of an hour*		\$72.50
<b><u>ELECTRICAL COMMERCIAL/INDUSTRIAL</u></b>		
Electrical Service /feeders Ampacity		<u>201 plus</u>
Service/feeder		<u>\$184.30</u>
Additional Feeder		<u>\$35.00</u>
<b><u>ELECTRICAL MULTIFAMILY RESIDENTIAL</u></b>		
Electrical Service/feeders		<u>201 plus</u>
Service/feeder		<u>\$97.80</u>
Additional Feeder		<u>\$25.00</u>
<b>MEDICAL GAS PLAN REVIEW:</b>		
SUBMISSION FEE		\$76.30
FIRST STATION		\$76.30
EACH ADDITIONAL STATION		\$27.80
<b>RECIPROCAL PLAN REVIEW:</b>		
INITIAL FEE-MASTER DESIGN		\$122.80
INITIAL FEE-ONE YEAR DESIGN		\$74.30
RENEWAL FEE		\$74.30
ADDENDUM		\$74.30
<b>PLANS APPROVED BY DESIGN PROFESSIONALS</b>		\$55.70
<b>APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS</b>		\$14.40
<b>DEPARTMENT INSPECTION FEES</b>		
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)		\$71.20

PROPOSED

TRAVEL (Per hour*)	\$71.20
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (Per hour*)	\$71.20
TRAVEL (Per hour*)	\$71.20
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
FIRST SECTION	\$227.00
EACH ADDITIONAL SECTION	\$20.60
REISSUED-LOST/DAMAGED	\$55.70
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$71.20
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)	\$30.90
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$11.60
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

**AMENDATORY SECTION** (Amending WSR 99-13-010, filed 6/4/99, effective 7/5/99)

**WAC 296-150M-0120** Where can I obtain technical assistance regarding manufactured (mobile) homes? We provide field technical service upon written request, on manufactured (mobile) homes for an hourly fee. Field technical service may include an evaluation, consultation, plan examination, interpretation, and clarification of technical data relating to the application of our rules.

**AMENDATORY SECTION** (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150M-0260** (~~How do I replace a lost or damaged HUD label?~~) **Who do I contact for replacement HUD labels?** ((1) If a HUD label is lost or damaged after it is placed on a manufactured home, you should notify the manufacturer's production Inspection Primary Inspection Agency (IPIA) in writing immediately. The department of labor and industries is the IPIA for builders of manufactured homes in Washington state.

(2) ~~If your manufactured home complies with federal standards that were in effect the date your home was built, the IPIA may replace your lost or damaged HUD label.)~~ The HUD labels have been removed from my home. I can't sell/refinance my home without the HUD label.

You must contact the Department of Housing and Urban Development (HUD). HUD does not reissue labels for manufactured homes. However, HUD can issue a letter verifying a label for the unit for which it can locate the necessary historical information. The label numbers can be found on a data plate inside the home in one of three locations:

- On or near the main electrical panel;
- In a kitchen cabinet; or
- In a bedroom closet.

The data plate has a map of the United States to let the consumer know the land zone and snow load for which their home was built. You can use the following information to request label verification:

Office of Manufactured Housing  
 Fax: 202-708-4213  
 E-mail: [mhs@hud.gov](mailto:mhs@hud.gov)  
 Phone: 202-708-6423.

**AMENDATORY SECTION** (Amending WSR 03-12-044, filed 5/30/03, effective 5/30/03)

**WAC 296-150M-0302** What are some examples of work to manufactured or mobile homes that either require or do not require a permit and inspection?

PROPOSED

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
<b>(1) Air Conditioner/Heat Pump</b>		
(a) New installation	X	
(b) Replacement	X	
(c) Reconnection after moving home	X	
(d) Repair		X
(e) Adjustment and/or maintenance		X
<b>(2) Bottom Board - Repair</b>		X
<b>(3) Clothes Washer</b>		
(a) New installation		X
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
<b>(4) Clothes Dryer (Electric)</b>		
(a) New installation (Prewired electrical)		X
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(e) Replacement with gas clothes dryer when modifications to electrical or gas systems are performed	X	
<b>(5) Clothes Dryer (Gas)</b>		
(a) New installation (Preplumbed gas)		X
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(e) Replacement with electric clothes dryer when modifications to electrical or gas systems are performed	X	
<b>(6) Dishwasher</b>		
(a) New installation	X	
(b) Replacement		
(i) Cord connected		X
(ii) Direct wired	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X
<b>(7) Doors (Interior and Exterior)</b>		
(a) Additional*	X	
(b) Replacement of door that fits into the same opening		X
<b>(8) Electrical</b>		
(a) Replacing main electrical panel	X	
(b) Adding circuits	X	

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
(c) Extending existing circuit(s)	X	
(d) Replacing lighting fixtures****	((X))	X
(e) Replacing circuit breakers/fuses		X
(f) Replacing switches, receptacles, light bulbs, fluorescent tubes and glass or plastic shades		X
(g) Repairing bath exhaust fans		X
(h) Repairing fans in kitchen range hoods		X
<b>(9) Exterior Finish</b>		
(a) Painting		X
(b) Replacement of siding	X	
<b>(10) Furnace (Electric)</b>		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X
(e) Replacement with gas furnace	X	
<b>(11) Furnace (Gas)</b>		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Change from LP Gas to Natural Gas or from Natural Gas to LP gas per its listing		X
(e) Adjustment and/or maintenance		X
(f) Replacement with electric furnace	X	
<b>(12) Gas Lines</b>		
(a) New installation	X	
(b) Extend existing gas line	X	
(c) Repair	X	
<b>(13) Interior</b>		
(a) Painting, wall papering and similar finish work		X
(b) Replacement or addition of curtains, drapes, blinds, window shades and other window coverings		X
(c) Replacement of carpeting and other floor-covering materials with similar materials		X
<b>(14) Microwave Oven (Over range)</b>		
(a) New installation when electrical system modifications are performed	X	
(b) Replacement		X
(c) Repair		X
(d) Adjustment and/or maintenance		X
<b>(15) Microwave Oven (Countertop)</b>		X
<b>(16) Pellet Stove</b>		
(a) New installation	X	
(b) Replacement	X	

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
(c) Repair		X
(d) Adjustment and/or maintenance		X
<b>(17) Plumbing</b>		
(a) Adding plumbing fixtures***	X	
(b) Repairing damage***	X	
(c) Replacing fixtures***		X
(d) Repairing fixtures***		X
(e) Replacement/repair of shower doors and curtains		X
<b>(18) Range/Cook Top/Eye Level Oven (Electric)</b>		
(a) Replacement		
(i) Cord connected		X
(ii) Direct wired	X	
(b) Repair with approved parts		X
(c) Adjustment and/or maintenance		X
(d) Replacement with gas appliance(s)	X	
<b>(19) Range/Cook Top/Eye Level Oven (Gas)</b>		
(a) New installation	X	
(b) Replacement		X
(c) Repair with approved parts		X
(d) Adjustment and/or maintenance		X
(e) Replacement with electric appliance(s)	X	
<b>(20) Roofing</b>		
(a) Reroofing	X	
(b) Applying liquid or mastic roof sealant to a metal roof		X
(c) Repair of damaged composition shingles		X
<b>(21) Structural changes</b>		
(a) Adding a dormer*	X	
(b) Truss repairs*	X	
(c) Add opening in wall**	X	
(d) Add gypsum board to walls or ceilings	X	
(e) Repair or replacing floor decking/joists	X	
<b>(22) Water Heater (Electric)</b>		
(a) Replacement w/electric water heater	X	
(b) Repair		X
(c) Adjustment and/or maintenance		X
(d) Replacement with gas water heater	X	
<b>(23) Water Heater (Gas)</b>		
(a) Replacement w/gas water heater	X	
(b) Repair		X
(c) Change from LP gas to Natural Gas or from Natural Gas to LP gas per its listing		X
(d) Adjustment and/or maintenance		X
(e) Replacement with electric water heater	X	

TYPE OF WORK	ALTERATION PERMIT AND INSPECTION REQUIRED?	
	Yes	No
<b>(24) Windows</b>		
(a) Replacement (( <del>Except bedroom egress</del> )) is same opening with no structural changes*****		X
(( <del>b</del> ) Replacement of bedroom egress (X))	X	
(( <del>e</del> ) (b) Replacement when structural changes are required	X	
(( <del>d</del> ) (c) Replacement of glass		X
<b>(25) Wood Stove/Fireplace</b>		
(a) New installation	X	
(b) Replacement	X	
(c) Repair		X
(d) Adjustment and/or maintenance		X

\* May also require a plan review. Please contact your local L&I representative.

\*\* May also require a plan review. The department has detailed drawings you may use for openings in sidewalls. Please contact your local L&I representative.

\*\*\* Fixtures include: Faucets, sinks, lavatories, laundry tubs, water closets (toilets), tubs, showers and tub/ shower combos.

\*\*\*\* Fixtures must be installed per its listing and intended use.

\*\*\*\*\* Windows in bedrooms must be of egress type.

NOTE: Exemption from the permit and inspection requirements shall not be deemed to grant authorization for any work to be done in violation of the applicable code, Chapter 296-150M WAC.

**AMENDATORY SECTION** (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

**WAC 296-150M-0310 What happens if I fail to get your approval prior to altering a manufactured home?** ((~~1~~)) If you alter a manufactured home without getting our approval and an alteration insignia, your manufactured (mobile) home ((~~cannot be sold or leased~~)) must meet the requirements of WAC 296-150M-0049.

((~~2~~) We may remove any Washington state insignia(s) attached to your manufactured (mobile) home.))

**AMENDATORY SECTION** (Amending WSR 99-13-010, filed 6/4/99, effective 7/5/99)

**WAC 296-150M-0614 How may I obtain a copy of the American National Standards Institute (ANSI) A225.1-Manufactured Homes Installation?** Copies of the standard are available from:

((Publications/Communications

National Conference of States on Building Codes and Standards, Inc.

505 Huntmar Park Drive, Suite 210

Herndon, Virginia 22070))

National Fire Protection Agency

Item Number: ANSIA2251

Phone: 800-344-3555

Address: 1 Batterymatch Park

P.O. Box 9101

Quincy, MA 02269-9101

PROPOSED

**AMENDATORY SECTION** (Amending WSR 00-17-148, filed 8/22/00, effective 9/30/00)

**WAC 296-150V-1180 What requirements apply to conversion vendor unit exits on all units approved after December 31, 1999?** At least one conversion vending unit exit or medical unit exit must meet the following requirements:

- (1) Exterior doors must be constructed for exterior use.
- (2) The exterior door must be at least a 28 inch wide clear opening by 72 inches high.
- (3) Locks must be operable from the interior of the unit without use of a key.
- (4) Exit doors may either be hinged or sliding. Roll-up doors may not be used to meet the requirements of this section.
- (5) Existing units with doors less than 28 inches in width must have a second means of exit. The second means of exit for converted units shall be 24 inches by 17 inches, and for newly built units exits must be a minimum of 5 square feet of openable area.

(6) Pass-through windows shall be safety glazed based on the IBC Section 2406.1.

Exception: When there are employees, a minimum of 28 inches clear opening must be provided.

**NEW SECTION**

**WAC 296-150V-0205 Can I obtain an exempt vendor/medical insignia?** For approval of an exempt vendor/medical insignia, you must complete a factory built structures alteration request with:

- (1) Documentation that shows that the unit was used outside of the state for six months before being brought into Washington state (see RCW 43.22.380).  
Types of documentation to include state or local health certificates.
- (2) Payment of the factory built structures alteration permit and exempt insignia fee.
- (3) Completion of a fire and life safety inspection.

**AMENDATORY SECTION** (Amending WSR 04-12-048, filed 5/28/04, effective 6/30/04)

**WAC 296-150V-3000 Conversion vendor units and medical units—Fees.**

<b>INITIAL FILING FEE</b>	\$31.40
<b>DESIGN PLAN FEES:</b>	
INITIAL FEE - MASTER DESIGN	\$216.30
INITIAL FEE - ONE YEAR DESIGN	\$88.60
RENEWAL FEE	\$37.80
RESUBMIT FEE	\$63.20
ADDENDUM (Approval expires on same date as original plan)	\$63.20
ELECTRONIC PLAN SUBMITTAL FEE \$4.70 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
<b>RECIPROCAL PLAN REVIEW:</b>	
INITIAL FEE - MASTER DESIGN	\$96.40
INITIAL FEE - ONE YEAR DESIGN	\$58.40
RENEWAL FEE	\$58.40
ADDENDUM	\$58.40
<b>APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS</b>	\$11.90
<b>DEPARTMENT INSPECTION FEES:</b>	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$63.20
TRAVEL (Per hour)*	\$63.20
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$94.60
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (Per hour*)	\$63.20
TRAVEL (Per hour*)	\$63.20
PER DIEM**	

PROPOSED

PROPOSED

HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>INSIGNIA FEES:</b>	
FIRST SECTION	\$18.30
ALTERATION	\$31.40
REISSUED-LOST/DAMAGED	\$11.90
EXEMPT	\$31.40
<b><u>ELECTRICAL COMMERCIAL/INDUSTRIAL</u></b>	
<u>Electrical Service/feeders Ampacity</u>	201 plus
<u>Service/feeder</u>	\$184.30
<u>Additional Feeder</u>	\$35.00
<b><u>ELECTRICAL MULTIFAMILY RESIDENTIAL</u></b>	
<u>Electrical Service/feeders</u>	201 plus
<u>Service/feeder</u>	\$97.80
<u>Additional Feeder</u>	\$25.00
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$63.20
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$11.90
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.	
** Per state guidelines.	
*** Actual charges incurred.	

**AMENDATORY SECTION** (Amending WSR 00-01-187, filed 12/22/99, effective 2/8/00)

**WAC 296-150C-0020** What definitions apply to this chapter? "Alteration" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction, fire and life safety, or the plumbing, mechanical, and electrical systems of a commercial coach.

The following are not considered alterations:

- Repairs with approved parts;
- Modification of a fuel-burning appliance according to the listing agency's specifications; or
- Adjustment and maintenance of equipment.

"Approved" is approved by the department of labor and industries.

"Building site" is a tract, parcel, or subdivision of land on which a commercial coach will be installed.

"Consumer" is a person or organization, excluding a manufacturer or dealer of commercial coaches, who buys or leases a commercial coach.

"Commercial coach" is a structure (referred to as a unit) that:

- Can be transported in one or more sections;
- Is used for temporary commercial purposes;
- Is built on a permanent chassis;
- Conforms to the construction standards of this chapter;
- May include plumbing, mechanical, electrical and other systems.

Note: A commercial coach may not be used as a single-family dwelling or hazardous storage building. A commercial coach does not have to be placed on a permanent foundation.

"Damaged in transit" means damage that affects the integrity of a structural design or any of the systems.

"Dealer" is a person, company, or corporation whose business is leasing, selling, offering for lease or sale, buying, or trading commercial coaches.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44440, Olympia, WA 98504-4440.

"Design plan" is a plan for the construction or alteration of a commercial coach or conversion of a vehicle to a commercial coach including floor plans, elevation drawings, specifications, engineering data, or test results necessary for a complete evaluation of the design.

"Design option" is a design that a manufacturer may use as an option to its commercial coach design plan.

"Equipment" is all material, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, conversion to, or alteration of a commercial coach.

"Factory assembled structure (FAS) advisory board" is a board authorized to advise the director of the department regarding the issues and adoption of rules relating to commercial coaches. (See RCW 43.22.420.)

"**Insignia**" is a label that we attach to a commercial coach to verify that the structure meets the requirements of this chapter and the applicable codes.

"**Install**" is to erect, construct, assemble, or set a commercial coach in place.

"**Labeled**" is to bear the department's insignia.

"**Listed**" is a piece of equipment or apparatus that has been approved by a testing agency to the appropriate standard.

"**Local enforcement agency**" is an agency of city or county government with power to enforce local regulations governing the installation of a commercial coach.

"**Master design plan**" is a design plan that expires when a new state building code has been adopted.

"**One-year design plan**" is a design plan that expires one year after approval or when a new state building code has been adopted.

"**System**" is part of a commercial coach designed to serve a particular function. Examples include structural, plumbing, electrical, or mechanical systems.

**AMENDATORY SECTION** (Amending WSR 02-12-022, filed 5/28/02, effective 6/28/02)

**WAC 296-150C-0800 What manufacturing codes apply to commercial coaches?** (1) All design, construction, and installations of commercial coaches must conform with the following codes and the requirements of this chapter:

(a) The latest adopted version of the Washington State Ventilation and Indoor Air Quality Code, as adopted by chapter 51-13 WAC;

(b) The structural and other requirements of this chapter;

(c) Occupancy classification only from chapter 3 of The ~~((Uniform))~~ International Building Code, ~~((1997))~~ 2003 edition as adopted and amended by chapter ~~((51-40))~~ 51-50 WAC, except commercial coaches must not be group H or R-3 occupancy;

(d) Accessibility requirements of chapter 11 of The ~~((Uniform))~~ International Building Code, ~~((1997))~~ 2003 edition as adopted and amended by chapter ~~((51-40))~~ 51-50 WAC;

(e) ~~((Table 16-A))~~ Section 1607 Uniform and concentrated floor loads and footnotes of The ~~((Uniform))~~ International Building Code, ~~((1997))~~ 2003 edition as adopted and amended by chapter ~~((51-40))~~ 51-50 WAC;

(f) The ~~((Uniform))~~ International Mechanical Code, ~~((1997))~~ 2003 edition as adopted and amended by chapter ~~((51-42))~~ 51-52 WAC except when conflicting with the provisions of this chapter, this chapter controls;

(g) The National Electrical Code as referenced in chapter 19.28 RCW and chapter ~~((296-46A))~~ 296-46B WAC;

(h) The latest adopted version of the Washington State Energy Code, as adopted according to chapter 19.27A RCW;

(i) The Uniform Plumbing Code, as adopted and amended according to chapter 19.27 RCW;

(j) Where there is a conflict between codes, an earlier named code takes precedent over a later named code. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive governs. Where there is a conflict

between a general requirement and a special requirement, the specific requirement must be applicable.

(2) All construction methods and installations must use accepted engineering practices, provide minimum health and safety to the occupants of commercial coaches and the public, and demonstrate journeyman quality of work of the various trades.

(3) Requirements for any size, weight, or quality of material modified by the terms "minimum," "not less than," "at least," and similar expressions are minimum standards. The manufacturer may exceed these rules provided the deviation does not result in inferior installation or defeat the purpose and intent of this chapter.

Note: The codes, RCW's and WAC's referenced in this rule are available to view at the Washington State Library, the Washington State Law Library, and may also be available at your local library.

**AMENDATORY SECTION** (Amending WSR 00-17-148, filed 8/22/00, effective 9/30/00)

**WAC 296-150C-0910 Minimum uniform and concentrated live loads.** See use or occupancy of the ~~((1997))~~ 2003 edition of The ~~((Uniform))~~ International Building Code for group occupancy loads.

**AMENDATORY SECTION** (Amending WSR 99-13-010, filed 6/4/99, effective 7/5/99)

**WAC 296-150C-1080 What design and construction requirements apply to a commercial coach chassis?** Each commercial coach chassis must be designed and constructed to be capable of:

(1) Effectively sustaining the design loads consisting of the dead load plus five PSF load on the floor and the superimposed dynamic load resulting from highway movement, in no case shall the dynamic load be required to exceed twice the dead load; and

(2) Accepting the shock and vibration from the roadway and towing vehicle through the use of adequate running gear assemblies.

(3) In the set up mode, the commercial coach must be designed to accommodate ~~((a fifty PSF floor load))~~ the design live floor load established in WAC 296-150C-0800 (e).

**AMENDATORY SECTION** (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150C-1150 Hallways.** (1) Hallways in structures required to meet accessibility standards must have a minimum horizontal dimension that conforms to accessibility standards set by the Washington state Uniform Building Code standards set in the accessibility standard in WAC 296-150C-0800(d).

(2) Hallways in nonaccessible construction site trailers must have a minimum horizontal dimension of 32 inches.



**AMENDATORY SECTION** (Amending WSR 00-17-148, filed 8/22/00, effective 9/30/00)

**WAC 296-150C-1175 Glass and glazed openings.** The provisions of this section shall apply to the installation of glass or glazed openings, including hazardous locations.

(1) Standards. Standards for material shall meet ((UBC Standard 24-1 for flat glass and UBC Standard 24-2 for safety glazing)) International Building Code Section 2406.1.

(2) Identification. Flat glass shall bear the manufacturer's label designating the type and thickness of glass. Safety glazing shall have the manufacturer's identification etched or ceramic fired on the glass and be visible when the unit is glazed.

(3) Wind loads. Exterior glass and glazing shall be capable of withstanding a wind pressure of 20 pounds per square foot.

(4) Hazardous locations. The following shall be considered specific hazardous locations for the purposes of glazing:

(a) Glazing in ingress and egress doors;

(b) Glazing in fixed and sliding panels of sliding door assemblies and panels in swinging doors other than wardrobe doors;

(c) Glazing in storm doors;

(d) Glazing in fixed or operable panels adjacent to a door where the nearest exposed edge of the glazing is within a 24-inch arc of either vertical edge of the door in a closed position;

(e) Glazing in a fixed or operable panel, other than locations in (d) of this subsection, that meets all of the following conditions:

(i) Exposed area of an individual pane greater than 9 square feet.

(ii) Exposed bottom edge less than 18 inches above the floor;

(f) Shower doors and tub enclosures.

**AMENDATORY SECTION** (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150C-1180 Commercial coach exits.** When applicable, a commercial coach must comply with ((Uniform)) International Building Code, Chapter 11 Accessibility and with the following requirements:

(1) Commercial coaches must have at least two exterior doors that are remote from each other. Remote means that in:

(a) Single-wide units the doors may not be less than twelve feet apart; and

(b) Multiwide units the doors may not be less than twenty feet apart, center to center from each other measured

in a straight line direction regardless of the length of travel between doors.

Exception: A commercial coach that is twenty-four feet long or less needs only one exit door, unless it has a dormitory sleeping area.

(2) Exterior doors must be constructed for exterior use. Exterior doors must provide at least a thirty-five inch wide by seventy-nine inch high clear opening (36" x 80" door). Each swinging exterior door must have a key-operated lock that has a deadlock latch. A deadlock with a passage set installed below the deadlock may be used as an acceptable alternate for each exterior door. The locking mechanism must be engaged or disengaged by the use of a lever or other device from the interior of the commercial coach. Locks must not require the use of a key for operation from the inside.

(3) Every room designed for dormitory sleeping, unless it has an exterior exit door, must have at least one window which can be opened from the inside without using tools. This window must provide a clear opening of at least twenty-two inches in its smallest dimension and five square feet in area with the bottom of the opening not more than three feet above the floor. If a screen or storm window is used it must be readily removable without using tools.

**AMENDATORY SECTION** (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150C-1510 Air ducts—Expandable or multiple commercial coach connections.** In addition to the requirements of the ((Uniform)) International Mechanical Code and the Washington State Energy Code air ducts for:

(1) An expandable or multiple commercial coach may have ducts of the heating system installed in the various units. The points of connection must be so designed and constructed that when the commercial coach is fully expanded or coupled, the resulting duct joint will conform to the requirements of this chapter.

(2) Installation instructions for supporting the crossover duct from the commercial coach must be provided for on-site installation. The duct must not touch the ground.

**AMENDATORY SECTION** (Amending WSR 96-21-146, filed 10/23/96, effective 11/25/96)

**WAC 296-150C-1520 Air ducts—Duct and plenum insulation.** Every heating and cooling duct and plenum must be installed according to the ((Uniform)) International Mechanical Code and the Washington State Energy Code.

**AMENDATORY SECTION** (Amending WSR 04-12-048, filed 5/28/04, effective 6/30/04)

**WAC 296-150C-3000 Commercial coach fees.**

INITIAL FILING FEE	\$31.40
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	\$216.30
INITIAL FEE - ONE YEAR DESIGN	\$88.60
RENEWAL FEE	\$37.50

PROPOSED

PROPOSED

RESUBMIT FEE	\$63.20
ADDENDUM (Approval expires on same date as original plan)	\$63.20
ELECTRONIC PLAN SUBMITTAL FEE \$4.80 per page for the first set of plans and \$0.30 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
<b>ELECTRICAL PLAN REVIEW</b> (When required by chapter 296-46B WAC. Plan review for educational, institutional or health care facilities and other buildings)	
Electrical Plan submission fee	\$63.20
Service/feeder Ampacity:	
0 - 100	\$28.00
101 - 200	\$34.90
201 - 400	\$65.50
401 - 600	\$77.20
601 - 800	\$99.50
801 - 1000	\$121.80
Over 1000	\$132.10
Over 600 volts surcharge	\$20.90
Thermostats:	
First	\$12.40
Each additional	\$3.00
Low voltage fire alarm and burglar alarm:	
Each control panel and up to four circuits or zones	\$11.30
Each additional circuit or zone	\$2.00
Generators, refer to appropriate service/feeder ampacity fees	
<i>Note: Altered services or feeders shall be charged the above rate per the service/feeder ampacity fees.</i>	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	\$74.90
<b><u>ELECTRICAL COMMERCIAL/INDUSTRIAL</u></b>	
Electrical Service/feeders Ampacity	201 plus
Service/feeder	\$184.30
Additional Feeder	\$35.00
<b><u>ELECTRICAL MULTIFAMILY RESIDENTIAL</u></b>	
Electrical Service/feeders	201 plus
Service/feeder	\$97.80
Additional Feeder	\$25.00
<b>MEDICAL GAS PLAN REVIEW:</b>	
SUBMISSION FEE	\$60.60
FIRST STATION	\$60.60
EACH ADDITIONAL STATION	\$22.20
<b>RECIPROCAL PLAN REVIEW:</b>	
INITIAL FEE - MASTER DESIGN	\$96.40
INITIAL FEE - ONE YEAR DESIGN	\$58.40
RENEWAL FEE	\$58.40
ADDENDUM	\$58.40
<b>PLANS APPROVED BY PROFESSIONALS</b>	\$44.00

PROPOSED

<b>APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS</b>	\$11.90
<b>DEPARTMENT INSPECTION FEES</b>	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	\$63.20
TRAVEL (Per hour)	\$63.20
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
<b>DEPARTMENT AUDIT FEES:</b>	
AUDIT (Per hour*)	\$63.20
TRAVEL (Per hour*)	\$63.20
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	\$94.60
<b>INSIGNIA FEES:</b>	
FIRST SECTION	\$19.20
EACH ADDITIONAL SECTION	\$11.90
ALTERATION	\$31.40
REISSUED-LOST/DAMAGED	\$11.90
<b>OTHER FEES:</b>	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	\$63.20
PUBLICATION PRINTING AND DISTRIBUTION OF RCW'S AND WAC'S (One free copy per year upon request)	\$11.90
* Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments	
** Per state guidelines	
*** Actual charges incurred	

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 296-150C-1345 May the electrical disconnect required for mechanical equipment be inside of or mounted on the equipment?

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 296-150F-0615 May the electrical disconnect required for mechanical equipment be inside of or mounted on the equipment?

**WSR 04-20-084**

**PROPOSED RULES**

**OFFICE OF**

**FINANCIAL MANAGEMENT**

[Filed October 5, 2004, 1:51 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-17-034.

Title of Rule and Other Identifying Information: Regulating self-insurance requirements as to local governments and nonprofit corporations.

Hearing Location(s): Office of Financial Management, Insurance Building, 4th Floor Conference Room, Olympia, Washington, on November 10, 2004, at 10:30 a.m.

Date of Intended Adoption: December 1, 2004.

Submit Written Comments to: Roselyn Marcus, Office of Financial Management, P.O. Box 43113, Olympia, WA 98504-3113, e-mail Roselyn.Marcus@ofm.wa.gov, fax (360) 664-2832, by November 5, 2004.

Assistance for Persons with Disabilities: Contact Nicole Stauffer by November 3, 2004, TTY (360) 902-0679 or (360) 902-0555.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Currently, the rules, which are found in chapter 236-22 WAC, only provide standards for local government self-insurance programs. These rules serve as a base for the chapter being enacted in this rule-making proceeding.

SB 5869, passed in the 2004 legislative session and codified as RCW 48.62.036, added nonprofit corporations to the self-insurance program regulated by the state risk manager. The current rules need to be updated to ensure application to and provide standards for nonprofit corporations included in local government or creating new self-insurance programs.

In addition, the risk management function and the state risk manager are no longer a Department of General Administration function but in accordance with RCW 43.41.300 enacted in the 2002 legislative session, are a division within the Office of Financial Management (OFM). The outcome of this rule-making process will be (1) to move the rules from chapter 236-22 WAC and create a new chapter under OFM Title 82 WAC, where all rules related to self-insurance programs will be found; (2) amend the rules to update them to current law and standards; and (3) amend current rules and add a new rule (WAC 82-60-039) implementing SB 5869.

Reasons Supporting Proposal: By enacting this chapter in Title 82 WAC, it will not only accurately reflect its agency association, but will make it easier for people to find, knowing that the risk management function is one under the authority of OFM. In addition, the changes will implement and help nonprofit corporation form their own risk pools or join local government risk pools while protecting the covered entities.

Statutory Authority for Adoption: RCW 48.62.061.

Statute Being Implemented: Chapter 48.62 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: To obtain a copy of the rules showing how they are being amended from their current versions in chapter 236-22 WAC, contact either John Nicholson at john.nicholson@ofm.wa.gov, phone (360) 902-7311, or Roselyn Marcus at roselyn.marcus@ofm.wa.gov, phone (360) 902-0568.

Name of Proponent: Office of Financial Management, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Nicholson, General Administration Building, P.O. Box 41027, Olympia, (360) 902-7311.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rules have no or minimal cost to small business.

A cost-benefit analysis is not required under RCW 34.05.328. OFM is not an agency listed in RCW 34.05.328 (5)(a)(i). Further, OFM does not voluntarily make section 201 applicable to this rule adoption nor to date, has the Joint

Administrative Rules Review Committee made section 201 applicable to this rule adoption.

October 5, 2004

Roselyn Marcus

Director of Legal Affairs

Rules Coordinator

AMENDATORY SECTION (Amending WSR 93-16-079, filed 8/3/93, effective 9/3/93)

**WAC 236-22-010 Preamble and authority.** These rules (~~((and regulations governing) (for))) governing~~ local government and nonprofit self-insurance transactions are adopted by the state risk manager to (~~((implement chapter 48.62 RCW relating to) (regulate the management and operations of both))) implement chapter 48.62 RCW relating to the management and operations of both~~ individual and joint local government (~~((self insurance) (self insured health and welfare benefit and property and liability risk) programs. The rules set forth in this chapter do not supersede the rules which govern the operation of self insured employee benefit plans by school districts and educational service districts under chapter 392-130 WAC))~~) health and welfare benefit and property and liability self-insurance programs and nonprofit property and liability self-insurance programs.

AMENDATORY SECTION (Amending WSR 93-16-079, filed 8/3/93, effective 9/3/93)

**WAC 236-22-020 Definitions.** (1) "Actuary" means any person who is qualified under WAC 284-05-060 to provide actuarial services.

(2) "Assessment" means the (~~((monies))~~) moneys paid by the members to a joint self-insurance program.

(3) "Beneficiary" means any individual entitled (~~((under a local government self insurance program for health and welfare benefits,))~~) to payment of all or part of a covered claim under a local government health and welfare self-insurance program.

(4) "Claim adjustment expense" means expenses, other than claim payments, incurred in the course of investigating and settling claims.

(5) "Claim" means a demand for payment for damages or policy benefit because of the occurrence of an event such as:

(a) For health and welfare benefits, a covered service or services being delivered; or

(b) For property and liability, the destruction or damage of property or related deaths or injuries.

Unless specifically referenced, the term "claim" is used for both health and welfare and property and liability programs.

(6) "Competitive process" means a documented formal process providing (~~((an equal))~~) a fair and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the party's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services.

PROPOSED

(7) "Contribution" means the amount paid or payable by the employee into a health and welfare self-insurance program.

(8) "Incurred but not reported, or IBNR" (~~((shall mean))~~) means claims and claim adjustment expenses for covered events which have occurred but have not yet been reported to the self-insurance program as of the date of the financial statement. IBNR claims include (a) known loss events that are expected to be presented later (~~((presented to be))~~) as claims, (b) unknown loss events that are expected to become claims, and (c) expected future development on claims already reported.

(9) "Individual self-insurance program" means a program established and maintained by a local government entity to self-insure health and welfare benefits or property and liability risks on its own behalf.

(10) "Joint self-insurance program" means any two or more local government entities, two or more nonprofit corporations or a combination of local government entities and nonprofit corporations which have entered into a cooperative risk sharing agreement pursuant to the provisions of the Interlocal Cooperation Act (chapter 39.34 RCW) and/or subject to regulation under chapter 48.62 RCW.

(11) "Liability for unpaid claims" means the amount needed to provide for the estimated ultimate cost of settling claims which have occurred on or before a particular date. The estimated liability includes the amount of money that will be needed for future payments on both claims which have been reported and IBNR claims.

(12) "Liability for unpaid claim adjustment expenses" means the amount needed to provide for the estimated ultimate costs required to investigate and settle claims for covered events that have occurred on or before a particular date, whether or not reported to the government entity or nonprofit corporation at that date.

(13) "Member" means a local government entity (~~((which))~~) or nonprofit corporation that is a past or present (~~((legal))~~) participant in a (~~((local government))~~) joint self-insurance program subject to regulation under chapter 48.62 RCW.

(14) "Nonprofit corporation," as defined in RCW 24.03.005(3), means a corporation no part of the income of which is distributable to its members, directors or officers.

(15) "Self-insurance program" means any individual or joint local government entity or nonprofit corporation self-insurance program (~~((subject to regulation under))~~) required by chapter 48.62 RCW to comply with this chapter.

~~((15))~~ (16) "Stop-loss insurance" means insurance against the risk of economic loss assumed under a self-insurance program.

~~((16))~~ (17) "Third-party administrator" means:

(a) An independent association, agency, entity or enterprise which, through a contractual agreement is responsible for the overall operational and financial management of the self-insurance program; or

(b) An independent association, agency, entity or enterprise which, through a contractual agreement, provides a professional service for the analysis, design, implementation, or termination of a self-insurance program; or

(c) An independent association, agency, entity or enterprise which, through a contractual agreement, administers the claim payment process on behalf of a self-insurance program. Such claim administration process includes, but is not limited to, receiving requests for claim payments, investigation, verification and adjustment of the claim. Claim payment disbursement is also considered an administrative process.

AMENDATORY SECTION (Amending WSR 93-16-079, filed 8/3/93, effective 9/3/93)

**WAC 236-22-030 Adoption of program.** (1) All self-insurance programs shall provide that the governing body of the local government entity or nonprofit corporation establishing or maintaining a program adopt the self-insurance program by resolution or ordinance. The resolution or ordinance shall include, but not be limited to, funding and expenditure mechanisms. (~~((Self-insurance programs in operation on January 1, 1992 shall meet the requirements of this subsection no later than December 31, 1994.))~~)

(2) The interlocal agreement of a joint self-insurance program shall be adopted by resolution or ordinance by each participating member's governing body.

AMENDATORY SECTION (Amending WSR 93-16-079, filed 8/3/93, effective 9/3/93)

**WAC 236-22-031 Program financing.** (1) All self-insurance programs shall provide for program financing to pay claims, claims adjustment expenses and the liability for unpaid claims and claims adjustment expenses as they become payable.

(2) All self-insurance programs shall provide a method by which the program financing will be adjusted when it has been determined to be actuarially insufficient, or when the program is unable to meet debts as they become payable. Any increases shall be large enough to make the program actuarially sufficient.

(3) (~~((All individual and joint health and welfare self-insurance programs and all joint property and liability self-insurance program's claim financing levels shall be determined annually by an actuary's recommendation, unless these self-insurance programs purchase annual aggregate stop loss insurance and funds the self-insured portion to the stop loss insurance attachment point.))~~) The claim financing levels and liabilities for unpaid claims and claims adjustment expenses for all individual and joint health and welfare medical self-insurance programs and all joint property and liability self-insurance programs shall be determined annually by an actuary. Such programs that purchase annual aggregate stop loss insurance and fund the self-insured portion to the stop loss insurance attachment point are exempt from the actuarial report requirement. The state risk manager may require a joint self-insurance program to perform an actuarial study when determined necessary to analyze the program's soundness and financial safety.

**AMENDATORY SECTION** (Amending WSR 93-16-079, filed 8/3/93, effective 9/3/93)

**WAC 236-22-034 Disclosures.** (1) All health and welfare self-insurance programs shall furnish each employee or retiree covered by the program a written description of the benefits allowable under the program, together with:

- (a) Applicable restrictions, limitations, and exclusions((;));
- (b) The procedure for filing a claim for benefits((;));
- (c) The procedure for requesting an adjudication of disputes or appeals arising from beneficiaries regarding the payment or denial of any claim for benefits((;)); and
- (d) A schedule of any direct monetary contributions toward the program financing required by the employee.

Such benefits or procedures shall not be amended without written notice to the covered employees and retirees at least thirty days in advance of the effective date of the change unless exigent circumstances can be demonstrated.

(2) All joint self-insurance programs shall furnish to each member of the program written statements which describe:

- (a) All coverages or benefits currently provided by the program, including any applicable restrictions, limitations, and exclusions;
- (b) The method by which members pay assessments;
- (c) The procedure for filing a claim; and
- (d) The procedure for a member to request an adjudication of disputes or appeals arising from coverage, claim payment or denial, membership, and other issues.

Such statements shall not be amended without written notice to the members at least thirty days in advance of the effective date of the change.

**AMENDATORY SECTION** (Amending WSR 93-16-079, filed 8/3/93, effective 9/3/93)

**WAC 236-22-036 Termination provisions.** (1) All individual and joint health and welfare self-insurance programs and all joint property and liability self-insurance programs shall maintain a written plan ((~~which~~)) that provides for the partial or complete termination of the program and for liquidation of its assets upon termination of the program. The termination procedure shall include, but not be limited to, a provision for the settling of all its liabilities for unpaid claims and claim adjustment expenses.

(2) All joint self-insurance programs shall provide for the termination of membership of a member.

**AMENDATORY SECTION** (Amending WSR 93-16-079, filed 8/3/93, effective 9/3/93)

**WAC 236-22-037 Financial plans.** (1) All self-insurance programs shall maintain a written plan for managing the financial resources of the program. The financial plan shall include:

- (a) A procedure for accounting for ((~~moneys~~)) moneys received, payments made and liabilities of the program;
- (b) An investment policy; and
- (c) The preparation of accurate annual financial statements of the program.

(2) No financial plan of a self-insurance program shall permit interfund loans from assets held against liabilities for unpaid claims and claim adjustment expenses except for those amounts which are clearly inactive or in excess of liabilities for unpaid claims and claim adjustment expenses.

(3) No financial plan of a joint self-insurance program shall permit loans from assets held against liabilities for unpaid claims and claim adjustment expenses to any member.

**AMENDATORY SECTION** (Amending WSR 93-16-079, filed 8/3/93, effective 9/3/93)

**WAC 236-22-038 Third-party administrator contracts.** (1) Before contracting for third-party administrator professional services, all self-insurance programs shall establish and maintain written standards and procedures for contracting with third-party administrators. Entering a contract for services shall not relieve the entity of its ultimate managerial and financial responsibilities. The procedures shall, as a minimum:

- (a) Provide a method of third-party administrator selection using a competitive process;
  - (b) Require a written description of the services to be provided, remuneration levels, and contract period;
  - (c) Provide for the confidentiality and ownership of the information, data and other intellectual property developed or shared during the course of the contract;
  - (d) Provide for the expressed authorization of the self-insurance program to enter the third-party administrator's premises to inspect and audit the records and performance of the third-party administrator which pertains to the program; and
  - (e) Require the compliance with all applicable local, state and federal laws.
- (2) None of the above shall otherwise relieve the entity from other contracting requirements imposed on those entities.

**AMENDATORY SECTION** (Amending WSR 93-16-079, filed 8/3/93, effective 9/3/93)

**WAC 236-22-050 Claims administration.** (1)(a) All self-insurance programs shall have a written claims administration program ((~~which~~)) that contains, as a minimum, claim filing procedures, internal financial control mechanisms, and claim and claim adjustment expense reports.

(b) All individual and joint health and welfare self-insurance programs and all joint property and liability self-insurance programs shall have a written claim appeal procedure ((~~which~~)) that contains, as a minimum, a time limit for filing an appeal, a time limit for response, and a provision for a second level of review.

(2)(a) All self-insurance programs may contract for claims administration services with a qualified third-party administrator, provided all the requirements under subsection (1) ((~~above~~)) of this section are included in the contract.

(b) Individual and joint property and liability self-insurance programs may perform claims administration services on their own behalf. Individual and joint health and welfare self-insurance programs may perform claims administration services on their own behalf, provided the state risk manager

is supplied with documentation and a detailed written explanation in support of the self-insurance program's proposed claims administration activities. The documentation and proposal shall include, as a minimum, the following:

((4-)) (i) The nature, type and anticipated volume of claims to be administered.

((2-)) (ii) The number of employment positions established or to be established which are required to perform the self-insurance program's claim administration functions, including an organizational chart showing reporting responsibilities.

((3-)) (iii) Qualifications of personnel having claim reserving and settlement authority.

((4-)) (iv) A projection of expected claim administration expenses.

(3) All self-insurance programs shall have conducted by an independent qualified professional not currently performing claims administration services to the program, a review of claim reserving, adjusting and payment procedures no less than every three years. Such review shall be in writing and retained for a period not less than three years.

(4) Joint self-insurance programs shall maintain a dedicated claim account from which only claim and claim adjustment expenses can be paid.

(5) Joint self-insurance programs shall maintain written claim and claim adjustment expense reports for all claims made against the self-insurance program and, separate written reports for each individual member.

**AMENDATORY SECTION** (Amending WSR 93-16-079, filed 8/3/93, effective 9/3/93)

**WAC 236-22-060 Financial reports.** (1) Every individual and joint health and welfare self-insurance program and every joint property and liability self-insurance program authorized to transact business in the state of Washington shall record and annually report its revenue, claim and claim expense experience, and other data as required by the state risk manager. Multistate programs shall report both its Washington state revenues, claim and claim expense experience and other data required by the state risk manager and its overall income, claim and claim expense experience. Such reports shall be submitted to the state risk manager no later than one hundred ((twenty)) fifty days following the completion of the joint program's fiscal year.

(2) All joint self-insurance programs authorized to transact business in the state of Washington shall submit quarterly financial reports to the state risk manager. Such reports shall be submitted to the state risk manager no later than sixty days following the completion of each of the program's four quarters within its fiscal year.

**AMENDATORY SECTION** (Amending WSR 93-16-079, filed 8/3/93, effective 9/3/93)

**WAC 236-22-070 State risk manager may waive requirements.** The state risk manager may waive any of the requirements of WAC ((236-22-030)) 82-60-030 through ((section 236-22-050 and 236-22-060(2))) 82-60-050 and 82-60-060 if, in the state risk manager's opinion:

(1) Circumstances warrant a waiver((;)) and

(2) Waiver will not jeopardize the financial condition of the self-insurance program.

**AMENDATORY SECTION** (Amending WSR 93-16-079, filed 8/3/93, effective 9/3/93)

**WAC 236-22-080 Conflict of interest.** All self-insurance programs shall meet the following standards regarding restrictions on the financial interests of the program administrators:

(1) No member of the board of directors; trustee; administrator, including a third-party administrator; or any other person having responsibility for the management or administration of a program or the investment or other handling of the program's money shall:

(a) Receive directly or indirectly or be pecuniarily interested in any fee, commission, compensation, or emolument arising out of any transaction to which the program is or is expected to be a party except for salary or other similar compensation regularly fixed and allowed for because of services regularly rendered to the program.

(b) Receive compensation as a consultant to the program while also acting as a member of the board of directors, trustee, administrator, or as an employee.

(c) Have any direct or indirect pecuniary interest in any loan or investment of the program.

(2) No consultant, third-party administrator or legal counsel to the self-insurance program shall directly or indirectly receive or be pecuniarily interested in any commission or other compensation arising out of any contract or transaction between the self-insurance program and any insurer, health care service contractor, or health care supply provider. This provision shall not preclude licensed insurance brokers or agents from receiving compensation for insurance transactions performed within the scope of their licenses, provided such compensation is disclosed to the self-insurance program's governing body.

(3) No third-party administrator shall serve as an officer or on the board of directors of a self-insurance program.

**AMENDATORY SECTION** (Amending WSR 93-16-079, filed 8/3/93, effective 9/3/93)

**WAC 236-22-100 Expense and operating cost fees.**

(1) The state risk manager, with concurrence from the (([two] [property and liability] advisory board[s.] [and the health and welfare advisory board], shall fix [assessments to cover initial expenses and operating costs of the boards and the state risk manager's office in administering chapter 48.62 RCW. Such assessments shall be levied against each joint property and liability self-insurance program and each individual and joint health and welfare benefit self-insurance program regulated by chapter 48.62 RCW. Such assessments shall be based upon each self-insurance program's share of the initial expenses and operating costs of the property and liability advisory board, the health and welfare advisory board,] [fees based upon actual time and expenses incurred for the review and investigation of every joint property and liability risk and every individual and joint health and welfare benefit self-insurance programs by the advisory boards] and the state risk manager's office)) property and liability advisory board and

PROPOSED

the health and welfare advisory board, shall fix assessments to cover expenses and operating costs of the state risk manager's office in administering chapter 48.62 RCW. Such assessments shall be levied against each joint property and liability self-insurance program and each individual and joint health and welfare benefit self-insurance program regulated by chapter 48.62 RCW. Examination fees shall be based upon actual time and expenses incurred for the review and investigation of every joint property and liability self-insurance program and every individual and joint health and welfare benefit self-insurance program by the state risk manager or designee.

(2) The state risk manager, with concurrence from the two advisory boards, shall determine the ~~((assessment rate on a fiscal year basis prescribing the self-insurance program's share pursuant to the provisions of subsection (1) of this section until the regulatory program for local government self-insurance programs is fully implemented.~~

~~(3) These assessments shall be payable by the assessed program to the state of Washington, division of risk management, on July 1 and January 1 of each year until the regulatory program for local government self-insurance programs is fully implemented. Any program failing to remit its assessment when due is subject to denial of permission to operate or to a cease and desist order until the assessment] [review and investigation fees on a fiscal year basis.~~

~~(3) The review and investigation fees shall be paid by the self-insurance program to the state of Washington, department of general administration within thirty days of invoice. Any self-insurance program failing to remit its fee when due is subject to denial of permission to operate or to a cease and desist order until the fee)) assessment rate on a fiscal year basis and the review and investigation fees on a fiscal year basis.~~

(3) The review and investigation fees shall be paid by the self-insurance program to the state of Washington, office of financial management within thirty days of the date of invoice. Any self-insurance program failing to remit its fee when due is subject to denial of permission to operate or to a cease and desist order until the fee is paid.

(4) A self-insurance program ~~((referenced in subsection (1) of this section,] which)) that has voluntarily or involuntarily terminated~~((+))~~ shall ~~((continue to] pay [an administrative cost assessment. This assessment shall continue until such time as all liabilities and all] [review and investigation fees until such time as all liabilities for unpaid claims and claim adjustment expenses and all administrative])) continue to pay an administrative cost assessment and review and investigation fees until such time as all liabilities for unpaid claims and claim adjustment expenses and all administrative responsibilities of the self-insurance program have been satisfied.~~~~

(5) The state risk manager ~~((shall assess each prospective joint self-insurance program, and each prospective individual health and welfare benefit self-insurance program, an initial investigation fee at a rate determined annually by the state risk manager, with the concurrence of the advisory boards. Such fee shall be sufficient]]- with concurrence from the property and liability advisory board and the health and welfare advisory board shall charge an initial investigation~~

~~fee in an amount necessary)) shall assess each prospective joint self-insurance program, and each prospective individual health and welfare benefit self-insurance program, an initial investigation fee at a rate determined annually by the state risk manager, with the concurrence of the advisory boards. Such fee shall be sufficient to cover the costs for the initial review and approval of ~~((that] [a])) that self-insurance program. ~~((The fee must accompany the initial submission of the plan of operation and management.))~~~~~~

AMENDATORY SECTION (Amending WSR 93-16-079, filed 8/3/93, effective 9/3/93)

**WAC 236-22-200 Appeals of fees.** (1)~~((+))~~ A self-insurance program which disagrees with a fee for services issued to it by the state risk manager shall notify the state risk manager in writing within thirty days after receipt of the invoice. The writing shall include the self-insurance program's reasons for challenging the fee and any other information the self-insurance program deems pertinent.

~~((b))~~ (2) The state risk manager shall review any fee ~~((challenged))~~ appealed by a self-insurance program, together with the reasons for the ~~((challenge))~~ appeal. Within fourteen days of receipt of notification from the self-insurance program, the state risk manager shall respond in writing to the self-insurance program, either reaffirming the fee or modifying it, and stating the reasons for the decision.

AMENDATORY SECTION (Amending WSR 93-16-079, filed 8/3/93, effective 9/3/93)

**WAC 236-22-210 Appeals of cease and desist orders.** ~~((+))~~ Within ten days after a joint self-insurance program covering property or liability risks, or an individual or joint self-insurance program covering health and welfare benefits has been served with a cease and desist order under RCW 48.62.091(3), the entity may request an administrative hearing. The hearing provided may be held in such a place as is designated by the state risk manager and shall be conducted in accordance with chapter 34.05 RCW and chapter 10-08 WAC.

NEW SECTION

The following sections of the Washington Administrative Code are amended and recodified as follows:

Old WAC Number	New WAC Number
WAC 236-22-010	WAC 82-60-010
WAC 236-22-020	WAC 82-60-020
WAC 236-22-030	WAC 82-60-030
WAC 236-22-031	WAC 82-60-031
WAC 236-22-034	WAC 82-60-034
WAC 236-22-036	WAC 82-60-036
WAC 236-22-037	WAC 82-60-037
WAC 236-22-038	WAC 82-60-038
WAC 236-22-050	WAC 82-60-050
WAC 236-22-060	WAC 82-60-060



Old WAC Number	New WAC Number
WAC 236-22-070	WAC 82-60-070
WAC 236-22-080	WAC 82-60-080
WAC 236-22-100	WAC 82-60-100
WAC 236-22-200	WAC 82-60-200
WAC 236-22-210	WAC 82-60-210

**NEW SECTION**

The following sections of the Washington Administrative Code are recodified as follows:

Old WAC Number	New WAC Number
WAC 236-22-032	WAC 82-60-032
WAC 236-22-033	WAC 82-60-033
WAC 236-22-035	WAC 82-60-035
WAC 236-22-040	WAC 82-60-040

**NEW SECTION**

**WAC 82-60-039 Preparation for incorporation of nonprofit corporation members.** Joint property and liability self-insurance programs whose members are local government entities that are preparing to include nonprofit corporations as members of the program shall, as a minimum, address the following in their plan of operation:

- (1) Amount of capitalization each nonprofit corporation will pay to become a member of the self-insurance program;
- (2) Self-insured retention level for nonprofit corporation members;
- (3) Flexibility in premium assessment rates with emphasis on rates for nonprofit corporations that recognize the potential and actual loss experience of the nonprofit corporation;
- (4) Procedures for reviewing the financial soundness of each nonprofit corporation being considered for membership in the self-insurance program; and
- (5) Representation of nonprofit corporations on the governing board of directors but local government entities must retain control as required by RCW 48.62.121 (2)(a).

**WSR 04-20-085**  
**PROPOSED RULES**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**

[Filed October 5, 2004, 1:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-17-033.

Title of Rule and Other Identifying Information: Procedures for the request and disclosure of public records.

Hearing Location(s): Office of Financial Management, Insurance Building, 4th Floor Conference Room, Olympia, Washington, on November 10, 2004, at 10 a.m.

Date of Intended Adoption: December 1, 2004.

Submit Written Comments to: Roselyn Marcus, Office of Financial Management, P.O. Box 43113, Olympia, WA 98504-3113, e-mail Roselyn.Marcus@ofm.wa.gov, fax (360) 664-2832, by November 5, 2004.

Assistance for Persons with Disabilities: Contact Nicole Stauffer by November 3, 2004, TTY (360) 902-0679 or (360) 902-0555.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The current public disclosure rules were last updated in 1976. The proposed changes are intended to update the rules to ensure consistency with current law, the organizational structure and current agency practices. The changes also make technical adjustments and clarifications, where needed and repeals unnecessary and redundant provisions.

Reasons Supporting Proposal: The rule changes will provide the public with the correct and accurate information on how they can request public records from this agency.

Statutory Authority for Adoption: RCW 42.17.260.

Statute Being Implemented: Chapter 42.17 RCW.

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

Name of Proponent: Office of Financial Management, governmental.

Name of Agency Personnel Responsible for Drafting: Roselyn Marcus, 300 Insurance Building, P.O. Box 43113, Olympia, (360) 902-0568; and Implementation: Hal Spencer, 300 Insurance Building, P.O. Box 43113, Olympia, (360) 902-0525.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rules have no or minimal cost, as authorized by statute, to small business.

A cost-benefit analysis is not required under RCW 34.05.328. The Office of Financial Management (OFM) is not an agency listed in RCW 34.05.328 (5)(a)(i). Further, OFM does not voluntarily make section 201 applicable to this rule adoption nor to date, has the Joint Administrative Rules Review Committee made section 201 applicable to this rule adoption.

October 4, 2004

Roselyn Marcus

Director of Legal Affairs

Rules Coordinator

**AMENDATORY SECTION** (Amending Order 34, filed 9/16/76)

**WAC 82-48-010 Purpose.** The purpose of this chapter ~~((shall be to ensure compliance by))~~ is to provide rules for the office of ~~((program planning and fiscal))~~ financial management ~~((with))~~ to implement the provisions of chapter 42.17 RCW ~~((, Disclosure Campaign finances Lobbying Records; and in particular, with RCW 42.17.250 through 42.17.340 dealing with))~~ relating to public records.

AMENDATORY SECTION (Amending Order 34, filed 9/16/76)

~~WAC 82-48-020 Definitions. ((1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.~~

~~(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.~~

~~(3) The abbreviation, OPP&FM, as used hereinafter shall mean) The definitions set forth in RCW 42.17.020 shall apply to this chapter.~~

~~(1) "OFM" or agency means the office of ((program planning and fiscal)) financial management. Where appropriate, ((the abbreviation OPP&FM)) OFM or agency also refers to the staff and employees of the office of ((program planning and fiscal)) financial management.~~

~~(2) "Director" means the director of the office of financial management.~~

AMENDATORY SECTION (Amending Order 34, filed 9/16/76)

~~WAC 82-48-030 Description of the office of program planning and fiscal management. ((OPP&FM)) OFM is the state agency having ((primary responsibility)) decision-making and operational responsibilities for the ((fiscal)) financial and management affairs of state government in accordance with chapters 43.41 and 43.88 RCW. It is organized into a ((budgeting)) budget division, an accounting division, ((and)) labor relations division, executive policy division, and a contracting, forecasting and risk management division along with other divisions which support and augment these activities.~~

AMENDATORY SECTION (Amending Order 34, filed 9/16/76)

~~WAC 82-48-040 Responsibilities. The responsibilities of ((OPP&FM)) OFM include preparation of the governor's budget for presentation to the legislature(;) and budget implementation monitoring through the operation of the budget and allotment systems, and maintenance of the statewide financial and administrative systems central books of account containing timely records of changes in the financial status of the state and other financial data bases. ((OPP&FM)) OFM also provides technical assistance to the governor and legislature by preparing notes and recommendations, based on information it has obtained, concerning needs and policies recommended for meeting these needs through state programs. In addition, OFM oversees statewide personal services contracting activities, provides a comprehensive risk management program for all state agencies and plays a critical role in statewide public employee labor management rela-~~

~~tions. Finally, the Revised Code of Washington contains ((a body of)) statutes ((which)) that assign specific duties of an advisory, supervisory, regulatory or similar nature to ((OPP&FM)) the agency. All of these relate either directly or indirectly to the financial affairs of the state ((of)) and its agencies thereof. ((A summary of statutes under which the agency operates is maintained in the office of the deputy director of OPP&FM. This summary is hereby designated as a portion of this chapter.))~~

AMENDATORY SECTION (Amending Order 34, filed 9/16/76)

~~WAC 82-48-050 Method of operation. In carrying out its responsibilities, ((OPP&FM)) OFM receives information about the management and operation of state agencies and their programs. This information includes, but is not limited to: Budget proposals, short and long-range goals and the plans developed to meet them, present and projected workloads, capital and operating resource requirements, detailed and summary reports of current expenditures, financial commitments, etc. This information is obtained both on a routine basis and in response to requests from the executive and legislative branches. It is recorded and evaluated by ((OPP&FM)) OFM and becomes the basis for reports, recommendations, approval of expenditures and, in certain cases, for the establishment of firm criteria for the disbursement of state funds. An example of the latter use is the annual determination of the population of all cities and towns in the state, required by RCW 43.62.030, which is the basis for distribution of tax revenues to these communities.~~

~~In obtaining the necessary data to perform these functions, ((OPP&FM)) OFM employs numerous methods of communication including, but not limited to: Reports submitted by state agencies, meetings with agency representatives, memoranda and informal contacts between its personnel and that of respondent agencies.~~

~~When necessary for the timely and uniform execution of its duties, ((OPP&FM)) OFM exercises its statutory power to place standardized reporting requirements upon other agencies of state government.~~

~~((OPP&FM)) OFM has published and currently maintains ((a manual of "Policies and regulations" for)) the State Administrative and Accounting Manual, which contains policies, regulations and guidance ((of)) for state agencies in fiscally-related matters.~~

AMENDATORY SECTION (Amending Order 34, filed 9/16/76)

~~WAC 82-48-060 Public records available. All public records of this agency, as defined in ((WAC 82-48-020)) RCW 42.17.020, are ((deemed to be)) available for public inspection and copying pursuant to these rules, except as otherwise provided by ((RCW 42.17.260 and 42.17.310)) chapter 42.17 RCW, any other laws and these rules.~~

AMENDATORY SECTION (Amending Order 34, filed 9/16/76)

**WAC 82-48-080 Public records officer.** The public records officer, designated by the ~~((agency))~~ director, shall be in charge of the ~~agency's~~ public records ~~((of OPP&FM))~~. The person so designated shall be located in the office of the ~~((deputy))~~ director. The public records officer shall be responsible for ~~((the following:))~~ implementation of the agency's rules and regulations regarding release of public records for inspection and copying, coordinating the staff of the agency in this regard, and generally ~~((insuring))~~ ensuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW ~~((42.17.250-42.17.340. In the absence of the public records officer when a request for public records is made, a designated representative shall act on his behalf in carrying)).~~ The public records officer may choose a designee, as may be necessary, to act in his or her absence to carry out the above-described responsibilities.

AMENDATORY SECTION (Amending Order 34, filed 9/16/76)

**WAC 82-48-090 Availability of records.** Public records of ~~((OPP&FM))~~ OFM shall be ~~((made))~~ available for inspection and the preparation of requested copies in the office of the ~~((deputy))~~ director or other agency location as applicable, during normal office hours. For the purposes of this chapter, normal office hours of ~~((OPP&FM))~~ OFM shall be from 8:00 a.m. until noon and from 1:00 p.m. until 5:00 p.m., Monday through Friday, excluding legal holidays.

AMENDATORY SECTION (Amending Order 34, filed 9/16/76)

**WAC 82-48-100 Inspection of public records.** Public records of ~~((OPP&FM))~~ OFM required by any person to be disclosed in accordance with the provisions of chapter 42.17 RCW, shall be provided by the public records officer or his or her designee for inspection in the office of the ~~((deputy))~~ director or other agency location as applicable. Persons requesting such records may not remove them from the ~~agency~~ office ~~((of the deputy director))~~. Public records requested will be made available as promptly as is possible without excessive interference with the other essential functions of the agency, and in accordance with rules provided to protect the records so requested from damage or disorganization.

AMENDATORY SECTION (Amending Order 34, filed 9/16/76)

**WAC 82-48-110 Copying of public records.** No fee shall be charged for the inspection of public records. The agency may impose a charge for providing copies of public records. Such charges shall not exceed the amount necessary to reimburse the agency for its actual costs incident to such copying. If it is unduly burdensome for the agency to calculate the actual cost, OFM may charge \$ .15 per page. No person shall be provided a copy of a public record which has been copied by the agency at the request of such person until

and unless such person has tendered payment of the charge for such copying.

AMENDATORY SECTION (Amending Order 34, filed 9/16/76)

**WAC 82-48-120 Commercial purposes.** No provisions of any regulation contained in this chapter 82-48 WAC shall be construed as giving authority to any officer or ~~((staff member of OPP&FM))~~ OFM employee to give, sell, or provide access to lists of individuals requested for commercial purposes. If a list of individuals is included in the materials requested, OFM reserves the right to request a signed statement that the requestor will not use the list of individuals for commercial purposes.

AMENDATORY SECTION (Amending Order 34, filed 9/16/76)

**WAC 82-48-130 Agency rules for inspection and copying of public records.** In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions, ~~((OPP&FM))~~ OFM has established ~~((rules))~~ procedures under which public records may be inspected and copies of such records obtained ~~((The text of these rules is available to all persons in the office of the deputy director, and is designated as a part of this chapter))~~ as follows:

(1) Written public records request may be sent to the agency by mail, facsimile or e-mail. Requests may be made in person or by telephone; however, the requesting party may be asked to reduce the request to writing. The purpose of requiring a written request is to assist the agency in tracking, managing and responding to requests in a timely and orderly fashion.

(2) The request shall include the name of the requesting party, contact information and the public records requested. Identification of the records requested shall be sufficiently described so that the agency may identify the record. If the record is not clearly identified, the requesting party may be asked for clarification.

(3) The public records officer or his or her designee may assist persons making public records requests to appropriately identify the public records being sought.

AMENDATORY SECTION (Amending Order 34, filed 9/16/76)

**WAC 82-48-140 Exemptions—Court protection.** ~~((OPP&FM))~~ OFM reserves the right to determine that a public record or portion of a public record requested in accordance with the procedures outlined in chapter 82-48 WAC ((82-48-110)) is exempt from disclosure under the provisions of chapter 42.17 RCW ((42.17.310)).

In addition, pursuant to RCW 42.17.260, ~~((OPP&FM))~~ OFM reserves the right to delete identifying details when it makes available any public record in cases when there is reason to believe that disclosure of such details would be an

invasion of personal privacy protected by chapter 42.17 RCW.

Responses by ~~((OPP&FM))~~ OFM refusing, in whole or in part, inspection or copying of any public record shall be in writing and shall include a statement of the specific exemption authorizing the withholding of the public record or part and a brief explanation of how the exemption applies to the record withheld.

~~((Pursuant to RCW 42.17.330, OPP&FM reserves the right to seek to enjoin the examination of any record, the examination of which the agency determines would clearly not be in the public interest and would substantially and irreparably damage vital government functions.))~~

AMENDATORY SECTION (Amending Order 34, filed 9/16/76)

**WAC 82-48-150 Review of denial of public records request.** Upon denial of any request for public records ~~((based on the exemptions contained in RCW 42.17.310, the written record)), the requesting party may petition for review of such denial ((shall be submitted)) to the director ((of OPP&FM)). The director or his or her designee ((for)) shall review((-) the denial and provide the results of such review ((shall be delivered)) in writing to the petitioner and the public records officer before the end of the second business day following the ((denial. The public records officer shall make the results of such review immediately available to the person whose request was denied)) receipt of the request for review.~~ This review shall constitute final agency action for purposes of judicial review.

AMENDATORY SECTION (Amending Order 34, filed 9/16/76)

**WAC 82-48-160 Records index.** The office of ~~((program planning and fiscal))~~ financial management shall maintain and make available for public inspection and copying an appropriate index in accordance with RCW 42.17.260.

AMENDATORY SECTION (Amending Order 34, filed 9/16/76)

**WAC 82-48-170 Communications with the agency.** All communications with ~~((OPP&FM))~~ OFM for the purpose of obtaining information, making submittals or requests, or making inquiries concerning the agency's rules for compliance with chapter 42.17 RCW shall be addressed as follows:

Office of ~~((Program Planning and Fiscal))~~ Financial Management  
Public Records Officer  
~~((House Office Building))~~ 300 Insurance Building  
P.O. Box 43113  
Olympia, WA 98504-3113

The telephone number of the public records officer is ~~((206) 753-5460))~~ 360-902-0525. Or you can e-mail your request to publicdisclosure@ofm.wa.gov.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 82-48-070 Commercial purposes.

**WSR 04-20-087**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**

[Filed October 5, 2004, 1:55 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-10-079.

Title of Rule and Other Identifying Information: Chapter 308-99 WAC, Vehicle reciprocity.

Hearing Location(s): Department of Licensing, Conference Room 107, 1125 Washington Street S.E., Olympia, WA 98507, on November 10, 2004, at 10:30 a.m.

Date of Intended Adoption: December 7, 2004.

Submit Written Comments to: Dale R. Brown, P.O. Box 2957, 1125 Washington Street S.E., Olympia, WA 98507-2957, e-mail dbrown@dol.wa.gov, fax (360) 902-3827, by November 9, 2004.

Assistance for Persons with Disabilities: Contact Dale R. Brown by November 9, 2004, TTY (360) 664-8885.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal updates the situations in which a vehicle owner may be exempted from registration requirements based on reciprocity with other states. The anticipated effect is an improved understanding by the public of these situations.

Reasons Supporting Proposal: A review by the department of this rule was part of the governor's executive order process. The department determined that clarification was needed.

Statutory Authority for Adoption: RCW 46.01.110.

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

Name of Agency Personnel Responsible for Drafting: Katherine Iyall Vasquez, 1125 Washington Street S.E., Olympia, WA, (360) 902-3718; Implementation and Enforcement: Deborah McCurley, 1125 Washington Street S.E., Olympia, WA, (360) 902-3745.

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

A cost-benefit analysis is not required under RCW 34.05.328. The contents of the proposed rules are explicitly and specifically dictated by statute.

October 5, 2004  
Steve Boruchowitz  
Policy and Projects Office

PROPOSED

**AMENDATORY SECTION** (Amending WSR 00-20-064, filed 10/3/00, effective 11/3/00)

**WAC 308-99-020 Definitions.** (1) **What is a resident?** For the purposes of this section, a resident is a natural person who lives or shows intent to live in this state on more than a temporary or transient basis.

You will be presumed a resident if you meet ~~((any))~~ one of the following:

- (a) ~~((Become))~~ You are a registered voter in this state; or
- (b) ~~((Receiving))~~ You receive benefits under one of the Washington public assistance programs; or
- (c) ~~((Declaring that he or she is))~~ You declare that you are a resident for the purpose of obtaining a state license or tuition fees at resident rates.

A natural person may be a resident of this state even though ~~((the))~~ that person has or claims residency or domicile in another state or intends to leave this state at some future time. A natural person will be presumed a resident if at least two of the following conditions are met:

- (i) ~~((Maintains))~~ You maintain a residence in this state for personal use;
- (ii) ~~((Has))~~ You have a Washington state driver's license or a Washington state hunting or fishing license;
- (iii) ~~((Uses))~~ You use a Washington state address for federal income tax or state ~~((income))~~ tax purposes;
- (iv) You have previously maintained a residence in this state for personal use and ~~((has))~~ have not established a permanent residence outside the state of Washington ~~((e.g.,))~~ for example, a person who retires and lives in a motor home or vessel which is not permanently attached to any property);
- (v) ~~((Claims))~~ You claim this state as residence for obtaining eligibility to hold a public office or for judicial actions;
- (vi) ~~((Claims this state as a residence for obtaining Washington state hunting or fishing licenses;~~
- (vii) ~~Receives tuition fees at resident rates in this state, unless the nonresident tuition fee differential is waived as a result of a state to state reciprocity program authorized under chapter 28B.15 RCW (College and university fees); or~~
- (viii) ~~Is))~~ You are a custodial parent with a child attending public schools in this state.

The department may consider factors other than those listed in this subsection to determine that a person intends to be located in or be a resident of this state ~~((and thus be a resident of this state, but such))~~. However, the department may not consider those factors ~~((do not alone raise a presumption of))~~ alone to presume residency.

A ~~((corporation, trust or other entity created by a))~~ natural person who is a resident of Washington may not form a corporation, trust or other entity in another jurisdiction for the purpose of evading Washington vehicle registration ~~((shall be deemed a resident of Washington for vehicle registration purposes))~~.

(2) ~~((What))~~ Who are "military personnel"? "Military personnel" means active duty members of the United States armed forces including the United States Coast Guard, commissioned officers of the public health service, personnel from National Oceanographic and Atmospheric Agency, and members of foreign military organizations assigned to this state on official duty. Coast guard personnel living in Wash-

ington and assigned to duty in the Portland area are also entitled to a nonresident military exemption.

(3) **What is a "jurisdiction"?** "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or a state or province of a country.

(4) **What is "reciprocity"?** "Reciprocity" means an agreement with another jurisdiction granting mutual benefits, privileges, or exemptions from payment of vehicle registration fees. Reciprocity will only be extended to vehicles that are properly registered in another jurisdiction.

(5) **What is a "Washington public assistance program"?** "Washington public assistance program" is defined in RCW 46.16.028.

**AMENDATORY SECTION** (Amending WSR 03-04-092, filed 2/4/03, effective 3/7/03)

**WAC 308-99-040 Restrictions and conditions.** ~~((Is))~~ May a vehicle properly licensed or registered in another jurisdiction ~~((able to))~~ be operated in Washington without further registration requirements? Yes, as provided in RCW 46.85.060 and 46.85.080 the following conditions and restrictions apply:

(1) Nonresident students: The student must be in full-time attendance at ~~((an institution of higher learning))~~ a college or university in Washington accredited by the Northwest Association of Schools and Colleges or at a private vocational school as that term is defined by RCW 28C.10.020(7) and maintain their legal home of record at a location outside the state of Washington. ~~((Students'))~~ Vehicles must be registered in ~~((their name))~~ the student's or in the name of their parent or legal guardian in the resident state of record. The student must carry ~~((, in the vehicle,))~~ documentation issued by the ~~((institution))~~ college, university or vocational school that readily establishes the nonresident status. Employment incidental to the full-time student status is permitted. The spouse of a nonresident student has the same licensing privilege as long as the vehicle is registered to the student or jointly to the student and spouse, regardless of the spouse's legal residence or employment.

(2) Nonresident military personnel: Vehicles must be currently registered in the name of the military person at ~~((his/her))~~ their official home of record. A vehicle licensed at the last duty station may be operated until expiration of the registration at which time it must be licensed in the home of record or in Washington. The spouse of a nonresident military person has the same licensing privilege as long as the vehicle is registered to the military person or jointly to the military person and spouse, regardless of the spouse's legal residence or employment.

(3) Borrowed vehicle: A borrowed vehicle currently licensed in another jurisdiction may be operated by a Washington resident for a period not to exceed ten days in any one calendar year. If the period of use exceeds ten days the vehicle must be registered and licensed in Washington. This provision does not apply to business vehicles.

(4) Vehicles undergoing repairs: Commercial vehicles having a gross weight or combined gross weight of over 26,000 pounds and properly registered and licensed in

another state or Canadian Province may enter Washington for purposes of repair under the following conditions:

(a) The vehicle must enter the state unladen and proceed immediately to the repair facility.

(b) The vehicle must immediately leave the state, unladen, upon completion of repairs.

(c) The vehicle cannot engage in any commercial activity while in Washington.

(d) The repair facility must be located within fifteen miles of the Washington border.

(e) While in Washington, the vehicle must carry the following documentation:

(i) An "out-of-state vehicle repair statement of fact." Blank forms are available from the department of licensing internet site at [www.gov.wa/dol](http://www.gov.wa/dol).

(ii) A copy of the vehicle repair work order issued by the repair facility before the vehicle enters Washington.

(f) The repair facility must maintain a copy of the "out-of-state vehicle repair statement of fact" and vehicle repair work order for a period of five years. The repair facility must make the forms available for inspection by state agency representatives.

**AMENDATORY SECTION** (Amending WSR 00-20-064, filed 10/3/00, effective 11/3/00)

**WAC 308-99-060 Reciprocity for leased and rented vehicles.** ~~((If there is no agreement or arrangement to the contrary, are rental or leased vehicles eligible for vehicle license reciprocity in the state of Washington? No, except for))~~ **Is there vehicle license reciprocity for rental or leased vehicles? Yes, unless there is an agreement or arrangement to the contrary. The classes of vehicles and circumstances indicated below are eligible for reciprocity:**

(1) Passenger cars and motor homes currently and properly registered in another jurisdiction will be granted vehicle license reciprocity in this state if:

(a) The vehicle was rented by the vehicle operator from a location outside of the state of Washington;

(b) The vehicle was dropped off in Washington by the previous renter and is being rented for a one-way trip out of Washington; or

(c) The vehicle is registered under the provisions of Article XI, Section 1116 of the International Registration Plan.

(2) Trailers and semi-trailers with a gross vehicle weight in excess of 6,000 pounds, trucks, truck tractors, tractors, and road tractors that are currently and properly registered in other jurisdictions will be granted vehicle license reciprocity in this state if:

(a) The vehicle is rented from a location within another jurisdiction; and

(b) The actual vehicle registration certificate (cab card) or a photo copy (~~thereof~~) of the vehicle registration certificate and a copy of the rental agreement is carried in the rental vehicle or in the vehicle providing the motive power for a combination of vehicles.

### INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

[Filed October 5, 2004, 3:05 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Aquatic lands enhancement account (ALEA) program, (1) WAC 286-04-010, definitions; (2) 286-04-090, history of fund sources; (3) 286-13-010, general grant rules, chapter purpose; (4) 286-42-010 (new), chapter purpose; (5) 286-42-020 (new), organizations that may receive funds; (6) 286-42-030 (new), projects submitted on or before April 1, 2004, (7) 286-42-040 (new), long-term rules; (8) 286-42-050 (new), consideration of conversion; (9) 286-42-060 (new), Acquisition projects—Long-term obligations; (10) 286-42-070 (new), life estates; (11) 286-42-080 (new), Development projects—Long-term obligations; and (12) 286-42-090 (new), matching funds and grant limits.

Hearing Location(s): Natural Resources Building, Second Floor East, Room 175A & B, 1111 Washington Street S.E., Olympia, WA, on November 18, 2004, at 10 a.m.

Date of Intended Adoption: November 18, 2004.

Submit Written Comments to: Greg Lovelady, Rules Coordinator, 1111 Washington Street, Olympia, WA 98504-0917, e-mail [GregL@iac.wa.gov](mailto:GregL@iac.wa.gov), fax (360) 902-3026, by November 3, 2004.

Assistance for Persons with Disabilities: Contact (see above) by November 4, 2004, TTY (360) 902-1996 or (360) 902-3008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These WACs would be the first adopted for this program and should be asset in helping those involved to understand its most important regulations: (1) Definitions, a clarification of the term "development" is added, as is a definition for "life estate"; (2) history of fund sources, a note regarding the aquatic lands enhancement account (ALEA) fund source is added; (3) chapter purpose, purpose of the general grant assistance rules chapter is broadened to include ALEA; (4) chapter purpose, purpose of the ALEA chapter, to provide rules, is noted; (5) eligible fund recipients, the types of organizations that may receive funds are cited; (6) submissions on or before April 1, 2004, states that projects funded before April 1, 2004, are not covered by these rules; (7) long-term rules, states that conversions must have the prior approval of IAC and that remedies may be sought; (8) consideration of conversions, discusses conditions that would affect IAC's consideration of conversions; (9) Acquisition projects—Long-term obligations, provides information on required written instrument(s)/documentation; (10) life estates, contains provisions for "life estates"; (11) Development projects—Long-term obligations, includes requirements for compliance with standards, regulations, laws, etc.; and (12) matching funds and grant limits, contains provisions regarding matching shares and fund request limits.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 79.90.245 and ESHB 2459 (2004).

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

Name of Proponent: Interagency Committee for Outdoor Recreation (IAC), governmental.

Name of Agency Personnel Responsible for Drafting: Greg Lovelady, Box 40917, 1111 Washington Street, Olympia, WA 98504, (360) 902-3008; Implementation and Enforcement: Laura Eckert Johnson, Box 40917, 1111 Washington Street, Olympia, WA 98504, (360) 902-3000.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable. Only affected parties are local governments and state agencies.

A cost-benefit analysis is not required under RCW 34.05.328. IAC is not a listed agency in section 201, and proposed rules are technical, affecting governmental parties only.

October 5, 2004

Greg Lovelady  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 98-08-014, filed 3/18/98, effective 4/18/98)

**WAC 286-04-010** What definitions(†) apply to this chapter? For purposes of Title 286 WAC, unless the context clearly indicates otherwise:

"Acquisition" means the gaining of rights of public ownership by purchase, negotiation, or other means, of fee or less than fee interests in real property.

"Applicant" means any agency or organization that meets qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the committee. Generally, a federal, state, local, tribal or special purpose government is an applicant.

"Application" means the form, including project information form, approved by the director for use by applicants in soliciting project funds administered by the committee.

"Chair" means the chair of the committee. See RCW 43.99.110.

"Committee" means the interagency committee for outdoor recreation, (IAC) created by RCW 43.99.110.

"Development" means the construction and/or restoration of facilities to enhance outdoor recreation or habitat conservation resources.

"Director" means the director of the committee or that person's designee. See RCW 43.99.130.

"Life estate" means an ownership interest in a property only during the lifetime of the person(s) owning the life estate. In some cases, the ownership interest lasts only until the occurrence of some specific event, such as remarriage of the life estate owner. A life estate owner may not have the legal title or deed to the property, but may have rights to possession, use, income and/or selling their life estate interest in the property.

"Nonhighway and off-road vehicle activities (NOVA) program" means the grants and planning program administered by the committee under chapter 46.09 RCW.

"Manual(s)" mean a compilation of state and federal policies, procedures, rules, forms, and instructions that have been assembled in manual form and which have been approved by the committee for dissemination to agencies and organizations that may wish to participate in the committee's grant program(s).

"Preliminary expense" means project costs incurred prior to committee approval, other than site preparation/development costs, necessary for the preparation of a development project.

"Project" means the undertaking which is, or may be, funded in whole or in part with funds administered by the committee.

"Project agreement" means a project agreement, supplemental agreement, intergovernmental agreement, or project contract between the committee and a sponsor.

"Sponsor" means an applicant who has been awarded a grant of funds, and has an executed project agreement.

**AMENDATORY SECTION** (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-04-090** What is the history of the committee's fund sources(†)? (1) As of July 1, 1995, the "recreation resource account" included appropriations and funds, under RCW 43.99.040 (recodified as RCW 79A.25.040 since 1999), in support of the committee's boating facilities and other programs. These funds are derived from:

- (a) Unclaimed marine fuel tax refunds;
  - (b) Moneys made available to the state of Washington by the federal government for outdoor recreation; and
  - (c) Such other sources as may be provided.
- (2) As of July 1, 1995, the "NOVA program account" included appropriations and funds, under RCW 46.09.110 and 46.09.170, in support of the committee's nonhighway and off-road vehicle activities program. These funds are derived from:

- (a) Refunds from the motor vehicle fund for nonhighway and off-road purposes;
- (b) Off-road vehicle permit fees; and
- (c) Such other sources as may be provided.

(3) As of July 1, 1990, the "habitat conservation account" included appropriations and funds, under chapter 43.98A RCW (recodified as chapter 79A.15 RCW since 1999), in support of the committee's Washington wildlife and recreation program. These funds are derived from:

- (a) Sales of bonds approved in capital budget appropriations;
- (b) Such other sources as may be provided.

(4) As of July 1, 1995, the "outdoor recreation account" included appropriations and funds, under chapter 43.98A RCW (recodified as chapter 79A.15 RCW since 1999), in support of the committee's Washington wildlife and recreation program. These funds are derived from:

- (a) Sales of bonds approved in capital budget appropriations;
- (b) Such other sources as may be provided.

(5) Prior to July 1, 1995, the "outdoor recreation account" included appropriations and funds, in support of the committee's programs. Funds were derived from:



PROPOSED

(a) Unclaimed marine fuel tax refunds under RCW 43.99.040 (recodified as RCW 79A.25.404 since 1999);

(b) Sales of bonds under Referenda 11, 18, and 28, and HJR 52;

(c) State apportionments of the federal land and water conservation fund;

(d) Moneys refunded from the motor vehicle fund under RCW 46.09.170 and funds received under RCW 46.09.110 for nonhighway and off-road vehicle purposes;

(e) Off-road vehicle permit fees;

(f) Sales of general obligation bonds for outdoor recreation purposes under RCW 43.98A.050; and

(g) Such other sources as were provided.

(6) As of July 1, 1990, the "firearms range account" includes appropriations and funds, under RCW 77.12.720 (recodified as RCW 79A.25.210 since 1999), in support of the committee's firearms and archery range recreation programs. These funds are derived from:

(a) Concealed pistol license fees under RCW 9.41.070;

(b) Destruction of firearms programs under RCW 9.41.098; and

(c) Such other sources as may be provided.

(7) As of July 1, 2003, the "aquatic lands enhancement account" includes appropriations under section 377, chapter 26, Laws of 2003, 1st sp. sess. These funds are derived from the proceeds from sale or lease of aquatic lands or valuable materials therefrom under RCW 79.90.245 and 79.90.450.

AMENDATORY SECTION (Amending WSR 96-08-044, filed 3/29/96, effective 4/29/96)

**WAC 286-13-010 ((Scope)) What is the purpose of this chapter((c))?** This chapter contains general rules affecting grant program eligibility, applications, and projects funded with money from or through the committee. Further rules are in chapter 286-26 WAC (Nonhighway and off-road vehicle program), chapter 286-27 WAC (Washington wildlife and recreation program), chapter 286-30 WAC (Firearms and archery range recreation program), chapter 286-35 WAC (Initiative 215 boating facilities program), ((and)) chapter 286-40 WAC (Land and water conservation fund program) and chapter 286-42 WAC (Aquatic lands enhancement account program).

**Chapter 286-42 WAC**

**AQUATIC LANDS ENHANCEMENT ACCOUNT PROGRAM**

NEW SECTION

**WAC 286-42-010 What is the purpose of this chapter?** This chapter provides rules affecting the aquatic lands enhancement account (ALEA) grant program administered by the committee under RCW 79.90.245 and section 377, chapter 26, Laws of 2003, 1st sp. sess. Additional provisions are contained in "Definitions," 286-04-010 and "General grant assistance rules," chapter 286-13 WAC.

NEW SECTION

**WAC 286-42-020 What organizations may receive ALEA grants?** Through the committee, ALEA grants are available to any division of local or state government and native American tribe that is eligible to apply and that is legally authorized to acquire and develop public open space, habitat, recreation lands, and/or natural resources.

NEW SECTION

**WAC 286-42-030 Do these rules apply to projects funded on or before April 1, 2004?** No. Rules in this chapter apply only to projects funded after April 1, 2004.

NEW SECTION

**WAC 286-42-040 What long term rules apply?** (1) Without prior approval of the committee, land, natural resources and/or facilities purchased and/or developed with committee administered ALEA funds shall not be converted to uses other than those for which funds were originally approved.

(2) The committee is entitled to pursue and obtain remedies that assure the substitution or replacement of natural resources or facilities in accordance with this chapter.

NEW SECTION

**WAC 286-42-050 When considering approval of a conversion, what rules apply?** The committee shall only approve conversions when:

(1) All practical alternatives to the conversion have been evaluated and rejected on a sound basis; and

(2) Another resource(s) will serve as a replacement. The replacement resource(s) must:

(a) (If a land acquisition) be real property of at least equal fair market value and public benefit at the time of conversion;

(b) (If a development) provide a facility of at least equal fair market value and public benefit as that which existed at the time of the original investment;

(c) Be of reasonably equivalent or greater recreation and habitat usefulness and location;

(d) Be administered by the same political jurisdiction as the converted property and/or development;

(e) Satisfy need(s) identified in the committee's or sponsor's plan; and

(f) Include only elements eligible under the committee's program from which funds were originally allocated.

NEW SECTION

**WAC 286-42-060 For land acquisition projects, are there long term obligations?** Yes. Sponsors must execute an instrument(s) containing:

(1) For fee or perpetual property rights acquisition projects:

(a) A legal description of the property acquired;

(b) A conveyance to the state of Washington for the right to use the described real property for habitat conservation



and/or outdoor recreation purposes forever unless a term is specified in the project agreement; and

(c) A prohibition on conversion of use of the land/natural resource to a principal use other than that for which funds were originally approved without prior approval of the committee.

(2) For lease, less than fee, or nonperpetual property rights, a binding agreement which:

(a) Contains a legal description of the property and rights acquired;

(b) Contains a conveyance to the state of Washington for the right to use the described real property for habitat conservation and/or outdoor recreation purposes for the period of the lease;

(c) Contains a prohibition on conversion of use of the land/natural resource to a principal use other than that for which funds were originally approved without prior approval of the committee;

(d) Is for at least fifty years unless precluded by state law;

(e) Is not revocable at will;

(f) Has a value supported through appraisal requirements approved by the committee;

(g) Is paid for in lump sum at initiation.

#### NEW SECTION

**WAC 286-42-070 When considering approval of a life estate, what rules apply?** The committee may approve an acquisition that includes a life estate ("estate") so long as:

(1) The estate does not wholly limit public use of the site;

(2) The value of the estate is not included in the property's appraisal;

(3) The estate's provisions are approved in writing by the director.

#### NEW SECTION

**WAC 286-42-080 For development projects, are there long term obligations?** Yes.

(1) Properties and facilities assisted with moneys granted by the committee shall not be converted (WAC 286-42-040(1)).

(2) Properties and facilities assisted with moneys granted by the committee shall be:

(a) Built, operated, used, and maintained according to federal, state, and local laws and regulations, including public health standards and building codes;

(b) Built, operated, used, and maintained in a reasonably safe condition for the project's intended use;

(c) Operated and maintained throughout its estimated life so as to prevent undue deterioration;

(d) Built and operated in compliance with all federal and state nondiscrimination laws, regulations, and policies.

(3) Facilities open to the public must:

(a) Be built, operated, and maintained according to state and federal accessibility guidelines;

(b) Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods;

(c) Be available for use at reasonable hours and times of the year, according to the type of area or facility.

#### NEW SECTION

**WAC 286-42-090 Must a grant recipient provide matching funds for the project? Are grant amounts limited?** Yes. The committee establishes sponsor matching share requirements and fund request limits. Any changes to current requirements are normally made at a committee meeting six months before program funding consideration.

**WSR 04-20-098**

**PROPOSED RULES**

#### **INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

[Filed October 5, 2004, 3:06 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Non-highway and off-road vehicle activities (NOVA) program, (1) WAC 286-13-040, program deadlines and waivers; (2) 286-26-020, definitions; (3) 286-26-080, planning eligibility requirements; (4) 286-26-083 (new), long-term rules; (5) 286-26-085 (new), consideration of conversion; (6) 286-26-090, Acquisition projects—Long-term obligations; (7) 286-26-095 (new), life estates; (8) 286-26-100, Development projects—Long-term obligations; and (9) 286-26-105 (new), provisions for federal agencies.

Hearing Location(s): Natural Resources Building, Second Floor East, Room 175A & B, 1111 Washington Street S.E., Olympia, WA, on November 18, 2004, at 10 a.m.

Date of Intended Adoption: November 18, 2004.

Submit Written Comments to: Greg Lovelady, Rules Coordinator, 1111 Washington Street, Olympia, WA 98504-0917, e-mail GregL@iac.wa.gov, fax (360) 902-3026, by November 3, 2004.

Assistance for Persons with Disabilities: Contact (see above) by November 4, 2004, TTY (360) 902-1996 or (360) 902-3008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: (1) Program deadlines, waivers, plan requirements are made consistent with IAC policy (see (3) below); (2) definitions, some terms are deleted as they do not appear elsewhere in the WACs. The definition for an "ORV trail" is modified to correspond to RCW 46.09.020 (18) and (19); (3) planning requirements, WAC is brought into agreement with IAC's reduced planning requirements for education-enforcement and maintenance-operation projects, (nonhighway and off-road vehicle activities (NOVA) program plan, adopted July 11, 2002); (4) long-term rules, conversion provisions are combined from elsewhere in chapter 286-26 WAC into this new WAC section and provisions that address remedies are added; (5) consideration of conversions, conversion provisions from elsewhere in chapter 286-26 WAC are brought into this new WAC section; (6) acquisition projects-long-term obligations, information regarding the contents of required written instrument(s)/documentation is provided and the WAC is brought into agreement with IAC's current policy regarding the time

period for leases (NOVA plan); (7) life estates, provisions for "life estates" are added in this new section; (8) development projects-long-term obligations, requirements are made consistent with other IAC programs; and (9) federal agency agreement, IAC's requirement for a federal agency agreement is clarified by changing the term "master agreement" to "committee (IAC)-federal agency agreement," and by making it clear that either that agreement or IAC's more traditional project agreement ("general provisions") must be executed before project funds are released; format, for ease of understanding, throughout, headings are provided in a question and answer format.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 46.09.240.

Statute Being Implemented: Chapter 46.09 RCW (chapter 105, Laws of 2004; SHB 2489).

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

Name of Proponent: Interagency Committee for Outdoor Recreation (IAC), governmental.

Name of Agency Personnel Responsible for Drafting: Greg Lovelady, Box 40917, 1111 Washington Street, Olympia, WA 98504, (360) 902-3008; Implementation and Enforcement: Laura Eckert Johnson, Box 40917, 1111 Washington Street, Olympia, WA 98504, (360) 902-3000.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable. Only affected parties are local governments, state and federal agencies.

A cost-benefit analysis is not required under RCW 34.05.328. IAC is not a listed agency in section 201, and proposed rules are technical, affecting governmental parties only.

October 5, 2004

Greg Lovelady  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-17-056, filed 8/14/01, effective 9/14/01)

**WAC 286-13-040 What are the grant program deadlines(~~Applications, plans, and matching resources~~) and how can the deadlines be waived?** (1) **Applications.** To allow time for review, applications must be submitted at least four calendar months before the funding meeting at which the applicant's project is first considered. Applications must be completed in final form and on file with the committee at least one calendar month before this meeting. *Excepted* are applications for the National Recreational Trails Funding Act, Riparian Habitat, and Youth Athletic Facilities Programs, and programs where the director specifically establishes another deadline to accomplish new or revised statutory direction.

(2) **Plans.** (~~For purposes of project evaluation, all non-highway and off-road vehicle program, park, recreation, or habitat~~) Plans required for participation in committee grant programs must be complete and on file with the committee at least three calendar months before the funding meeting at which the applicant's project is first considered. On the direc-

tor's acceptance of the plan, the applicant shall be granted eligibility to submit applications for a period of up to six years.

(3) **Matches.** To allow time for development of funding recommendations, written assurance must be provided whenever matching resources are to be considered as a part of an application. This assurance must be provided by the applicant to the committee at least one calendar month before the meeting at which the project is to be considered for funding.

(4) **Project agreement.** An applicant has three calendar months from the date of the committee's mailing of the project agreement to execute and return the agreement to the committee's office. After this period, the committee or director may reject any agreement not signed and returned and reallocate the grant funds to another project(s).

(5) **Waivers.** Compliance with these deadlines is required for eligibility unless a waiver is granted by the director. Such waivers are considered based on several factors which may vary with the type of waiver requested, including:

(a) When the applicant started the application/planning process (for application and plan deadline waivers);

(b) Progress made;

(c) When final plan adoption will occur (for plan deadline waivers);

(d) The cause of the delay (procedural or content related, etc.);

(e) Impact on the committee's evaluation process;

(f) Equity to other applicants; and

(g) Such other information as may be relevant.

AMENDATORY SECTION (Amending WSR 98-08-014, filed 3/18/98, effective 4/18/98)

**WAC 286-26-020 What definitions(~~o~~) apply to this chapter?** For purposes of this chapter, the following definitions shall apply:

"Management" means the action taken in exercising control over, regulating the use of, and operation and maintenance of ORV trails and ORV areas.

~~("Nonhighway road" (NHR) as provided in RCW 46.09.020.~~

~~"Nonhighway vehicle" as provided in RCW 46.09.020.)~~

"NOVA" means the committee's nonhighway and off-road vehicle activities program described in chapter 46.09 RCW(~~, and related policy manuals for planning, acquisition, development and management of recreation areas and trails~~).

"NOVA advisory committee" as provided in RCW 46.09.280, means the panel of (~~(NHR recreationists, organized ORV recreational groups, and agency)~~) representatives chosen to advise the director in the development of the statewide NOVA plan, the development of a project priority rating system, the suitability and evaluation of NOVA projects submitted to the committee for funding, and other aspects of NOVA recreation as the need may arise, in accordance with chapter 46.09 RCW.

"Off-road vehicle" (ORV) as provided in RCW 46.09-020.

"ORV (~~trail~~) sport park" as provided in RCW 46.09-020, (~~and including, competition sites for~~) means a facility that accommodates racing two, three, and/or four-wheel

ORVs, and four-wheeled vehicles over forty inches width which are equipped with four-wheel drive or other characteristics such as non-slip drive trains and high clearance. Such courses (~~will be designed to~~) include ORV trail or area characteristics such as sharp turns, jumps, soft tread material, dips, or other obstacles found in more natural settings. Race courses which are paved and designed primarily for other vehicles, such as go-karts and formula cars, are not eligible for funds from the NOVA ((funds)) program account.

~~((“ORV use area” as provided in RCW 46.09.020.))~~

**AMENDATORY SECTION** (Amending WSR 97-08-003, filed 3/20/97, effective 4/20/97)

**WAC 286-26-080 Does this program have planning eligibility requirements((\*)?)** Yes. To be eligible for grant consideration under this chapter, applicants must complete a plan in accordance with WAC 286-13-040(2), except that such a plan is not required to support a funding request for education—enforcement and/or maintenance—operation projects. At minimum the plan must include:

- (1) A statement of the applicant's long-range goals and objectives;
- (2) An inventory, or description of the planning area;
- (3) An analysis of demand and need, that is, why actions are required;
- (4) A description of how the planning process gave the public ample opportunity to be involved in development of the plan;
- (5) A current capital improvement program of at least ~~((five))~~ six years;
- (6) Evidence that this plan has been approved by the applicant's governing entity most appropriate to the plan's scope. For example, a city or county-wide plan must be approved at the council or commission level. Plans with a different scope will be approved by department heads, district rangers, regional managers/supervisors, etc.

#### **NEW SECTION**

**WAC 286-26-083 What long term rules apply?** (1) Without prior approval of the committee, land, natural resources and/or facilities purchased and/or developed with committee administered NOVA funds shall not be converted to uses other than those for which the funds were originally approved.

(2) The committee is entitled to pursue and obtain remedies that assure the substitution or replacement of natural resources or facilities in accordance with this chapter.

#### **NEW SECTION**

**WAC 286-26-085 When considering approval of a conversion, what rules apply?** The committee shall only approve conversions when:

- (1) All practical alternatives to the conversion have been evaluated and rejected on a sound basis; and
- (2) Another resource(s) will serve as a replacement. The replacement resource(s) must:

(a) (If a land acquisition) be real property(ies) of at least equal fair market value and public benefit at the time of conversion;

(b) (If a development) provide a facility of at least equal fair market value and public benefit as that which existed at the time of the original investment;

(c) Be of reasonably equivalent or greater recreation usefulness and location;

(d) Be administered by the same political jurisdiction as the converted property and/or development;

(e) Satisfy need(s) identified in the committee's or sponsor's plan; and

(f) Include only elements eligible under the committee's program from which funds were originally allocated.

**AMENDATORY SECTION** (Amending WSR 94-17-095, filed 8/17/94, effective 9/17/94)

**WAC 286-26-090 For land acquisition projects(~~—Deed of right, conversions, leases and easements.~~), are there long term obligations?** ~~((For acquisition projects))~~ Yes. Sponsors must execute an instrument(s) ~~((or instruments which contain))~~ containing:

(1) For fee(~~, less than fee, and easement~~) or perpetual property rights acquisition projects:

(a) A legal description of the property acquired;

(b) A conveyance to the state of Washington ~~((of))~~ for the right to use the described real property ~~((forever))~~ for outdoor recreation purposes forever unless a term is specified in the project agreement; and

(c) A ~~((restriction))~~ prohibition on conversion of use of the land(~~:~~

~~That is, without prior approval of the committee, a facility acquired with money granted by the committee shall not be converted to a use other than that for which funds were originally approved. The committee shall only approve such a conversion under conditions which assure the substitution of other land of at least equal fair market value at the time of conversion, and of as nearly as feasible equivalent usefulness and location)) to a principal use other than that for which funds were originally approved without prior approval of the committee.~~

(2) For lease ~~((acquisition projects, a binding agreement which contains a legal description of the property and rights acquired and which meets the following criteria. The interest:~~

~~(a) Must be for at least fifty years unless precluded by state law;~~

~~(b) May not be revocable at will;~~

~~(c) Must have a value supported through standard appraisal techniques;~~

~~(d) Must be paid for in lump sum at initiation;~~

~~(e) May not be converted, during the lease period, to a use other than that for which funds were originally approved, without prior approval of the committee), less than fee, or nonperpetual property rights, a binding agreement which:~~

(a) Contains a legal description of the property and rights acquired;

(b) Contains a conveyance to the state of Washington for the right to use the described real property for outdoor recreation purposes for the period of the lease;

(c) Contains a prohibition on conversion of use of the land/natural resource to a principal use other than that for which funds were originally approved without prior approval of the committee;

(d) Is for at least twenty-five years unless precluded by state law;

(e) Is not revocable at will;

(f) Has a value supported through appraisal requirements approved by the committee;

(g) Is paid for in lump sum at initiation.

#### NEW SECTION

**WAC 286-26-095** When considering approval of a life estate, what rules apply? The committee may approve an acquisition that includes a life estate ("estate") so long as:

(1) The estate does not wholly limit public use of the site;

(2) The value of the estate is not included in the property's appraisal;

(3) The estate's provisions are approved in writing by the director.

**AMENDATORY SECTION** (Amending WSR 99-16-009, filed 7/22/99, effective 8/22/99)

**WAC 286-26-100** For development projects(~~(—Conversion to other uses.)~~), are there long term obligations? (~~((1) Without prior approval of the committee, a facility developed with money granted by the committee shall not be converted to a use other than that for which funds were originally approved.~~

~~(2) The committee shall only approve such a conversion under conditions which assure that:~~

~~(a) All practical alternatives to the conversion have been evaluated and rejected on a sound basis;~~

~~(b) A new development, in the spirit of WAC 286-13-080 ("...aid through the committee is intended to supplement the existing capacity of a sponsor..."), will serve as a replacement which:~~

~~(i) Is of reasonably equivalent recreation utility and location;~~

~~(ii) Will be administered by the same political jurisdiction as the converted development;~~

~~(iii) Will satisfy need(s) identified in the sponsor's NOVA plan (see WAC 286-26-080); and~~

~~(iv) Includes only elements eligible under the committee's program from which funds were originally allocated.~~

~~(3) A master agreement signed by the parties shall control the provision of funds granted by the committee for facility developments to any federal agency sponsor.)) Yes.~~

(1) Properties and facilities assisted with money granted by the committee shall not be converted (WAC 286-26-083(1)).

(2) Properties and facilities assisted with money granted by the committee shall be:

(a) Built, operated, used, and maintained according to federal, state, and local laws and regulations, including public health standards and building codes;

(b) Built, operated, used, and maintained in a reasonably safe condition for the project's intended use;

(c) Operated and maintained throughout its estimated life so as to prevent undue deterioration;

(d) Built and operated in compliance with all federal and state nondiscrimination laws, regulations, and policies.

(3) Facilities open to the public must:

(a) Be built, operated, and maintained according to state and federal accessibility guidelines.

(b) Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.

(c) Be available for use at reasonable hours and times of the year, according to the type of area or facility.

#### NEW SECTION

**WAC 286-26-105** What provisions apply to federal agencies? A committee-federal agency agreement signed by the parties shall control the provision of funds granted by the committee for facility developments to federal agency sponsored projects. Absent this agreement, the "general provisions" of committee's project agreement shall control.

#### WSR 04-20-099

#### PROPOSED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed October 5, 2004, 3:11 p.m.]

Original Notice.

Title of Rule and Other Identifying Information: Mint, chapter 16-540 WAC, Washington Mint Commission marketing order.

Hearing Location(s): Washington State Department of Agriculture, 21 North 1st Avenue, Suite 238, 2nd Floor, Yakima, WA, on November 10, 2004, at 1:00 p.m.

Date of Intended Adoption: April 8, 2005.

Submit Written Comments to: Lynn Briscoe, Commodities Commission Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, e-mail lbriscoe@agr.wa.gov, fax (360) 902-2092, by November 12, 2004, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Rochelle Painter at (360) 902-2060, by November 3, 2004, TTY (360) 902-1996.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: During past legislative sessions, significant amendments were made to the Washington Mint Commission's enabling statute, chapter 16.65 RCW. These statutory changes prompted the proposed amendments to chapter 16-540 WAC. The proposed amendments expand the commission's policy and purpose statements, update the definitions, update the commission member selection process, add additional power and duties to benefit the industry, update meeting and administrative procedures, and expand the commission's information and education role. These proposed amendments are intended to achieve consistency with the statute, as well as, improve the readability and clarity of the marketing order. The following marketing order sections are affected by the proposed amendments: New sections WAC 16-540-005 Marketing order for Washington mint—Policy statement and 16-540-006 Mar-

keting order purposes; and amending WAC 16-540-010 Definitions, 16-540-020 The mint commodity board, 16-540-040 Assessments and collections and 16-540-060 Termination of the order; and repealing WAC 16-540-030 Marketing order purposes and 16-540-070 Effective time.

**Reasons Supporting Proposal:** The proposed amendments are intended to make the marketing order consistent with the Commodity Commission enabling statute, chapter 15.65 RCW, and to implement the petition received from the Washington Mint Commission in accordance with RCW 15.65.050.

**Statutory Authority for Adoption:** RCW 15.65.047 and chapter 34.05 RCW.

**Statute Being Implemented:** Chapter 15.65 RCW.

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

**Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters:** Any rule proposal that results from this rule-making process will not be adopted unless the proposed rules are also approved in a referendum of affected mint producers pursuant to chapter 15.65 RCW.

**Name of Proponent:** Washington Mint Commission, governmental.

**Name of Agency Personnel Responsible for Drafting:** Lynn Briscoe, Olympia, Washington, (360) 902-2043; **Implementation and Enforcement:** Washington Mint Commission, Kennewick, Washington, (509) 585-5460 and Department of Agriculture, Olympia, Washington, (360) 902-2043.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Any adoption of amendments to chapter 16-540 WAC would ultimately be determined by a referendum vote of the affected parties. A formal small business economic impact statement under chapter 19.85 RCW is not required because of the exemption granted in RCW 15.65.570(2).

A cost-benefit analysis is not required under RCW 34.05.328. The Department of Agriculture and the Washington Mint Commission are not named agencies in RCW 34.05.328 (5)(a)(i).

October 5, 2004

William E. Brookreson  
Deputy Director

#### NEW SECTION

**WAC 16-540-005 Marketing order for Washington mint—Policy statement.** (1) The marketing of mint within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its mint be properly promoted by:

(a) Enabling producers of mint to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the mint they produce; and

(b) Working towards stabilizing the agricultural industry by increasing consumption of mint within the state, the nation, and internationally.

(2) That it is in the overriding public interest that support for the mint industry be clearly expressed, that adequate protection be given to the industry and its activities and operations, and that mint be promoted individually and as part of a comprehensive agricultural industry to:

(a) Enhance the reputation and image of Washington state's mint.

(b) Increase the sale and use of Washington state's mint in local, domestic, and foreign markets.

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's mint.

(d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's mint and products.

(e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, processing, marketing, and uses of mint produced in Washington state.

(3) The director is authorized to implement, administer, and enforce chapter 15.65 RCW through the adoption of this marketing order.

(4) The Washington state mint commodity board exists primarily for the benefit of the people of the state of Washington and its economy and, with oversight by the director, the board is authorized to speak on behalf of Washington state government with regard to mint under the provisions of this marketing order.

#### NEW SECTION

**WAC 16-540-006 Marketing order purposes.** This marketing order is to promote the general welfare of the state and for the purpose of maintaining existing markets or creating new or larger local, domestic, and foreign markets; or increasing production efficiency of mint in Washington state. The Washington state mint commodity board is designated by the director to conduct the following programs in accordance with chapter 15.65 RCW:

(1) To enable producers of mint plants to help themselves develop improved production methods and/or programs for the control of disease, insects, and weeds associated with mint plant culture and to provide for the dissemination of information to affected producers.

(2) To carry out the purposes of the order the board shall provide for a program in one or more of the following areas:

(a) Provide for aid in research in the production of mint plants and the distilling of mint oil by producers and to expend the necessary funds for such purposes. Insofar as practicable, such research shall be carried out by experiment stations of Washington State University, but if in the judgment of the board said experiment stations do not have adequate facilities for a particular project or if some other research agency has better facilities therefor, the project may be carried out by other research agencies selected by the board.

(b) Provide for collection and dissemination of information pertaining to mint.

AMENDATORY SECTION (Amending Article I, filed 12/20/66, effective 2/1/67)

**WAC 16-540-010 Definitions ((of terms)).** Definitions for terms used in this chapter are also found in chapter 15.65 RCW, Washington State Agriculture Commodity Boards Act. For the purpose of this marketing order, the following additional definitions shall apply:

(1) "Director" means the director of agriculture of the state of Washington or his/her duly appointed representative.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Act" means the Washington State Agricultural ((Enabling Act of 1961)) Commodity Boards Act or chapter 15.65 RCW.

(4) "Person" means any ((person)) individual, firm, ((association or)) corporation, limited liability company, trust, association, partnership, society or any other organization of individuals, or any unit or agency of local or state government.

(5) "Affected producer" or "producer" means any person who produces, or causes to be produced in commercial quantities, in the state of Washington, any variety of mint plant from which the essential oil is distilled or extracted. "To produce" means to act as a producer. For the purposes of the mint marketing order, "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the essential oil and its resulting agricultural product or the agricultural product delivered for further production or increase.

(6) "Commercial quantity" means all of the mint plants produced in any calendar year by any producer, from which the essential oil is distilled or extracted.

(7) "Affected handler" means any person who acts as principal or agent or otherwise in buying, selling, marketing or distributing mint oils produced from mint plants not grown by him/her. "Affected handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

(8) "Producer-handler" means any person who acts both as a producer and as a handler with respect to mint oil. A producer-handler shall be deemed to be a producer with respect to the mint plants and/or oil which he/she produces, and a handler with respect to the mint oil which he/she handles, including those produced by himself/herself.

(9) "Mint oil" means essential oil that is distilled from any variety of mint plant.

(10) "Mint commodity board" hereinafter referred to as "board" or "commission" means the commodity board formed under ((the provisions of Article II of this order)) WAC 16-540-020.

(11) "Marketing season" or "fiscal year" means the twelve-month period beginning with July 1 of any year and ending with the last day of June, both dates being inclusive.

(12) "Affected area" means ((that portion of)) the state of Washington ((located east of the summit of the Cascade Mountains)).

(13) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(14) "Affected unit" means one pound of mint oil as distilled from mint plants grown by an affected producer.

AMENDATORY SECTION (Amending Article II, filed 12/20/66, effective 2/1/67)

**WAC 16-540-020 The mint commodity board.** (1) **Administration.** The provisions of this order and the applicable provisions of the act shall be administered and enforced by the board as the designee of the director.

(2) **Board membership.**

(a) The board shall consist of eight members. Seven members shall be affected producers appointed or elected as provided in this ((article)) marketing order. The director shall appoint one member of the board who is neither an affected producer nor an affected handler to represent the ((department and the public)) director. The position representing the director shall be a voting member.

(i) Director-appointed affected producer positions on the board shall be designated as position 1, position 2, position 6, and position 7.

(ii) Elected affected producer positions on the board shall be designated as position 3, position 4, and position 5.

(iii) The position representing the director who is neither an affected producer nor an affected handler shall be designated as position 8.

(b) For the purpose of nomination, appointment, and election of affected producer members of the board, the affected area of the state of Washington shall be divided into two representative districts as follows:

(i) District I shall have four board members, being positions 1, 2, 3 and 4 and shall include the counties of Kittitas, Yakima and Benton.

(ii) District II shall have three board members, being positions 5, 6 and 7 and shall include all other counties ((east of the Cascade Mountains)) located in the state of Washington.

(3) **Board membership qualifications.**

(a) The affected producer members of the board ((shall)) must be practical producers of mint plants in the district in and for which they are nominated and appointed or elected and each shall be a citizen((s)) and resident((s)) of the state of Washington, over the age of ((twenty-five)) eighteen years((; each of whom is and has)). Each affected producer board member must be and have been actually engaged in producing mint plants within the state of Washington for a period of five years and has during that time derived a substantial portion of his/her income therefrom and ((who)) is not engaged in business, directly or indirectly, as a handler or other dealer.

(b) The qualifications of members of the board must continue during their term of office.

(4) **Term of office.**

(a) The term of office for members of the board shall be three years, and one-third of the membership as nearly as possible shall be appointed or elected each year.

(b) ((Membership positions on the board shall be designated numerically; affected producers shall have positions one through seven and the member appointed by the director position eight.

(c)) The term of office for the initial board members shall be as follows:

Positions one and two - one year

Positions three, four and eight - two years

Positions five, six and seven - three years

~~((No))~~ (c) Except for the director's representative, no appointed or elected member of the board may serve more than two full consecutive three-year terms.

(d) To accomplish the transition to a commodity board structure where the director appoints a majority of the board members, the names of the currently elected board members in positions one, two, six and seven shall be forwarded to the director for appointment within thirty days of the effective date of this amended marketing order.

**(5) Nomination ~~((and election))~~ of elected or director-appointed board members.**

(a) For the purpose of nominating candidates for appointment or election to board membership the director shall call separate meetings of affected producers.

(b) Each year the director shall call ~~((for))~~ a nomination meeting~~((s))~~ for both elected and director-appointed affected producer board members in those districts whose board members' term ~~((is))~~ are about to expire. ~~((Such))~~ The meeting~~((s))~~ shall be held at least thirty days in advance of the date set by the director for the election or advisory vote of board members.

(c) Notice of ~~((every such))~~ a nomination meeting shall be published in a newspaper~~((s))~~ of general circulation within the affected district not less than ten days in advance of the date of ~~((such))~~ the meeting and in addition, written notice of every such meeting shall be given to all affected producers within such affected district according to the list maintained by the ~~((director pursuant to RCW 15.65.200 of the act))~~ board pursuant to RCW 15.65.295.

(d) Nonreceipt of notice by any interested person shall not invalidate the proceedings at such nomination meeting.

(e) Any qualified affected producer may be nominated orally for membership on the board at ~~((such))~~ the nomination meeting~~((s))~~. Nominations may also be made within five days after ~~((any such))~~ the nomination meeting by written petition filed with the director signed by not less than five affected producers.

(f) When only one nominee is nominated by the affected producers for any position, RCW 15.65.250 shall apply.

**(6) Election or advisory vote of board members.**

(a) ~~((Members of the board shall be elected by secret mail ballot within the month of June))~~ An election or advisory vote shall be conducted by secret ballot under the supervision of the director within the month of June. Each affected producer shall be entitled to one vote.

(b) Elected affected producer members of the board shall be elected by a majority of the votes cast by the affected producers within the affected district. ~~((Each affected producer shall be entitled to one vote.~~

~~((b))~~ If a nominee does not receive a majority of the votes on the first ballot a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(c) An advisory vote shall be conducted for affected producer board members appointed by the director under the provisions of RCW 15.65.243. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the

candidates' names shall be forwarded to the director for potential appointment.

(d) Notice of every election or advisory vote for board membership shall be published in a newspaper of general circulation within the affected district not less than ten days in advance of the date of ~~((such))~~ the election or advisory vote. Not less than ten days prior to every election or advisory vote for board membership, the director shall mail a ballot of the candidates to each affected producer entitled to vote whose name appears upon the list of such affected producers maintained by the ~~((director in accordance with RCW 15.65.200))~~ board pursuant to RCW 15.65.295. Any other affected producer entitled to vote may obtain a ballot by application to the director upon establishing his/her qualifications.

(e) Nonreceipt of a ballot by an affected producer shall not invalidate the election or advisory vote of any board member.

**(7) Vacancies ~~((prior to election))~~.**

(a) In the event of a vacancy on the board in an elected position, the remaining members shall select a qualified person to fill the unexpired term. The appointment shall be made at the board's first or second meeting after the position becomes vacant.

(b) In the event of a vacancy in a director-appointed position, the position shall be filled as specified in RCW 15.65.270.

(8) **Quorum.** A majority of the members shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(9) **Board compensation.** No member of the board shall receive any salary or other compensation, but each member ~~((shall receive not to exceed twenty dollars for each day in actual attendance on or traveling to and from meetings of the board or on special assignment for the board, together with subsistence and traveling expense at the rate allowed by law to state employees: Provided, That the method of determining whether per diem rates or actual subsistence and lodging shall be allowed shall be determined by resolution or rule of the board in advance of the incurrence of such expenses by any board member))~~ may be compensated in accordance with RCW 43.03.230 and shall be reimbursed for subsistence, lodging, and mileage in accordance with RCW 43.03.050 and 43.03.060, as provided for in RCW 15.65.270. The board may adopt by resolution provisions for reimbursement of actual travel expenses incurred by members and employees of the board in carrying out the provisions of this marketing order pursuant to RCW 15.65.270.

(10) **Powers and duties of the board.** The board shall have the following powers and duties:

(a) To administer, enforce and control the provisions of this order as the designee of the director.

(b) To elect a chairman and such other officers as the board deems advisable.

(c) To employ and discharge at its discretion such personnel, including attorneys engaged in the private practice of law subject to the approval and supervision of the attorney general, as the board determines are necessary and proper to carry out the purpose of the order and effectuate the declared policies of the act.

PROPOSED



(d) To pay only from moneys collected as assessments or advances thereon the costs arising in connection with the formulation, issuance, administration and enforcement of the order. Such expenses and costs may be paid by check, draft or voucher in such form and in such manner and upon the signature of the person as the board may prescribe.

(e) To reimburse any applicant who has deposited money with the director in order to defray the costs of formulating the order.

(f) To establish a "mint board revolving fund" and such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the board, except as the amount of petty cash for each day's needs, not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable.

(g) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, collections, receipts, deposits, withdrawals, disbursements, paid outs, moneys and other financial transactions made and done pursuant to this order. Such records, books and accounts shall be audited at least annually subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year of the ~~((state of Washington))~~ commission. A copy of such audit shall be delivered within thirty days after the completion thereof to the governor, the director, the state auditor and the board.

(h) To require a bond of all board members and employees of the board in a position of trust in the amount the board shall deem necessary. The premium for such bond or bonds shall be paid by the board from assessments collected. Such bond shall not be necessary if any such board member or employee is covered by any blanket bond covering officials or employees of the state of Washington.

(i) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of the order during each fiscal year. The board, at least sixty days prior to the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget.

(j) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the board. All records, books and minutes of board meetings shall be kept at such headquarters.

(k) To adopt rules ~~((and regulations))~~ of a technical or administrative nature for the operation of the board, subject to the provisions of chapter 34.04 RCW (Administrative Procedure Act).

(l) To carry out the provisions of RCW 15.65.510 covering the obtaining of information necessary to effectuate the provisions of the order and the act, along with the necessary authority and procedure for obtaining such information.

(m) To bring actions or proceedings upon joining the director as a party for specific performance, restraint, injunction or mandatory injunction against any person who violates or refuses to perform the obligations or duties imposed upon him by the act or order.

(n) To confer with and cooperate with the legally constituted authorities of other states and of the United States for the purpose of obtaining uniformity in the administration of federal and state marketing regulations, licenses, agreements or orders.

(o) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in this order.

(p) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local. Personal service contracts must comply with chapter 39.29 RCW.

(q) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies.

(r) To enter into contract or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of mint.

(s) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general.

(t) To engage in appropriate fund-raising activities for the purpose of supporting activities authorized by this order.

(u) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of mint including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission.

(v) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of this marketing order and data on the value of each affected producer's production for a minimum three-year period pursuant to RCW 15.65.280.

(w) To maintain a list of the names and addresses of persons who handle mint within the affected area and data on the amount and value of the mint handled for a minimum three-year period by each person pursuant to RCW 15.65.280.

(x) To maintain a list of the names and addresses of all affected persons who produce mint and the amount, by unit, of mint produced during the past three years pursuant to RCW 15.65.295.

(y) To maintain a list of all persons who handle mint and the amount of mint handled by each person during the past three years pursuant to RCW 15.65.295.

(z) To establish a foundation using commission funds as grant money for the purposes established in this marketing order.

(aa) To carry out any other grant of authority or duty provided designees and not specifically set forth in this section.

**(11) Procedures for board.**

(a) The board shall hold regular meetings, at least quarterly, with the time and date thereof to be fixed by resolution of the board and the meetings shall be held in accordance with chapter 42.30 RCW (Open Public Meetings Act). Notice of the time and place of regular meetings shall be published on or before January of each year in the Washington State Register. Notice of any change to the meeting schedule



shall be published in the state register at least twenty days prior to the rescheduled meeting date.

(b) The board shall hold an annual meeting, at which time an annual report will be presented. The proposed budget shall be presented for discussion at the meeting. Notice of the annual meeting shall be given by the board at least ten days prior to the meeting through regular wire news services and radio-television press.

(c) The board shall establish by resolution, the time, place and manner of calling special meetings with reasonable notice to the members: Provided, That the notice to a member of any special meeting may be waived by a waiver ~~((thereof by each))~~ from that member of the board. Notice for special meetings shall be in compliance with chapter 42.30 RCW.

AMENDATORY SECTION (Amending Order 5091, filed 1/24/96, effective 2/24/96)

**WAC 16-540-040 Assessments and collections. (1) Assessments.**

(a) The fixed annual assessment on all varieties of mint oil subject to this marketing order shall be five cents per pound of oil as weighed by first purchaser.

(b) First purchasers shall collect assessments at time of payment for oil, from producers whose production they handle and remit the same to the board in accordance with procedures adopted by the board. Producers and producer-handlers who ship their oil direct to handlers outside of the state of Washington shall remit assessments to the board at time of shipment.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of ~~((the))~~ this order during or with respect to any season or year may be refunded on a pro rata basis at the close of ~~((such))~~ the season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of ~~((such))~~ the marketing ~~((agreement or))~~ order to all persons from whom ~~((such))~~ moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate ~~((such))~~ the policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and ~~((the))~~ this order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of ~~((such))~~ the assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the ~~((same))~~ unpaid assessment to defray the cost of enforcing the collecting of ~~((the same))~~ it. In the event of failure of ~~((such))~~ a person or persons to pay any ~~((such))~~ due and payable assessment or other ~~((such))~~ sum, the board may bring a civil action against ~~((such))~~ the person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified

ten percent ~~((thereon))~~, and ~~((such))~~ the action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

AMENDATORY SECTION (Amending Article VI, filed 12/20/66, effective 2/1/67)

**WAC 16-540-060 Termination of the order.** ~~((The order shall be terminated if the director finds that fifty one percent by numbers and fifty one percent by volume of production of the affected producers favor or assent such dissolution. The director may ascertain without compliance with RCW 15.65.050 through 15.65.130 of the act whether such termination is so assented to or favored whenever twenty percent by numbers or twenty percent by volume of production of the affected producers file written application with him for such termination. The termination shall not, however, become effective until the expiration of the marketing season.))~~ Termination shall be accomplished pursuant to RCW 15.65.183 through 15.65.193.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-540-030	Marketing order purposes.
WAC 16-540-070	Effective time.

**WSR 04-20-103**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
[Filed October 5, 2004, 4:14 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-17-102.

Title of Rule and Other Identifying Information: WAC 388-478-0015 Need standards for cash assistance.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on November 9, 2004, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 10, 2004.

Submit Written Comments to: Department of Social and Health Services, Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA, e-mail fernaax@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on November 9, 2004.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by November 4, 2004, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this filing is to amend WAC 388-478-0015 Need standards for cash assistance. This rule needs to be changed because it

contains need standards for cash assistance programs and DSHS is required by RCW 74.04.770 to establish standards of need for cash assistance programs on an annual basis. These standards are based on studies of actual living costs for basic requirements.

Reasons Supporting Proposal: The rule fulfills the statutory requirement under RCW 74.04.770.

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

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.770.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Amber Gillum, 1009 College S.E., Lacey, WA 98504, (360) 725-4612.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses, it only affects DSHS clients by outlining the rules clients must meet in order to be eligible for the department's cash assistance or food benefit programs.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to....rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

September 30, 2004

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 03-24-059, filed 12/1/03, effective 1/1/04)

**WAC 388-478-0015 Need standards for cash assistance.** The need standards for cash assistance units are:

(1) For assistance units with obligation to pay shelter costs:

Assistance Unit Size	Need Standard
1	\$ <del>((1,036))</del> <u>1,021</u>
2	<del>((1,311))</del> <u>1,293</u>
3	<del>((1,619))</del> <u>1,596</u>
4	<del>((1,910))</del> <u>1,883</u>
5	<del>((2,202))</del> <u>2,170</u>
6	<del>((2,493))</del> <u>2,458</u>
7	<del>((2,881))</del> <u>2,841</u>
8	<del>((3,189))</del> <u>3,144</u>
9	<del>((3,497))</del> <u>3,447</u>
10 or more	<del>((3,804))</del> <u>3,750</u>

(2) For assistance units with shelter provided at no cost:

Assistance Unit Size	Need Standard
1	\$ <del>((514))</del> <u>530</u>
2	<del>((647))</del> <u>671</u>
3	<del>((799))</del> <u>828</u>
4	<del>((943))</del> <u>977</u>
5	<del>((1,086))</del> <u>1,126</u>
6	<del>((1,230))</del> <u>1,275</u>
7	<del>((1,422))</del> <u>1,474</u>
8	<del>((1,574))</del> <u>1,631</u>
9	<del>((1,725))</del> <u>1,788</u>
10 or more	<del>((1,877))</del> <u>1,946</u>

**WSR 04-20-105**

**PROPOSED RULES**

**DEPARTMENT OF ECOLOGY**

[Order 03-07—Filed October 5, 2004, 4:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-17-049.

Title of Rule and Other Identifying Information: Chapter 173-00 WAC, General regulations for air pollution sources.

Hearing Location(s): Ecology HQ Building, 300 Desmond Drive, Lacey, WA 98516, on November 9, 2004, at 1:30 p.m.; and at the Ecology Eastern Regional Office, 4601 North Monroe Street, Suite 202, Spokane, WA 99205, on November 10, 2004, at 1:30 p.m.

Date of Intended Adoption: December 29, 2004.

Submit Written Comments to: W. Thomas Todd, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, e-mail ttod461@ecy.wa.gov, fax (360) 407-7534, by November 24, 2004.

Assistance for Persons with Disabilities: Contact Tami Dahlgren by October 29, 2004, TTY (800) 833-6388, or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Change is proposed in the following parts of the rule:

1. Changes to Washington's version of the federal prevention of significant deterioration (PSD) rules;
2. Fees charged for new source review;
3. Create a process whereby air permitting authorities can create general permits;
4. Updated excess emissions policy; and
5. Rules on public involvement for minor new source review.

Reasons Supporting Proposal: 1. Changes to Washington PSD rules are necessary to continue to act as the federal government's agent for issuance of these permits.

2. The new source review fees have not been update for eleven years. It is time to make sure that ecology covers more of the costs of this function.

3. General permits will streamline the permitting process for small businesses.

PROPOSED

4. Revising the excess emissions policy and the rules on public involvement are needed to insure that the program meets the federal requirements.

Statutory Authority for Adoption: Various portions of chapter 70.94 RCW, including RCW 70.94.152.

Statute Being Implemented: Chapter 70.94 RCW.

Rule is necessary because of federal law, 40 C.F.R. 52.21.

Name of Proponent: Department of Ecology, governmental.

Name of Agency Personnel Responsible for Drafting: Sarah Rees, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-6823; Implementation and Enforcement: Stu Clark, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-6873.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The only portion of this regulation amendment that is not statutorily exempted apply only to government entities, not small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Tom Todd, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-7528, fax (360) 407-7534, e-mail ttod461@ecy.wa.gov.

October 5, 2004

Polly Zehm

Deputy Director

**AMENDATORY SECTION** (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-030 Definitions.** Except as provided elsewhere in this chapter, the following definitions apply throughout the chapter:

(1) "**Actual emissions**" means the actual rate of **emissions** of a pollutant from an **emission unit**, as determined in accordance with (a) through (c) of this subsection.

(a) In general, **actual emissions** as of a particular date shall equal the average rate, in tons per year, at which the **emissions unit** actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal **source** operation. **Ecology** or an **authority** shall allow the use of a different time period upon a determination that it is more representative of normal **source** operation. **Actual emissions** shall be calculated using the **emissions unit's** actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(b) **Ecology** or an **authority** may presume that **source-specific allowable emissions** for the unit are equivalent to the **actual emissions** of the **emissions unit**.

(c) For any **emissions unit** which has not begun normal operations on the particular date, **actual emissions** shall equal the **potential to emit** of the **emissions unit** on that date.

(2) "**Adverse impact on visibility**" is defined in WAC 173-400-117.

(3) "**Air contaminant**" means dust, fumes, mist, smoke, other **particulate matter**, vapor, gas, odorous substance, or any combination thereof. "**Air pollutant**" means the same as "**air contaminant**."

(4) "**Air pollution**" means the presence in the outdoor atmosphere of one or more **air contaminants** in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property. For the purposes of this chapter, air pollution shall not include **air contaminants** emitted in compliance with chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of the use of various pesticides.

(5) "**Allowable emissions**" means the **emission** rate of a **source** calculated using the maximum rated capacity of the **source** (unless the **source** is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(a) The applicable standards as in 40 CFR Part 60 ((~~60~~), 61, 62, or 63);

(b) Any applicable **SIP emissions limitation** including those with a future compliance date; or

(c) The **emissions** rate specified as a federally enforceable ((~~permit~~) approval condition, including those with a future compliance date.

(6) "**Ambient air**" means the surrounding outside air.

(7) "**Ambient air quality standard**" means an established concentration, exposure time, and frequency of occurrence of **air contaminant(s)** in the ambient air which shall not be exceeded.

(8) "**Approval order**" is defined in "**order of approval**."

(9) "**Attainment area**" means a geographic area designated by EPA at 40 CFR Part 81 as having attained the **National Ambient Air Quality Standard** for a given **criteria pollutant**.

(10) "**Authority**" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(11) "**Begin actual construction**" means, in general, initiation of physical on-site construction activities on an **emission unit** which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipe work and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(12) "**Best available control technology (BACT)**" means an **emission limitation** based on the maximum degree of reduction for each air pollutant subject to regulation under chapter 70.94 RCW emitted from or which results from any new or modified **stationary source**, which the permitting **authority**, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such **source** or **modification** through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application of the "best available control technology" result in **emissions** of any pollutants which will exceed the **emissions** allowed by any applicable standard under 40 CFR

Part 60 and Part 61. **Emissions** from any source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under the definition of **BACT** in the **Federal Clean Air Act** as it existed prior to enactment of the Clean Air Act Amendments of 1990.

(13) "**Best available retrofit technology (BART)**" means an **emission limitation** based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an **existing stationary facility**. The **emission limitation** must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the **source**, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

(14) "**Bubble**" means a set of **emission** limits which allows an increase in **emissions** from a given **emissions unit** in exchange for a decrease in **emissions** from another **emissions unit**, pursuant to RCW 70.94.155 and WAC 173-400-120.

(15) "**Capacity factor**" means the ratio of the average load on equipment or a machine for the period of time considered, to the manufacturer's capacity rating of the machine or equipment.

(16) "**Class I area**" means any area designated under section 162 or 164 of the **Federal Clean Air Act** as a Class I area. The following areas are the Class I areas in Washington state:

- (a) Alpine Lakes Wilderness;
- (b) Glacier Peak Wilderness;
- (c) Goat Rocks Wilderness;
- (d) Mount Adams Wilderness;
- (e) Mount Rainier National Park;
- (f) North Cascades National Park;
- (g) Olympic National Park;
- (h) Pasayten Wilderness; and
- (i) Spokane Indian Reservation.

(17) "**Combustion and incineration units**" means units using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes **open burning**.

(18)(a) "~~((Commenced))~~ **Commence**" as applied to construction, means that the owner or operator has all the necessary preconstruction approvals or permits and either has:

- (i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or
- (ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the **source** to be completed within a reasonable time.

(b) For the purposes of this definition, "**necessary preconstruction approvals**" means those permits or **orders of approval** required under federal air quality control laws and

regulations, including state, local and federal regulations and orders contained in the **SIP**.

(19) "**Concealment**" means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

(20) "**Criteria pollutant**" means a pollutant for which there is established a **National Ambient Air Quality Standard** at 40 CFR Part 50. The criteria pollutants are carbon monoxide (CO), particulate matter, ozone (O<sub>3</sub>), sulfur dioxide (SO<sub>2</sub>), lead (Pb), and nitrogen dioxide (NO<sub>2</sub>).

(21) "**Director**" means director of the Washington state department of **ecology** or duly authorized representative.

(22) "**Dispersion technique**" means a method which attempts to affect the concentration of a pollutant in the **ambient air** other than by the use of pollution abatement equipment or integral process pollution controls.

(23) "**Ecology**" means the Washington state department of ecology.

(24) "**Emission**" means a release of **air contaminants** into the **ambient air**.

(25) "**Emission reduction credit (ERC)**" means a credit granted pursuant to WAC 173-400-131. This is a voluntary reduction in **emissions**.

(26) "**Emission standard**" and "**emission limitation**" means a requirement established under the **Federal Clean Air Act** or chapter 70.94 RCW which limits the quantity, rate, or concentration of **emissions of air contaminants** on a continuous basis, including any requirement relating to the operation or maintenance of a **source** to assure continuous **emission** reduction and any design, equipment work practice, or operational standard adopted under the **Federal Clean Air Act** or chapter 70.94 RCW.

(27) "**Emission threshold**" means an emission of a listed air contaminant at or above the following rates:

<u>Air Contaminant</u>	<u>Annual Emission Rate</u>
<u>Carbon monoxide:</u>	<u>100 tons per year (tpy)</u>
<u>Nitrogen oxides:</u>	<u>40 tpy</u>
<u>Sulfur dioxide:</u>	<u>40 tpy</u>
<u>Particulate matter (PM):</u>	<u>25 tpy of PM emissions</u> <u>15 tpy of PM-10 emissions</u>
<u>Volatile organic compounds:</u>	<u>40 tpy</u>
<u>Fluorides:</u>	<u>3 tpy</u>
<u>Lead:</u>	<u>0.6 tpy</u>
<u>Sulfuric acid mist:</u>	<u>7 tpy</u>
<u>Hydrogen sulfide (H<sub>2</sub>S):</u>	<u>10 tpy</u>
<u>Total reduced sulfur (including H<sub>2</sub>S):</u>	<u>10 tpy</u>
<u>Reduced sulfur compounds (including H<sub>2</sub>S):</u>	<u>10 tpy</u>

(28) "**Emissions unit**" or "**emission unit**" means any part of a **stationary source** or **source** which emits or would have the **potential to emit** any pollutant subject to regulation

under the **Federal Clean Air Act**, chapter 70.94 or 70.98 RCW.

~~((28))~~ **(29) "Excess emissions"** means emissions of an **air pollutant** in excess of any applicable **emission standard**.

~~((29))~~ **(30) "Excess stack height"** means that portion of a **stack** which exceeds the greater of sixty-five meters or the calculated **stack height** described in WAC 173-400-200(2).

~~((30))~~ **(31) "Existing stationary facility (FACILITY)"** is defined in WAC 173-400-151.

~~((31))~~ **(32) "Federal Clean Air Act (FCAA)"** means the Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

~~((32))~~ **(33) "Federal Class I area"** means any federal land that is classified or reclassified **Class I**. The following areas are federal Class I areas in Washington state:

- (a) Alpine Lakes Wilderness;
- (b) Glacier Peak Wilderness;
- (c) Goat Rocks Wilderness;
- (d) Mount Adams Wilderness;
- (e) Mount Rainier National Park;
- (f) North Cascades National Park;
- (g) Olympic National Park; and
- (h) Pasayten Wilderness.

~~((33))~~ **(34) "Federal land manager"** means the secretary of the department with authority over federal lands in the United States. This includes, but is not limited to, the U.S. Department of the Interior - National Park Service, the U.S. Department of the Interior - U.S. Fish and Wildlife Service, the U.S. Department of Agriculture - Forest Service, and/or the U.S. Department of the Interior - Bureau of Land Management.

~~((34))~~ **(35) "Federally enforceable"** means all limitations and conditions which are enforceable by EPA, including those requirements developed under 40 CFR Parts 60, 61, 62 and ~~((64))~~ 63, requirements established within the Washington SIP, requirements within any established under 40 CFR 52.21 or under a SIP approved new source review regulation, ~~((including operating permits issued under chapter 173-401 WAC and expressly requires adherence to any permit issued under these programs))~~ and emissions limitation orders issued under WAC 173-400-091.

~~((35))~~ **(36) "Fossil fuel-fired steam generator"** means a device, furnace, or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

~~((36))~~ **(37) "Fugitive dust"** means a particulate **emission** made airborne by forces of wind, man's activity, or both. Unpaved roads, construction sites, and tilled land are examples of areas that originate fugitive dust. Fugitive dust is a type of **fugitive emission**.

~~((37))~~ **(38) "Fugitive emissions"** means **emissions** which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

~~((38))~~ **(39) "General process unit"** means an **emissions unit** using a procedure or a combination of procedures for the purpose of causing a change in material by either chemical or physical means, excluding combustion.

~~((39))~~ **(40) "Good engineering practice (GEP)"** refers to a calculated **stack height** based on the equation specified in WAC 173-400-200 (2)(a)(ii).

~~((40))~~ **(41) "Incinerator"** means a furnace used primarily for the thermal destruction of waste.

~~((41))~~ **(42) "In operation"** means engaged in activity related to the primary design function of the **source**.

~~((42))~~ **(43) "Lowest achievable emission rate (LAER)"** means for any **source** that rate of **emissions** which reflects the more stringent of:

(a) The most stringent **emission limitation** which is contained in the implementation plan of any state for such class or category of **source**, unless the owner or operator of the proposed new or modified **source** demonstrates that such limitations are not achievable; or

(b) The most stringent **emission limitation** which is achieved in practice by such class or category of **source**.

In no event shall the application of this term ~~((permit))~~ allow a proposed new or modified **source** to emit any pollutant in excess of the amount allowable under applicable **New Source Performance Standards**.

~~((43))~~ **(44) "Mandatory Class I federal area"** means any area defined in Section 162(a) of the **Federal Clean Air Act**. The following areas are the mandatory Class I federal areas in Washington state:

- (a) Alpine Lakes Wilderness;
- (b) Glacier Peak Wilderness;
- (c) Goat Rocks Wilderness;
- (d) Mount Adams Wilderness;
- (e) Mount Rainier National Park;
- (f) North Cascades National Park;
- (g) Olympic National Park; and
- (h) Pasayten Wilderness;

~~((44))~~(a) **"Major modification,"** as it applies to sources subject to requirements for new sources in nonattainment areas, is defined in WAC 173-400-112.

(b) **"Major modification,"** as it applies to sources subject to requirements for new sources in attainment or unclassified areas, is defined in WAC 173-400-113.

~~((45))~~(a) **"Major stationary source,"** as it applies to sources subject to requirements for new sources in nonattainment areas, is defined in WAC 173-400-112.

(b) **"Major stationary source,"** as it applies to sources subject to requirements for new sources in attainment or unclassified areas, is defined in WAC 173-400-113.

~~((46))~~ **(45) "Masking"** means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor.

~~((47))~~ **(46) "Materials handling"** means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant chemical or physical alteration.

~~((48))~~ **(47) "Modification"** means any physical change in, or change in the method of operation of, a **stationary source** that increases the amount of any **air contaminant** emitted by such **source** or that results in the **emissions** of any **air contaminant** not previously emitted. The term modification shall be construed consistent with the definitions of modification in Section 7411, Title 42, United States Code, and with rules implementing that section.

~~((49))~~ (48) "**National Ambient Air Quality Standard (NAAQS)**" means an **ambient air quality standard** set by EPA at 40 CFR Part 50 and includes standards for carbon monoxide (CO), particulate matter, ozone (O<sub>3</sub>), sulfur dioxide (SO<sub>2</sub>), lead (Pb), and nitrogen dioxide (NO<sub>2</sub>).

~~((50))~~ (49) "**National Emission Standards for Hazardous Air Pollutants (NESHAPS)**" means the federal rules in 40 CFR Part 61.

~~((51))~~ (50) "**National Emission Standards for Hazardous Air Pollutants for Source Categories**" means the federal rules in 40 CFR Part 63.

~~((52))~~ (51) "**Natural conditions**" means naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.

~~((53)(a))~~ "~~Net emissions increase,~~" as it applies to sources subject to requirements for new sources in nonattainment areas, is defined in WAC 173-400-112.

~~(b)~~ "~~Net emissions increase,~~" as it applies to sources subject to requirements for new sources in attainment or unclassified areas, is defined in WAC 173-400-113.

~~((54))~~ (52) "**New source**" means:

(a) The construction or **modification** of a **stationary source** that increases the amount of any **air contaminant** emitted by such **source** or that results in the **emission** of any **air contaminant** not previously emitted; and

(b) Any other project that constitutes a new source under the **Federal Clean Air Act**.

~~((55))~~ (53) "**New Source Performance Standards (NSPS)**" means the federal rules in 40 CFR Part 60 as adopted in WAC 173-400-115.

~~((56))~~ (54) "**Nonattainment area**" means a geographic area designated by EPA at 40 CFR Part 81 as exceeding a **National Ambient Air Quality Standard (NAAQS)** for a given **criteria pollutant**. An area is nonattainment only for the pollutants for which the area has been designated nonattainment.

~~((57))~~ (55) "**Nonroad engine**" means:

(a) Except as discussed in (b) of this subsection, a nonroad engine is any internal combustion engine:

(i) In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or

(ii) In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

(iii) That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

(b) An internal combustion engine is not a nonroad engine if:

(i) The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the Federal Clean Air Act; or

(ii) The engine is regulated by a **New Source Performance Standard** promulgated under section 111 of the Federal Clean Air Act; or

(iii) The engine otherwise included in (a)(iii) of this subsection remains or will remain at a location for more than twelve consecutive months or a shorter period of time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at that single location approximately three months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

~~((58))~~ (c) A nonroad engine is a temporary source subject to the process of WAC 173-400-035, and is not subject to permitting as a stationary source under WAC 173-400-110.

(56) "**Notice of construction application**" means a written application to ~~(permit)~~ allow construction of a **new source, modification** of an existing **stationary source** or replacement or substantial alteration of control technology at an existing **stationary source**.

~~((59))~~ (57) "**Opacity**" means the degree to which an object seen through a plume is obscured, stated as a percentage.

~~((60))~~ (58) "**Open burning**" means the combustion of material in an open fire or in an outdoor container, without providing for the control of combustion or the control of the **emissions** from the combustion. Wood waste disposal in wigwam burners is not considered **open burning**.

~~((61))~~ (59) "**Order**" means any order issued by **ecology** or a local air **authority** pursuant to chapter 70.94 RCW, including, but not limited to RCW 70.94.332, 70.94.152, 70.94.153, ~~70.94.154~~, and 70.94.141(3), and includes, where used in the generic sense, the terms order, corrective action order, order of approval, and regulatory order.

~~((62))~~ (60) "**Order of approval**" or "**approval order**" means a **regulatory order** issued by ~~(ecology or the)~~ a permitting authority to approve the notice of construction application for a proposed new source or modification, or the replacement or substantial alteration of control technology at an existing stationary source.

~~((63))~~ (61) "**Ozone depleting substance**" means any substance listed in Appendices A and B to Subpart A of 40 CFR Part 82.

~~((64))~~ (62) "**Particulate matter**" or "**particulates**" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

~~((65))~~ (63) "**Particulate matter emissions**" means all finely divided solid or liquid material, other than uncombined water, emitted to the **ambient air** as measured by applicable reference methods, or an equivalent or alternative method specified in Title 40, chapter I of the Code of Federal Regulations or by a test method specified in the **SIP**.

~~((66))~~ (64) "**Parts per million (ppm)**" means parts of a contaminant per million parts of gas, by volume, exclusive of water or **particulates**.

~~((67))~~ (65) "**Permitting ((agency)) authority**" means ecology or the local air pollution control authority with jurisdiction over the source.

~~((68))~~ (66) "**Person**" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

~~((69))~~ (67) "**PM-10**" means **particulate matter** with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

~~((70))~~ (68) "**PM-10 emissions**" means finely divided solid or liquid material, including condensable **particulate matter**, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the **ambient air** as measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the **SIP**.

~~((71))~~ (69) "**Portable source**" means a stationary source or source consisting of one or more emission units that is portable or transportable for the purpose of being operated at multiple locations. Portable sources include, but are not limited to, rock crushers, asphalt plants, and concrete mixing plants, skid or truck mounted package boilers or other stationary sources brought to a specific site for a limited period of time.

(70) "**Potential to emit**" means the maximum capacity of a **source** to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including **air pollution** control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on **emissions** is federally enforceable. Secondary emissions as defined in 40 CFR 52.21 (b)(18) do not count in determining the **potential to emit** of a **source**.

~~((72))~~ (71) "**Prevention of significant deterioration (PSD)**" means the program in WAC ~~((173-400-141))~~ 173-400-750.

~~((73))~~ (72) "**Projected width**" means that dimension of a structure determined from the frontal area of the structure, projected onto a plane perpendicular to a line between the center of the **stack** and the center of the building.

~~((74))~~ (73) "**Reasonably attributable**" means attributable by visual observation or any other technique the state deems appropriate.

~~((75))~~ (74) "**Reasonably available control technology (RACT)**" means the lowest **emission** limit that a particular **source** or **source** category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual **source** or **source** category taking into account the impact of the **source** upon air quality, the availability of additional controls, the **emission** reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any **source** or **source** category shall

be adopted only after notice and opportunity for comment are afforded.

~~((76))~~ (75) "**Regulatory order**" means an order issued by **ecology** or ~~((an))~~ **permitting authority** to an **air contaminant source** which applies to that **source**, any applicable provision of chapter 70.94 RCW, or the rules adopted thereunder, or, for **sources** regulated by a local **air authority**, the regulations of that **authority**.

~~((77))~~(a) "**Significant**," as it applies to sources subject to requirements for new sources in nonattainment areas, is defined in WAC 173-400-112.

(b) "**Significant**," as it applies to sources subject to requirements for new sources in attainment or unclassified areas, is defined in WAC 173-400-113.

~~((78))~~ (76) "**Source**" means all of the **emissions unit(s)** including quantifiable **fugitive emissions**, that are located on one or more contiguous or adjacent properties, and are under the control of the same **person** or **persons** under common control, whose activities are ancillary to the production of a single product or functionally related groups of products. ~~((Activities shall be considered ancillary to the production of a single product or functionally related group of products if they belong to the same major group (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended.~~

~~((79))~~ (77) "**Source category**" means all **sources** of the same type or classification.

~~((80))~~ (78) "**Stack**" means any point in a **source** designed to emit solids, liquids, or gases into the air, including a pipe or duct.

~~((81))~~ (79) "**Stack height**" means the height of an **emission** point measured from the ground-level elevation at the base of the **stack**.

~~((82))~~ (80) "**Standard conditions**" means a temperature of 20° (68° F) and a pressure of 760 mm (29.92 inches) of mercury.

~~((83))~~ (81) "**State implementation plan (SIP)**" or "**Washington SIP**" means the Washington SIP in 40 CFR Part 52, subpart WW. The SIP contains state, local and federal regulations and orders, the state plan and compliance schedules approved and promulgated by EPA, for the purpose of implementing, maintaining, and enforcing the **National Ambient Air Quality Standards**.

~~((84))~~ (82) "**Stationary source**" means any building, structure, facility, or installation which emits or may emit any air contaminant. This term does not include emissions resulting directly from an internal combustion engine for transportation purposes or from a **nonroad engine** or nonroad vehicle as defined in Section 216(11) of the **Federal Clean Air Act**.

~~((85))~~ (83) "**Stationary internal combustion engine**" or "**stationary engine**" is any internal combustion engine that does not meet the criteria to be classified as a nonroad engine or a mobile source. A stationary engine is also any engine that is bolted or permanently installed at a fixed location to provide mechanical power to operate other equipment (such as compressors or pump) or generate electricity on an emergency, intermittent, or continuous basis. Stationary internal combustion engines are subject to the NOC process and criteria in WAC 173-400-110.



(84) **"Sulfuric acid plant"** means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

((86)) (85) **"Synthetic minor"** means any source whose potential to emit has been limited below applicable thresholds by means of a federally enforceable order, rule, or ((permit)) approval condition.

(86) **"Temporary source"** is a source of emissions (such as a nonroad engine) which is operated at a particular site for a limited period of time. A temporary source may or may not be a stationary source or a source as defined in subsections (78) and (84) of this section, respectively.

(87) **"Total reduced sulfur (TRS)"** means the sum of the sulfur compounds hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides emitted and measured by EPA method 16 in Appendix A to 40 CFR Part 60 or an approved equivalent method and expressed as hydrogen sulfide.

(88) **"Total suspended particulate"** means particulate matter as measured by the method described in 40 CFR Part 50 Appendix B.

(89) **"Toxic air pollutant (TAP)"** or **"toxic air contaminant"** means any Class A or B toxic air pollutant listed in WAC 173-460-150 and 173-460-160. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150 and/or 173-460-160. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

(90) **"Unclassifiable area"** means an area that cannot be designated attainment or nonattainment on the basis of available information as meeting or not meeting the National Ambient Air Quality Standard for the criteria pollutant and that is listed by EPA at 40 CFR Part 81.

(91) **"United States Environmental Protection Agency (USEPA)"** shall be referred to as EPA.

(92) **"Visibility impairment"** means any humanly perceptible change in visibility (light extinction, visual range, contrast, or coloration) from that which would have existed under natural conditions.

(93) **"Volatile organic compound (VOC)"** means any carbon compound that participates in atmospheric photochemical reactions.

(a) Exceptions. The following compounds are not a VOC: Acetone; carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate, methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro 1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride

(PCBTf); cyclic, branched, or linear completely methylated siloxanes; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoroethane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoroethane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee); difluoromethane (HFC-32); ethylfluoride (HFC-161); 1,1,1,3,3,3-hexafluoroethane (HFC-236fa); 1,1,2,2,3-pentafluoroethane (HFC-245ca); 1,1,2,3,3-pentafluoroethane (HFC-245ea); 1,1,1,2,3-pentafluoroethane (HFC-245eb); 1,1,1,3,3-pentafluoroethane (HFC-245fa); 1,1,1,2,3,3-hexafluoroethane (HFC-236ea); 1,1,1,3,3-pentafluorobutane (HFC-365mfc); chlorofluoromethane (HCFC-31); 1-chloro-1-fluoroethane (HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C<sub>4</sub>F<sub>9</sub>OCH<sub>3</sub>); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoroethane ((CF<sub>3</sub>)<sub>2</sub>CF<sub>2</sub>OCH<sub>3</sub>); 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C<sub>4</sub>F<sub>9</sub>OC<sub>2</sub>H<sub>5</sub>); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoroethane((CF<sub>3</sub>)<sub>2</sub>CF<sub>2</sub>OC<sub>2</sub>H<sub>5</sub>); methyl acetate and perfluorocarbon compounds that fall into these classes:

(i) Cyclic, branched, or linear completely fluorinated alkanes;

(ii) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations;

(iii) Cyclic, branched, or linear completely fluorinated tertiary amines with no unsaturations; and

(iv) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For the purpose of determining compliance with emission limits, VOC will be measured by the appropriate methods in 40 CFR Part 60 Appendix A. Where the method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of the compounds is accurately quantified, and the exclusion is approved by ecology, the authority, or EPA.

(c) As a precondition to excluding these negligibly-reactive compounds as VOC or at any time thereafter, ecology or the authority may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of ecology or the authority, the amount of negligibly-reactive compounds in the source's emissions.

**AMENDATORY SECTION** (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-035 Portable and temporary sources.**

(1) ~~(For portable sources which locate temporarily at particular sites, the owner(s) or operator(s) shall be allowed to operate at the temporary location providing that the owner(s) or operator(s) notifies ecology or the authority of intent to operate at the new location at least thirty days prior to starting the operation, and supplies sufficient information to enable ecology or the authority to determine that the operation will comply with the emission standards for a new source, and will not cause a violation of applicable ambient air quality standards and, if in a nonattainment area, will not interfere with scheduled attainment of ambient standards. The permission to operate shall be for a limited period of time (one year or less) and ecology or the authority may set specific condi-~~



tions for operation during that period. A temporary source shall be required to comply with all applicable emission standards. A temporary or portable source that is considered a major stationary source within the meaning of WAC 173-400-113 must also comply with the requirements in WAC 173-400-141.

(2)) The owner or operator of a portable source or temporary source must:

(a) Except for nonroad engines, file a notice of construction application and obtain an order of approval prior to operating in a permitting authority's jurisdiction;

(b) If the temporary source is composed of only nonroad engines, file a notice of intent to operate and receive an order prior to operating in a permitting authority's jurisdiction; and

(c) Have a valid order of approval or order and follow the terms of the order of approval or order, during all periods of operation; and

(d) Comply with all order of approval or order conditions; and

(e) Register with the permitting authority as an air pollution source; and

(f) Notify the permitting authority.

(2) The permitting authority:

(a) Prior to issuing an order of approval or order, must find that the portable source or temporary source, and any associated nonroad engines, will not cause a violation of applicable ambient air quality standards, and if located in a nonattainment area will not interfere with scheduled attainment of ambient standards; and

(b) May set conditions related to the use and operation of nonroad engines, with an aggregate of greater than 300 horsepower, in the order as long as the conditions conform with the criteria in 40 CFR Part 89, Appendix A to Subpart A; and

(c) Shall condition the order of approval or order to limit operation of the portable source or temporary source at any particular location to one year or less; and

(d) May condition the order of approval or order to require notification to the permitting authority prior to each relocation of the portable source or temporary source; and

(e) May respond to relocation notifications by issuing site specific operating conditions.

(3) Public involvement.

(a) Orders and orders of approval issued under this section are subject to public notice under WAC 173-400-171.

(b) The permitting authority may provide public notice and/or comment period for relocation notifications and site specific conditions.

(4) This section applies statewide except where an authority has its own rule regulating such sources.

**AMENDATORY SECTION** (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-040 General standards for maximum emissions.** All sources and emissions units are required to meet the emission standards of this chapter. Where an emission standard listed in another chapter is applicable to a specific emissions unit, such standard will take precedent over a general emission standard listed in this chapter. When two or more emissions units are connected to a common stack

and the operator elects not to provide the means or facilities to sample emissions from the individual emissions units, and the relative contributions of the individual emissions units to the common discharge are not readily distinguishable, then the emissions of the common stack must meet the most restrictive standard of any of the connected emissions units. Further, all emissions units are required to use reasonably available control technology (RACT) which may be determined for some sources or source categories to be more stringent than the applicable emission limitations of any chapter of Title 173 WAC. Where current controls are determined to be less than RACT, ecology or the authority shall, as provided in RCW 70.194.154 [RCW 70.94.154], define RACT for each source or source category and issue a rule or regulatory order requiring the installation of RACT.

(1) **Visible emissions.** No person shall cause or ((permit)) allow the emission for more than three minutes, in any one hour, of an air contaminant from any emissions unit which at the emission point, or within a reasonable distance of the emission point, exceeds twenty percent opacity except:

(a) When the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to ((permit)) allow the soot blowing and grate cleaning necessary to the operation of boiler facilities. This practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and ecology or the authority be advised of the schedule.

(b) When the owner or operator of a source supplies valid data to show that the presence of uncombined water is the only reason for the opacity to exceed twenty percent.

(c) When two or more emission units are connected to a common stack, ecology or the authority may allow or require the use of an alternate time period if it is more representative of normal operations.

(d) When an alternate opacity limit has been established per RCW 70.94.331 (2)(c).

(e) Exemptions from twenty percent opacity standard.

(i) Visible emissions reader certification testing. Visible emissions from the "smoke generator" used for testing and certification of visible emissions readers per the requirements of 40 CFR Part 60, Appendix A, Reference Method 9 and ecology methods 9A and 9B shall be exempt from compliance with the twenty percent opacity limitation while being used for certifying visible emission readers.

(ii) Visible emissions resulting from military obscurant training exercises is exempt from compliance with the twenty percent opacity limitation provided the following criteria are met:

(A) No visible emissions shall cross the boundary of the military training site/reservation.

(B) The operation shall have in place methods, which have been reviewed and approved by the permitting authority, to detect changes in weather that would cause the obscurant to cross the site boundary either during the course of the exercise or prior to the start of the exercise. The approved methods shall include provisions that result in cancellation of

the training exercise, cease the use of obscurants during the exercise until weather conditions would allow such training to occur without causing obscurant to leave the site boundary of the military site/reservation.

(iii) Visible emissions from fixed and mobile fire fighter training facilities while being used to train fire fighters and while complying with the requirements of chapter 173-425 WAC.

(2) **Fallout.** No person shall cause or ((~~permit~~)) allow the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner or operator of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.

(3) **Fugitive emissions.** The owner or operator of any **emissions unit** engaging in materials handling, construction, demolition or ((~~any~~)) other operation which is a **source** of fugitive emission:

(a) If located in an **attainment area** and not impacting any **nonattainment area**, shall take reasonable precautions to prevent the release of **air contaminants** from the operation.

(b) If the **emissions unit** has been identified as a **significant contributor** to the **nonattainment status** of a designated **nonattainment area**, the owner or operator shall be required to use reasonable and available control methods, which shall include any necessary changes in technology, process, or other control strategies to control **emissions of the air contaminants** for which **nonattainment** has been designated.

(4) **Odors.** Any person who shall cause or allow the generation of any odor from any **source** which may unreasonably interfere with any other property owner's use and enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.

(5) **Emissions detrimental to persons or property.** No person shall cause or ((~~permit~~)) allow the emission of any air contaminant from any **source** if it is detrimental to the health, safety, or welfare of any person, or causes damage to property or business.

(6) **Sulfur dioxide.**

No person shall cause or ((~~permit~~)) allow the emission of a gas containing sulfur dioxide from any **emissions unit** in excess of one thousand **ppm** of sulfur dioxide on a dry basis, corrected to seven percent oxygen for combustion sources, and based on the average of any period of sixty consecutive minutes, except:

When the owner or operator of an **emissions unit** supplies **emission** data and can demonstrate to **ecology** or the **authority** that there is no feasible method of reducing the concentration to less than one thousand **ppm** (on a dry basis, corrected to seven percent oxygen for **combustion sources**) and that the state and federal **ambient air quality standards** for sulfur dioxide will not be exceeded. In such cases, **ecology** or the **authority** may require specific **ambient air** monitoring stations be established, operated, and maintained by the owner or operator at mutually approved locations. All sampling results will be made available upon request and a monthly summary will be submitted to **ecology** or the **authority**.

(7) **Concealment and masking.** No person shall cause or ((~~permit~~)) allow the installation or use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provisions of this chapter.

(8) **Fugitive dust ((~~sources~~)).**

(a) The owner or operator of a **source of fugitive dust** shall take reasonable precautions to prevent **fugitive dust** from becoming airborne and shall maintain and operate the **source** to minimize **emissions**.

(b) The owner or operator of any existing source of **fugitive dust** that has been identified as a **significant contributor** to a **PM-10 nonattainment area** shall be required to use **reasonably available control technology** to control **emissions**. Significance will be determined by the criteria found in WAC 173-400-113 (2)(c).

AMENDATORY SECTION (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-050 Emission standards for combustion and incineration units.** (1) Combustion and incineration **emissions units** must meet all requirements of WAC 173-400-040 and, in addition, no person shall cause or ((~~permit~~)) allow emissions of particulate matter in excess of 0.23 gram per dry cubic meter at **standard conditions** (0.1 grain/dscf), except, for an **emissions unit** combusting wood derived fuels for the production of steam. No person shall allow ((~~or permit~~)) the **emission of particulate matter** in excess of 0.46 gram per dry cubic meter at **standard conditions** (0.2 grain/dscf), as measured by EPA method 5 in Appendix A to 40 CFR Part 60, (in effect on ((~~February 20, 2004~~)) July 1, 2004) or approved procedures contained in "*Source Test Manual - Procedures For Compliance Testing*," state of Washington, department of **ecology**, as of July 12, 1990, on file at **ecology**.

(2) For any **incinerator**, no person shall cause or ((~~permit~~)) allow emissions in excess of one hundred **ppm** of total carbonyls as measured by ((~~applicable EPA methods or acceptable~~)) Source Test Method 14 procedures contained in "*Source Test Manual - Procedures for Compliance Testing*," state of Washington, department of **ecology**, as of July 12, 1990, on file at **ecology**. An applicable EPA reference method or other procedures to collect and analyze for the same compounds collected in the ecology method may be used if approved by the permitting authority or ecology prior to its use.

(a) Incinerators not subject to the requirements of chapter 173-434 WAC or WAC 173-400-050 (4) or (5), or requirements adopted by reference in WAC 173-400-075 (40 CFR 63 subpart EEE) and WAC 173-400-115 (40 CFR 60 subparts E, Ea, Eb, Ec, AAAA, and CCCC) shall be operated only during daylight hours unless written permission to operate at other times is received from ((~~ecology or~~)) the permitting authority.

(b) Total carbonyls means the concentration of organic compounds containing the =C=O radical as collected by the Ecology Source Test Method 14 contained in "*Source Test Manual - Procedures For Compliance Testing*," state of Washington, department of ecology, as of July 12, 1990, on file at ecology.

(3) Measured concentrations for **combustion and incineration units** shall be adjusted for volumes corrected to seven percent oxygen, except when **ecology** or the **authority** determines that an alternate oxygen correction factor is more representative of normal operations.

(4) **Commercial and industrial solid waste incineration units** constructed on or before November 30, 1999. (See WAC 173-400-115(2) for the requirements for a commercial and industrial solid waste incineration unit constructed after November 30, 1999, or modified or reconstructed after June 1, 2001.)

(a) Definitions.

(i) "**Commercial and industrial solid waste incineration (CISWI) unit**" means any combustion device that combusts commercial and industrial waste, as defined in this subsection. The boundaries of a CISWI unit are defined as, but not limited to, the commercial or industrial solid waste fuel feed system, grate system, flue gas system, and bottom ash. The CISWI unit does not include air pollution control equipment or the stack. The CISWI unit boundary starts at the commercial and industrial solid waste hopper (if applicable) and extends through two areas: (A) The combustion unit flue gas system, which ends immediately after the last combustion chamber. (B) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(ii) "**Commercial and industrial solid waste**" means solid waste combusted in an enclosed device using controlled flame combustion without energy recovery that is a distinct operating unit of any commercial or industrial facility (including field erected, modular, and custom built incineration units operating with starved or excess air), or solid waste combusted in an air curtain incinerator without energy recovery that is a distinct operating unit of any commercial or industrial facility.

(b) **Applicability.** This section applies to incineration units that meet all three criteria:

(i) The incineration unit meets the definition of CISWI unit in this subsection.

(ii) The incineration unit commenced construction on or before November 30, 1999.

(iii) The incineration unit is not exempt under (c) of this subsection.

(c) The following types of incineration units are exempt from this subsection:

(i) *Pathological waste incineration units.* Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste as defined in 40 CFR 60.2265 (in effect on January 30, 2001) are not subject to this section if you meet the two requirements specified in (c)(i)(A) and (B) of this subsection.

(A) Notify the permitting ((agency)) authority that the unit meets these criteria.

(B) Keep records on a calendar quarter basis of the weight of pathological waste, low-level radioactive waste, and/or chemotherapeutic waste burned, and the weight of all other fuels and wastes burned in the unit.

(ii) *Agricultural waste incineration units.* Incineration units burning 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of agricultural wastes as defined in 40 CFR 60.2265 (in effect on January 30, 2001) are not subject to this subpart if you meet the two requirements specified in (c)(ii)(A) and (B) of this subsection.

(A) Notify the permitting ((agency)) authority that the unit meets these criteria.

(B) Keep records on a calendar quarter basis of the weight of agricultural waste burned, and the weight of all other fuels and wastes burned in the unit.

(iii) *Municipal waste combustion units.* Incineration units that meet either of the two criteria specified in (c)(iii)(A) and (B) of this subsection.

(A) Units are regulated under 40 CFR Part 60, subpart Ea or subpart Eb (in effect on July 1, 2000); Spokane County Air Pollution Control Authority Regulation 1, Section 6.17 (in effect on February 13, 1999); 40 CFR Part 60, subpart AAAA (adopted on December 6, 2000 and in effect on June 1, 2001); or WAC 173-400-050(5).

(B) Units burn greater than 30 percent municipal solid waste or refuse-derived fuel, as defined in 40 CFR Part 60, subparts Ea (in effect on July 1, 2000), Eb (in effect on July 1, 2000), and AAAA (adopted on December 6, 2000 and in effect on June 1, 2001), and WAC 173-400-050(5), and that have the capacity to burn less than 35 tons (32 megagrams) per day of municipal solid waste or refuse-derived fuel, if you meet the two requirements in (c)(iii)(B)(I) and (II) of this subsection.

(I) Notify the permitting ((agency)) authority that the unit meets these criteria.

(II) Keep records on a calendar quarter basis of the weight of municipal solid waste burned, and the weight of all other fuels and wastes burned in the unit.

(iv) *Medical waste incineration units.* Incineration units regulated under 40 CFR Part 60, subpart Ec (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996) (in effect on July 1, 2000);

(v) *Small power production facilities.* Units that meet the three requirements specified in (c)(v)(A) through (C) of this subsection.

(A) The unit qualifies as a small power-production facility under section 3 (17)(C) of the Federal Power Act (16 U.S.C. 796 (17)(C)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity.

(C) You notify the permitting ((agency)) authority that the unit meets all of these criteria.

(vi) *Cogeneration facilities.* Units that meet the three requirements specified in (c)(vi)(A) through (C) of this subsection.

(A) The unit qualifies as a cogeneration facility under section 3 (18)(B) of the Federal Power Act (16 U.S.C. 796 (18)(B)).

(B) The unit burns homogeneous waste (not including refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(C) You notify the permitting ((agency)) authority that the unit meets all of these criteria.

(vii) *Hazardous waste combustion units.* Units that meet either of the two criteria specified in (c)(vii)(A) or (B) of this subsection.

(A) Units for which you are required to get a permit under section 3005 of the Solid Waste Disposal Act.

(B) Units regulated under subpart EEE of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (in effect on July 1, 2000).

(viii) *Materials recovery units.* Units that combust waste for the primary purpose of recovering metals, such as primary and secondary smelters;

(ix) *Air curtain incinerators.* Air curtain incinerators that burn only the materials listed in (c)(ix)(A) through (C) of this subsection are only required to meet the requirements under "Air Curtain Incinerators" in 40 CFR 60.2245 through 60.2260 (in effect on January 30, 2001).

(A) 100 percent wood waste.

(B) 100 percent clean lumber.

(C) 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

(x) *Cyclonic barrel burners.* See 40 CFR 60.2265 (in effect on January 30, 2001).

(xi) *Rack, part, and drum reclamation units.* See 40 CFR 60.2265 (in effect on January 30, 2001).

(xii) *Cement kilns.* Kilns regulated under subpart LLL of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry) (in effect on July 1, 2000).

(xiii) *Sewage sludge incinerators.* Incineration units regulated under 40 CFR Part 60, (Standards of Performance for Sewage Treatment Plants) (in effect on July 1, 2000).

(xiv) *Chemical recovery units.* Combustion units burning materials to recover chemical constituents or to produce chemical compounds where there is an existing commercial market for such recovered chemical constituents or compounds. The seven types of units described in (c)(xiv)(A) through (H) of this subsection are considered chemical recovery units.

(A) Units burning only pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery process and reused in the pulping process.

(B) Units burning only spent sulfuric acid used to produce virgin sulfuric acid.

(C) Units burning only wood or coal feedstock for the production of charcoal.

(D) Units burning only manufacturing by-product streams/residues containing catalyst metals which are reclaimed and reused as catalysts or used to produce commercial grade catalysts.

(E) Units burning only coke to produce purified carbon monoxide that is used as an intermediate in the production of other chemical compounds.

(F) Units burning only hydrocarbon liquids or solids to produce hydrogen, carbon monoxide, synthesis gas, or other gases for use in other manufacturing processes.

(G) Units burning only photographic film to recover silver.

(xv) *Laboratory analysis units.* Units that burn samples of materials for the purpose of chemical or physical analysis.

(d) Exceptions.

(i) Physical or operational changes to a CISWI unit made primarily to comply with this section do not qualify as a "modification" or "reconstruction" (as defined in 40 CFR 60.2815, in effect on January 30, 2001).

(ii) Changes to a CISWI unit made on or after June 1, 2001, that meet the definition of "modification" or "reconstruction" as defined in 40 CFR 60.2815 (in effect on January 30, 2001) mean the CISWI unit is considered a new unit and subject to WAC 173-400-115(2), which adopts 40 CFR Part 60, subpart CCCC by reference.

(e) A CISWI unit must comply with 40 CFR 60.2575 through 60.2875, in effect on January 30, 2001, which is adopted by reference. The federal rule contains these major components:

- Increments of progress towards compliance in 60.2575 through 60.2630;

- Waste management plan requirements in 60.2620 through 60.2630;

- Operator training and qualification requirements in 60.2635 through 60.2665;

- Emission limitations and operating limits in 60.2670 through 60.2685;

- Performance testing requirements in 60.2690 through 60.2725;

- Initial compliance requirements in 60.2700 through 60.2725;

- Continuous compliance requirements in 60.2710 through 60.2725;

- Monitoring requirements in 60.2730 through 60.2735;

- Recordkeeping and reporting requirements in 60.2740 through 60.2800;

- Title V operating permits requirements in 60.2805;

- Air curtain incinerator requirements in 60.2810 through 60.2870;

- Definitions in 60.2875; and

- Tables in 60.2875. In Table 1, the final control plan must be submitted before June 1, 2004, and final compliance must be achieved by June 1, 2005.

(i) Exception to adopting the federal rule. For purposes of this section, "administrator" includes the permitting ((agency)) authority.

(ii) Exception to adopting the federal rule. For purposes of this section, "you" means the owner or operator.

(iii) Exception to adopting the federal rule. For purposes of this section, each reference to "the effective date of state plan approval" means July 1, 2002.

(iv) Exception to adopting the federal rule. The Title V operating permit requirements in 40 CFR 2805(a) are not adopted by reference. Each CISWI unit, regardless of whether it is a major or nonmajor unit, is subject to the air operating permit regulation, chapter 173-401 WAC, beginning on July 1, 2002. See WAC 173-401-500 for the permit application requirements and deadlines.

(v) Exception to adopting the federal rule. The following compliance dates apply:

(A) The final control plan (Increment 1) must be submitted no later than July 1, 2003. (See Increment 1 in Table 1.)

(B) Final compliance (Increment 2) must be achieved no later than July 1, 2005. (See Increment 2 in Table 1.)

(5) **Small municipal waste combustion units** constructed on or before August 30, 1999. (See WAC 173-400-115(2) for the requirements for a municipal waste combustion unit constructed after August 30, 1999, or reconstructed or modified after June 6, 2001.)

(a) Definition. "Municipal waste combustion unit" means any setting or equipment that combusts, liquid, or gasified municipal solid waste including, but not limited to, field-erected combustion units (with or without heat recovery), modular combustion units (starved air- or excess-air), boilers (for example, steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, air-curtain incinerators, or fluidized bed-fired), and pyrolysis/combustion units. Two criteria further define municipal waste combustion units:

(i) Municipal waste combustion units do not include the following units:

(A) Pyrolysis or combustion units located at a plastics or rubber recycling unit as specified under the exemptions in (d)(viii) and (ix) of this subsection.

(B) Cement kilns that combust municipal solid waste as specified under the exemptions in (d)(x) of this subsection.

(C) Internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems.

(ii) The boundaries of a municipal waste combustion unit are defined as follows. The municipal waste combustion unit includes, but is not limited to, the municipal solid waste fuel feed system, grate system, flue gas system, bottom ash system, and the combustion unit water system. The municipal waste combustion unit does not include air pollution control equipment, the stack, water treatment equipment, or the turbine-generator set. The municipal waste combustion unit boundary starts at the municipal solid waste pit or hopper and extends through three areas:

(A) The combustion unit flue gas system, which ends immediately after the heat recovery equipment or, if there is no heat recovery equipment, immediately after the combustion chamber.

(B) The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. It includes all ash handling systems connected to the bottom ash handling system.

(C) The combustion unit water system, which starts at the feed water pump and ends at the piping that exits the steam drum or superheater.

(b) Applicability. This section applies to a municipal waste combustion unit that meets these three criteria:

(i) The municipal waste combustion unit has the capacity to combust at least 35 tons per day of municipal solid waste but no more than 250 tons per day of municipal solid waste or refuse-derived fuel.

(ii) The municipal waste combustion unit commenced construction on or before August 30, 1999.

(iii) The municipal waste combustion unit is not exempt under (c) of this section.

(c) Exempted units. The following municipal waste combustion units are exempt from the requirements of this section:

(i) *Small municipal waste combustion units that combust less than 11 tons per day.* Units are exempt from this section if four requirements are met:

(A) The municipal waste combustion unit is subject to a federally enforceable (~~permit~~) order or order of approval limiting the amount of municipal solid waste combusted to less than 11 tons per day.

(B) The owner or operator notifies the permitting (~~agency~~) authority that the unit qualifies for the exemption.

(C) The owner or operator of the unit sends a copy of the federally enforceable (~~permit~~) order or order of approval to the permitting (~~agency~~) authority.

(D) The owner or operator of the unit keeps daily records of the amount of municipal solid waste combusted.

(ii) *Small power production units.* Units are exempt from this section if four requirements are met:

(A) The unit qualifies as a small power production facility under section 3 (17)(C) of the Federal Power Act (16 U.S.C. 796 (17)(C)).

(B) The unit combusts homogeneous waste (excluding refuse-derived fuel) to produce electricity.

(C) The owner or operator notifies the permitting (~~agency~~) authority that the unit qualifies for the exemption.

(D) The owner or operator submits documentation to the permitting (~~agency~~) authority that the unit qualifies for the exemption.

(iii) *Cogeneration units.* Units are exempt from this section if four requirements are met:

(A) The unit qualifies as a small power production facility under section 3 (18)(C) of the Federal Power Act (16 U.S.C. 796 (18)(C)).

(B) The unit combusts homogeneous waste (excluding refuse-derived fuel) to produce electricity and steam or other forms of energy used for industrial, commercial, heating, or cooling purposes.

(C) The owner or operator notifies the permitting (~~agency~~) authority that the unit qualifies for the exemption.

(D) The owner or operator submits documentation to the permitting (~~agency~~) authority that the unit qualifies for the exemption.

(iv) *Municipal waste combustion units that combust only tires.* Units are exempt from this section if three requirements are met:

(A) The municipal waste combustion unit combusts a single-item waste stream of tires and no other municipal waste (the unit can cofire coal, fuel oil, natural gas, or other nonmunicipal solid waste).

(B) The owner or operator notifies the permitting (~~agency~~) authority that the unit qualifies for the exemption.

(C) The owner or operator submits documentation to the permitting (~~agency~~) authority that the unit qualifies for the exemption.

(v) *Hazardous waste combustion units.* Units are exempt from this section if the units have received a permit under section 3005 of the Solid Waste Disposal Act.

(vi) *Materials recovery units.* Units are exempt from this section if the units combust waste mainly to recover metals.

Primary and secondary smelters may qualify for the exemption.

(vii) *Cofired units.* Units are exempt from this section if four requirements are met:

(A) The unit has a federally enforceable (~~(permit)~~) order or order of approval limiting municipal solid waste combustion to no more than 30 percent of total fuel input by weight.

(B) The owner or operator notifies the permitting (~~(agency)~~) authority that the unit qualifies for the exemption.

(C) The owner or operator submits a copy of the federally enforceable (~~(permit)~~) order or order of approval to the permitting (~~(agency)~~) authority.

(D) The owner or operator records the weights, each quarter, of municipal solid waste and of all other fuels combusted.

(viii) *Plastics/rubber recycling units.* Units are exempt from this section if four requirements are met:

(A) The pyrolysis/combustion unit is an integrated part of a plastics/rubber recycling unit as defined in 40 CFR 60.1940 (in effect on February 5, 2001).

(B) The owner or operator of the unit records the weight, each quarter, of plastics, rubber, and rubber tires processed.

(C) The owner or operator of the unit records the weight, each quarter, of feed stocks produced and marketed from chemical plants and petroleum refineries.

(D) The owner or operator of the unit keeps the name and address of the purchaser of the feed stocks.

(ix) *Units that combust fuels made from products of plastics/rubber recycling plants.* Units are exempt from this section if two requirements are met:

(A) The unit combusts gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquified petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feed stocks produced by plastics/rubber recycling units.

(B) The unit does not combust any other municipal solid waste.

(x) *Cement kilns.* Cement kilns that combust municipal solid waste are exempt.

(xi) *Air curtain incinerators.* If an air curtain incinerator as defined under 40 CFR 60.1910 (in effect on February 5, 2001) combusts 100 percent yard waste, then those units must only meet the requirements under 40 CFR 60.1910 through 60.1930 (in effect on February 5, 2001).

(d) Exceptions.

(i) Physical or operational changes to an existing municipal waste combustion unit made primarily to comply with this section do not qualify as a modification or reconstruction, as those terms are defined in 40 CFR 60.1940 (in effect on February 5, 2001).

(ii) Changes to an existing municipal waste combustion unit made on or after June 6, 2001, that meet the definition of modification or reconstruction, as those terms are defined in 40 CFR 60.1940 (in effect on February 5, 2001), mean the unit is considered a new unit and subject to WAC 173-400-115(2), which adopts 40 CFR Part 60, subpart AAAA (in effect on June 6, 2001).

(e) Municipal waste combustion units are divided into two subcategories based on the aggregate capacity of the municipal waste combustion plant as follows:

(i) Class I units. Class I units are small municipal waste combustion units that are located at municipal waste combustion plants with an aggregate plant combustion capacity greater than 250 tons per day of municipal solid waste. See the definition of "municipal waste combustion plant capacity" in 40 CFR 60.1940 (in effect on February 5, 2001) for the specification of which units are included in the aggregate capacity calculation.

(ii) Class II units. Class II units are small municipal waste combustion units that are located at municipal waste combustion plants with an aggregate plant combustion capacity less than or equal to 250 tons per day of municipal solid waste. See the definition of "municipal waste combustion plant capacity" in 40 CFR 60.1940 (in effect on February 5, 2001) for the specification of which units are included in the aggregate capacity calculation.

(f) Compliance option 1.

(i) A municipal solid waste combustion unit may choose to reduce, by the final compliance date of June 1, 2005, the maximum combustion capacity of the unit to less than 35 tons per day of municipal solid waste. The owner or operator must submit a final control plan and the notifications of achievement of increments of progress as specified in 40 CFR 60.1610 (in effect on February 5, 2001).

(ii) The final control plan must, at a minimum, include two items:

(A) A description of the physical changes that will be made to accomplish the reduction.

(B) Calculations of the current maximum combustion capacity and the planned maximum combustion capacity after the reduction. Use the equations specified in 40 CFR 60.1935 (d) and (e) (in effect on February 5, 2001) to calculate the combustion capacity of a municipal waste combustion unit.

(iii) (~~(A-permit)~~) An order or order of approval containing a restriction or a change in the method of operation does not qualify as a reduction in capacity. Use the equations specified in 40 CFR 60.1935 (d) and (e) (in effect on February 5, 2001) to calculate the combustion capacity of a municipal waste combustion unit.

(g) Compliance option 2. The municipal waste combustion unit must comply with 40 CFR 60.1585 through 60.1905, and 60.1935 (in effect on February 5, 2001), which is adopted by reference.

(i) The rule contains these major components:

(A) Increments of progress towards compliance in 60.1585 through 60.1640;

(B) Good combustion practices - operator training in 60.1645 through 60.1670;

(C) Good combustion practices - operator certification in 60.1675 through 60.1685;

(D) Good combustion practices - operating requirements in 60.1690 through 60.1695;

(E) Emission limits in 60.1700 through 60.1710;

(F) Continuous emission monitoring in 60.1715 through 60.1770;

(G) Stack testing in 60.1775 through 60.1800;

(H) Other monitoring requirements in 60.1805 through 60.1825;

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- (I) Recordkeeping reporting in 60.1830 through 60.1855;
- (J) Reporting in 60.1860 through 60.1905;
- (K) Equations in 60.1935;
- (L) Tables 2 through 8.
- (ii) Exception to adopting the federal rule. For purposes of this section, each reference to the following is amended in the following manner:
  - (A) "State plan" in the federal rule means WAC 173-400-050(5).
  - (B) "You" in the federal rule means the owner or operator.

- (C) "Administrator" includes the permitting ((agency)) authority.
- (D) Table 1 in (h)(ii) of this subsection substitutes for Table 1 in the federal rule.
- (E) "The effective date of the state plan approval" in the federal rule means December 6, 2002.
- (h) Compliance schedule.
- (i) Small municipal waste combustion units must achieve final compliance or cease operation not later than December 1, 2005.
- (ii) Small municipal waste combustion units must comply with Table 1.

Table 1 Compliance Schedules and Increments of Progress

Affected units	Increment 1 (Submit final control plan)	Increment 2 (Award contracts)	Increment 3 (Begin on-site construction)	Increment 4 (Complete on-site construction)	Increment 5 (Final compliance)
All Class I units	August 6, 2003	April 6, 2004	October 6, 2004	October 6, 2005	November 6, 2005
All Class II units	September 6, 2003	Not applicable	Not applicable	Not applicable	May 6, 2005

(iii) Class I units must comply with these additional requirements:

(A) The owner or operator must submit the dioxins/furans stack test results for at least one test conducted during or after 1990. The stack test must have been conducted according to the procedures specified under 40 CFR 60.1790 (in effect on February 5, 2001).

(B) Class I units that commenced construction after June 26, 1987, must comply with the dioxins/furans and mercury limits specified in Tables 2 and 3 in 40 CFR Part 60, subpart BBBB (in effect on February 5, 2001) by the later of two dates:

(I) December 6, 2003; or

(II) One year following the issuance of an order of approval (revised construction ((permit)) approval or operation permit) if ((a permit)) an order or order of approval or operation modification is required.

(i) Air operating permit. Applicability to chapter 173-401 WAC, the air operating permit regulation, begins on July 1, 2002. See WAC 173-401-500 for the permit application requirements and deadlines.

AMENDATORY SECTION (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-060 Emission standards for general process units.** General process units are required to meet all applicable provisions of WAC 173-400-040 and, no person shall cause or ((permit)) allow the emission of particulate material from any general process operation in excess of 0.23 grams per dry cubic meter at standard conditions (0.1 grain/dscf) of exhaust gas. EPA test methods (in effect on February 20, 2001) from 40 CFR Parts 51, 60, 61, and 63 and any other approved test procedures which are contained in ecology's "Source Test Manual - Procedures For Compliance Testing" as of July 12, 1990, will be used to determine compliance.

AMENDATORY SECTION (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-070 Emission standards for certain source categories.** Ecology finds that the reasonable regulation of sources within certain categories requires separate standards applicable to such categories. The standards set forth in this section shall be the maximum allowable standards for **emissions units** within the categories listed. Except as specifically provided in this section, such **emissions units** shall not be required to meet the provisions of WAC 173-400-040, 173-400-050 and 173-400-060.

**(1) Wigwam burners.**

(a) All wigwam burners shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), ((and)) (7), and WAC 173-400-050(4) or 173-400-115 (40 CFR 60 subpart DDDD) as applicable.

(b) All wigwam burners shall use RACT. All emissions units shall be operated and maintained to minimize emissions. These requirements may include a controlled tangential vent overfire air system, an adequate underfire system, elimination of all unnecessary openings, a controlled feed and other modifications determined necessary by ecology or the permitting authority.

(c) It shall be unlawful to install or increase the existing use of any burner that does not meet all requirements for new **sources** including those requirements specified in WAC 173-400-040 and 173-400-050, except operating hours.

(d) **Ecology** may establish additional requirements for wigwam burners located in sensitive areas as defined by chapter 173-440 WAC. These requirements may include but shall not be limited to:

(i) A requirement to meet all provisions of WAC 173-400-040 and 173-400-050. Wigwam burners will be considered to be in compliance if they meet the requirements contained in WAC 173-400-040(1). An exception is made for a startup period not to exceed thirty minutes in any eight consecutive hours.

(ii) A requirement to apply BACT.

(iii) A requirement to reduce or eliminate emissions if ecology establishes that such emissions unreasonably inter-

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ferre with the use and enjoyment of the property of others or are a cause of violation of ambient air standards.

(2) **Hog fuel boilers.**

(a) Hog fuel boilers shall meet all provisions of WAC 173-400-040 and 173-400-050(1), except that **emissions** may exceed twenty percent **opacity** for up to fifteen consecutive minutes once in any eight hours. The intent of this provision is to ~~((permit the))~~ allow soot blowing and grate cleaning necessary to the operation of these units. This practice is to be scheduled for the same specific times each day and ~~((ecology of))~~ the permitting authority shall be notified of the schedule or any changes.

(b) All hog fuel boilers shall utilize RACT and shall be operated and maintained to minimize emissions.

(3) **Orchard heating.**

(a) Burning of rubber materials, asphaltic products, crankcase oil or petroleum wastes, plastic, or garbage is prohibited.

(b) It is unlawful to burn any material or operate any orchard-heating device that causes a visible **emission** exceeding twenty percent **opacity**, except during the first thirty minutes after such device or material is ignited.

(4) **Grain elevators.**

Any grain elevator which is primarily classified as a **materials handling** operation shall meet all the provisions of WAC 173-400-040 (2), (3), (4), and (5).

(5) **Catalytic cracking units.**

(a) All existing catalytic cracking units shall meet all provisions of WAC 173-400-040 (2), (3), (4), (5), (6), and (7) and:

(i) No person shall cause or ~~((permit))~~ allow the emission for more than three minutes, in any one hour, of an air contaminant from any catalytic cracking unit which at the emission point, or within a reasonable distance of the emission point, exceeds forty percent opacity.

(ii) No person shall cause or ~~((permit))~~ allow the emission of particulate material in excess of 0.46 grams per dry cubic meter at standard conditions (0.20 grains/dscf) of exhaust gas.

(b) All new catalytic cracking units shall meet all provisions of WAC 173-400-115.

(6) **Other wood waste burners.**

(a) Wood waste burners not specifically provided for in this section shall meet all provisions of WAC 173-400-040, and 173-400-050(4) or 173-400-115 (40 CFR 60 subpart DDDD) as applicable.

(b) Such wood waste burners shall utilize RACT and shall be operated and maintained to minimize **emissions**.

(7) **Sulfuric acid plants.**

No **person** shall cause to be discharged into the atmosphere from a sulfuric acid plant, any gases which contain acid mist, expressed as H<sub>2</sub>SO<sub>4</sub>, in excess of 0.15 pounds per ton of acid produced. Sulfuric acid production shall be expressed as one hundred percent H<sub>2</sub>SO<sub>4</sub>.

(8) **Sewage sludge incinerators.** Standards for the incineration of sewage sludge found in 40 CFR Part 503 subparts A (General Provisions) and E (Incineration) in effect on July 1, ~~((1997))~~ 2004, are adopted by reference.

(9) **Municipal solid waste landfills constructed, reconstructed, or modified before May 30, 1991.** A

municipal solid waste landfill (MSW landfill) is an entire disposal facility in a contiguous geographical space where household waste is placed in or on the land. A MSW landfill may also receive other types of waste regulated under Subtitle D of the Federal Resource Conservation and Recovery Act including the following: Commercial solid waste, non-hazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. A MSW landfill may be either publicly or privately owned. A MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion. All references in this subsection to 40 CFR Part 60 rules mean those rules in effect on July 1, 2000.

(a) **Applicability.** These rules apply to each MSW landfill constructed, reconstructed, or modified before May 30, 1991; and the MSW landfill accepted waste at any time since November 8, 1987 or the landfill has additional capacity for future waste deposition. (See WAC 173-400-115(2) for the requirements for MSW landfills constructed, reconstructed, or modified on or after May 30, 1991.) Terms in this subsection have the meaning given them in 40 CFR 60.751, except that every use of the word "administrator" in the federal rules referred to in this subsection includes the "permitting ~~((agency))~~ authority."

(b) **Exceptions.** Any physical or operational change to an MSW landfill made solely to comply with these rules is not considered a modification or rebuilding.

(c) **Standards for MSW landfill emissions.**

(i) A MSW landfill having a design capacity less than 2.5 million megagrams or 2.5 million cubic meters must comply with the requirements of 40 CFR 60.752(a) in addition to the applicable requirements specified in this section.

(ii) A MSW landfill having design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must comply with the requirements of 40 CFR 60.752(b) in addition to the applicable requirements specified in this section.

(d) **Recordkeeping and reporting.** A MSW landfill must follow the recordkeeping and reporting requirements in 40 CFR 60.757 (submittal of an initial design capacity report) and 40 CFR 60.758 (recordkeeping requirements), as applicable, except as provided for under (d)(i) and (ii).

(i) The initial design capacity report for the facility is due before September 20, 2001.

(ii) The initial nonmethane organic compound (NMOC) emissions rate report is due before September 20, 2001.

(e) **Test methods and procedures.**

(i) A MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must calculate the landfill nonmethane organic compound emission rates following the procedures listed in 40 CFR 60.754, as applicable, to determine whether the rate equals or exceeds 50 megagrams per year.

(ii) Gas collection and control systems must meet the requirements in 40 CFR 60.752 (b)(2)(ii) through the following procedures:

(A) The systems must follow the operational standards in 40 CFR 60.753.



(B) The systems must follow the compliance provisions in 40 CFR 60.755 (a)(1) through (a)(6) to determine whether the system is in compliance with 40 CFR 60.752 (b)(2)(ii).

(C) The system must follow the applicable monitoring provisions in 40 CFR 60.756.

(f) Conditions. Existing MSW landfills that meet the following conditions must install a gas collection and control system:

(i) The landfill accepted waste at any time since November 8, 1987, or the landfill has additional design capacity available for future waste deposition;

(ii) The landfill has design capacity greater than or equal to 2.5 million megagrams or 2.5 million cubic meters. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exception values. Any density conversions shall be documented and submitted with the report; and

(iii) The landfill has a nonmethane organic compound (NMOC) emission rate of 50 megagrams per year or greater.

(g) Change in conditions. After the adoption date of this rule, a landfill that meets all three conditions in (e) of this subsection must comply with all the requirements of this section within thirty months of the date when the conditions were met. This change will usually occur because the NMOC emission rate equaled or exceeded the rate of 50 megagrams per year.

(h) Gas collection and control systems.

(i) Gas collection and control systems must meet the requirements in 40 CFR 60.752 (b)(2)(ii).

(ii) The design plans must be prepared by a licensed professional engineer and submitted to the permitting ((agency)) authority within one year after the adoption date of this section.

(iii) The system must be installed within eighteen months after the submittal of the design plans.

(iv) The system must be operational within thirty months after the adoption date of this section.

(v) The emissions that are collected must be controlled in one of three ways:

(A) An open flare designed and operated according to 40 CFR 60.18;

(B) A control system designed and operated to reduce NMOC by 98 percent by weight; or

(C) An enclosed combustor designed and operated to reduce the outlet NMOC concentration to 20 parts per million as hexane by volume, dry basis to three percent oxygen, or less.

(i) Air operating permit.

(i) A MSW landfill that has a design capacity less than 2.5 million megagrams or 2.5 million cubic meters on January 7, 2000, is not subject to the air operating permit regulation, unless the landfill is subject to chapter 173-401 WAC for some other reason. If the design capacity of an exempted MSW landfill subsequently increases to equal or exceed 2.5 million megagrams or 2.5 million cubic meters by a change that is not a modification or reconstruction, the landfill is subject to chapter 173-401 WAC on the date the amended design capacity report is due.

(ii) A MSW landfill that has a design capacity equal to or greater than 2.5 million megagrams or 2.5 million cubic

meters on January 7, 2000, is subject to chapter 173-401 WAC beginning on the effective date of this section. (Note: Under 40 CFR 62.14352(e), an applicable MSW landfill must have submitted its application so that by April 6, 2001, the permitting ((agency)) authority was able to determine that it was timely and complete. Under 40 CFR 70.7(b), no source may operate after the time that it is required to submit a timely and complete application.)

(iii) When a MSW landfill is closed, the owner or operator is no longer subject to the requirement to maintain an operating permit for the landfill if the landfill is not subject to chapter 173-401 WAC for some other reason and if either of the following conditions are met:

(A) The landfill was never subject to the requirement for a control system under 40 CFR 62.14353; or

(B) The landfill meets the conditions for control system removal specified in 40 CFR 60.752 (b)(2)(v).

AMENDATORY SECTION (Amending Order 02-09, filed 7/11/02, effective 8/11/02)

**WAC 173-400-075 Emission standards for sources emitting hazardous air pollutants. (1) National emission standards for hazardous air pollutants (NESHAPs).** 40 CFR Part 61 and Appendices in effect on ((May 15, 2002)) July 1, 2004, is adopted by reference. The term "administrator" in 40 CFR Part 61 includes the permitting ((agency)) authority.

(2) The permitting ((agency)) authority may conduct source tests and require access to records, books, files, and other information specific to the control, recovery, or release of those pollutants regulated under 40 CFR Parts 61, 62, 63 and/or 65 in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.

(3) Source testing, monitoring, and analytical methods for sources of hazardous air pollutants must conform with the requirements of 40 CFR Parts 61, 62, 63 and/or 65.

(4) This section does not apply to any source operating under a waiver granted by EPA or an exemption granted by the president of the United States.

(5) Where EPA has delegated to the permitting authority, the authority to receive reports under 40 CFR Parts 61 or 63, from the affected facility in lieu of providing such report to EPA, the affected facility is required to provide such reports only to the permitting authority unless otherwise requested in writing by the permitting authority or EPA.

**(6) Maximum achievable control technology (MACT) standards.** MACT standards are officially known as **National Emission Standards for Hazardous Air Pollutants for Source Categories.**

(a) Adopt by reference.

40 CFR Part 63 and Appendices in effect on ((May 15, 2002)) October 1, 2004, is adopted by reference (except for subparts C and E, which are nondelegable responsibilities of EPA). Exceptions are listed in ((S)) (6)(b) of this section.

The following list of subparts to 40 CFR 63 which are shown as blank or reserved as of the date listed above, is provided for informational purposes only: Subparts K, P, V, Z,

FF, NN, ZZ, AAA, BBB, FFF, KKK, SSS, WWW, YYY, ZZZ, BBBB, DDDD, DDDDD, OOOOO.

((Subpart A General Provisions  
 Subpart B Requirements for Control Technology Determinations for Major Sources in accordance with Clean Air Act Sections 112(g) and 112(j)  
 Subpart D Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants  
 Subpart F National Emissions Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry  
 Subpart G National Emissions Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry: Process Vents, Storage Vessels, Transfer Operations, and Wastewater  
 Subpart H National Emissions Standards for Organic Hazardous Air Pollutants for the Equipment Leaks  
 Subpart I National Emissions Standards for Organic Hazardous Air Pollutants for certain Processes Subject to the Negotiated Regulation for Equipment Leaks  
 Subpart L National Emissions Standards for Coke Oven Batteries  
 Subpart M National Perchloroethylene Air Emissions Standards for Dry Cleaning Facilities (as applicable to major sources)  
 Subpart N National Emissions Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks  
 Subpart O Ethylene Oxide Emissions Standards for Sterilization Facilities  
 Subpart Q National Emissions Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers  
 Subpart R Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)  
 Subpart S National Emissions Standards for Hazardous Air Pollutants from Pulp and Paper Industry  
 Subpart T National Emissions Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning Machines  
 Subpart U National Emissions Standards for Hazardous Air Pollutants: Group I Polymers and Resins

Subpart W National Emissions Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production  
 Subpart X National Emissions Standards for Hazardous Air Pollutants for Secondary Lead Smelting  
 Subpart Y National Emissions Standards for Marine Tank Vessel Loading Operations  
 Subpart AA National Emissions Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants  
 Subpart BB National Emissions Standards for Hazardous Air Pollutants from Phosphate Fertilizers Production Plants  
 Subpart CC National Emissions Standards for Hazardous Air Pollutants from Petroleum Refineries  
 Subpart DD National Emissions Standards for Hazardous Air Pollutants from Off-site Waste and Recovery Treatment Operations  
 Subpart EE National Emissions Standards for Magnetic Tape Manufacturing Operations  
 Subpart GG National Emissions Standards for the Aerospace Manufacturing and Rework Facilities  
 Subpart HH National Emissions Standards for Hazardous Air Pollutants from Oil and Natural Gas Production Facilities  
 Subpart II Shipbuilding and Ship Repair (surface coating)  
 Subpart JJ National Emissions Standards for Wood Furniture Manufacturing Operations  
 Subpart KK National Emissions Standards for Printing and Publishing Industry  
 Subpart LL National Emissions Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants  
 Subpart MM National Emissions Standards for Hazardous Air Pollutants from Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand Alone Semi-chemical Pulp Mills  
 Subpart OO National Emissions Standards for Tanks—Level 1  
 Subpart PP National Emissions Standards for Containers  
 Subpart QQ National Emissions Standards for Surface Impoundments  
 Subpart RR National Emissions Standards for Individual Drain Systems

PROPOSED

**Subpart SS** National Emissions Standards for Closed-Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process

**Subpart TT** National Emissions Standards for Equipment Leaks—Control Level 1

**Subpart UU** National Emissions Standards for Equipment Leaks—Control Level 2 Standards

**Subpart VV** National Emissions Standards for Oil-Water Separators and Organic Water Separators

**Subpart WW** National Emissions Standards for Storage Vessels (Tanks)—Control Level 2

**Subpart YY** National Emissions Standards for Hazardous Air Pollutants—Generic Maximum Achievable Control Technology Standards

**Subpart CCC** National Emissions Standards for Hazardous Air Pollutants for Steel Pickling—HCL-Process Facilities and Hydrochloric Acid-Regeneration Plants

**Subpart DDD** National Emissions Standards for Hazardous Air Pollutants for Mineral Wool Production

**Subpart EEE** National Emissions Standards for Hazardous Air Pollutants from Hazardous Waste Combusters

**Subpart GGG** National Emissions Standards for Pharmaceuticals Production

**Subpart HHH** National Emissions Standards for Hazardous Air Pollutants from Natural Gas Transmission and Storage Facilities

**Subpart III** National Emissions Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production

**Subpart JJJ** National Emissions Standards for Hazardous Air Pollutants: Group IV Polymers and Resins

**Subpart LLL** National Emissions Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry

**Subpart MMM** National Emissions Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production

**Subpart NNN** National Emissions Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing

**Subpart OOO** National Emissions Standards for Hazardous Air Pollutants for Manufacture of Amino/Phenolic Resins

**Subpart PPP** National Emissions Standards for Hazardous Air Pollutants for Polyether Polyols Production

**Subpart RRR** National Emissions Standards for Hazardous Air Pollutants for Secondary Aluminum Production. Under WAC 173 401-300 (1)(d), area sources are deferred from the air operating permit regulation until December 4, 2004

**Subpart TTT** National Emissions Standards for Hazardous Air Pollutants for Primary Lead Smelting

**Subpart UUU** National Emissions Standards for Hazardous Air Pollutants from Petroleum Refineries—Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units

**Subpart VVV** National Emissions Standards for Hazardous Air Pollutants from Publicly Owned Treatment Works

**Subpart XXX** National Emissions Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese

**Subpart CCCC** National Emissions Standards for Hazardous Air Pollutants for Manufacturing of Nutritional Yeast

**Subpart GGGG** National Emissions Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production

**Subpart HHHH** National Emissions Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production

**Subpart TTTT** National Emissions Standards for Hazardous Air Pollutants for Leather Finishing Operations

**Subpart VVVV** National Emissions Standards for Hazardous Air Pollutants for Boat Manufacturing

**Appendix A** Test Methods

**Appendix B** Sources Defined for Early Reduction Provisions

**Appendix C** Determination of the Fraction Biodegraded ( $F_{bio}$ ) in a Biological Treatment Unit

**Appendix D** Alternative Validation Procedure for EPA-Waste and Wastewater Methods

**Appendix E** Monitoring Procedures for Nonthoroughly Mixed Open Biological Treatment Systems at Kraft Pulp Mills Under Unsafe Sampling Conditions))

- (b) Exceptions to adopting 40 CFR Part 63 by reference.
  - (i) The term "administrator" in 40 CFR Part 63 includes the **permitting ((agency)) authority**.
  - (ii) The following subparts of 40 CFR Part 63 are not adopted by reference:

PROPOSED

(A) Subpart C: List of Hazardous Air Pollutants, Petition Process, Lesser Quantity Designations, source Category List.

(B) Subpart E: Approval of State Programs and Delegation of Federal Authorities.

(C) Subpart M: National Perchloroethylene Emission Standards for Dry Cleaning Facilities as it applies to non-major sources.

(6) **Consolidated requirements for the synthetic organic chemical manufacturing industry.** 40 CFR Part 65, in effect on July 1, 2001, is adopted by reference.

**(7) Emission Standards for Perchloroethylene Dry Cleaners.**

**(a) Applicability.**

(i) This section applies to all dry cleaning systems that use perchloroethylene (PCE). Table 1 divides dry cleaning facilities into 3 regulatory **source categories** by the type of equipment they use and the volume of PCE purchased. Each dry cleaning system must follow the applicable requirements in Table 1:

TABLE 1. PCE Dry Cleaner Source Categories

Dry cleaning facilities with:	Small area source purchases less than:	Large area source purchases between:	Major source purchases more than:
(1) Only Dry-to-Dry Machines	140 gallons PCE/yr	140-2,100 gallons PCE/yr	2,100 gallons PCE/yr
(2) Only Transfer Machines	200 gallons PCE/yr	200-1,800 gallons PCE/yr	1,800 gallons PCE/yr
(3) Both Dry-to-Dry and Transfer Machines	140 gallons PCE/yr	140-1,800 gallons PCE/yr	1,800 gallons PCE/yr

(ii) Major sources. In addition to the requirements in this section, a dry cleaning system that is considered a major source according to Table 1 must follow the federal requirements for major sources in 40 CFR Part 63, Subpart M (in effect on July 1, 2001).

**(b) Operations and maintenance record.**

(i) Each dry cleaning facility must keep an operations and maintenance record that is available upon request.

(ii) The information in the operations and maintenance record must be kept on-site for five years.

(iii) The operations and maintenance record must contain the following information:

(A) Inspection: The date and result of each inspection of the dry cleaning system. The inspection must note the condition of the system and the time any leaks were observed.

(B) Repair: The date, time, and result of each repair of the dry cleaning system.

(C) Refrigerated condenser information. If you have a refrigerated condenser, enter this information:

(I) The air temperature at the inlet of the refrigerated condenser;

(II) The air temperature at the outlet of the refrigerated condenser;

(III) The difference between the inlet and outlet temperature readings; and

(IV) The date the temperature was taken.

(D) Carbon adsorber information. If you have a carbon adsorber, enter this information:

(I) The concentration of PCE in the exhaust of the carbon adsorber; and

(II) The date the concentration was measured.

(E) A record of the volume of PCE purchased each month must be entered by the first of the following month;

(F) A record of the total amount of PCE purchased over the previous twelve months must be entered by the first of each month;

(G) All receipts of PCE purchases; and

(H) A record of any pollution prevention activities that have been accomplished.

**(c) General operations and maintenance requirements.**

(i) Drain cartridge filters in their housing or other sealed container for at least twenty-four hours before discarding the cartridges.

(ii) Close the door of each dry cleaning machine except when transferring articles to or from the machine.

(iii) Store all PCE, and wastes containing PCE, in a closed container with no perceptible leaks.

(iv) Operate and maintain the dry cleaning system according to the manufacturer's specifications and recommendations.

(v) Keep a copy on-site of the design specifications and operating manuals for all dry cleaning equipment.

(vi) Keep a copy on-site of the design specifications and operating manuals for all emissions control devices.

(vii) Route the PCE gas-vapor stream from the dry cleaning system through the applicable equipment in Table 2:

TABLE 2. Minimum PCE Vapor Vent Control Requirements

Small area source	Large area source	Major source
Refrigerated condenser for all machines installed after September 21, 1993.	Refrigerated condenser for all machines.	Refrigerated condenser with a carbon adsorber for all machines installed after September 21, 1993.

**(d) Inspection.**

(i) The owner or operator must inspect the dry cleaning system at a minimum following the requirements in Table 3:

TABLE 3. Minimum Inspection Frequency

Small area source	Large area source	Major source
Once every 2 weeks.	Once every week.	Once every week.

(ii) An inspection must include an examination of these components for condition and perceptible leaks:

(A) Hose and pipe connections, fittings, couplings, and valves;

(B) Door gaskets and seatings;

(C) Filter gaskets and seatings;

(D) Pumps;

(E) Solvent tanks and containers;

(F) Water separators;

(G) Muck cookers;

(H) Stills;

(I) Exhaust dampers; and

(J) Cartridge filter housings.

(iii) The dry cleaning system must be inspected while it is operating.

(iv) The date and result of each inspection must be entered in the operations and maintenance record at the time of the inspection.

**(e) Repair.**

(i) Leaks must be repaired within twenty-four hours of detection if repair parts are available.

(ii) If repair parts are unavailable, they must be ordered within two working days of detecting the leak.

(iii) Repair parts must be installed as soon as possible, and no later than five working days after arrival.

(iv) The date and time each leak was discovered must be entered in the operations and maintenance record.

(v) The date, time, and result of each repair must be entered in the operations and maintenance record at the time of the repair.

**(f) Requirements for systems with refrigerated condensers.** A dry cleaning system using a refrigerated condenser must meet all of the following requirements:

(i) Outlet air temperature.

(A) Each week the air temperature sensor at the outlet of the refrigerated condenser must be checked.

(B) The air temperature at the outlet of the refrigerated condenser must be less than or equal to 45°F (7.2°C) during the cool-down period.

(C) The air temperature must be entered in the operations and maintenance record manual at the time it is checked.

(D) The air temperature sensor must meet these requirements:

(I) An air temperature sensor must be permanently installed on a dry-to-dry machine, dryer or reclaiming machine at the outlet of the refrigerated condenser. The air temperature sensor must be installed by September 23, 1996, if the dry cleaning system was constructed before December 9, 1991.

(II) The air temperature sensor must be accurate to within 2°F (1.1°C).

(III) The air temperature sensor must be designed to measure at least a temperature range from 32°F (0°C) to 120°F (48.9°C); and

(IV) The air temperature sensor must be labeled "RC outlet."

(ii) Inlet air temperature.

(A) Each week the air temperature sensor at the inlet of the refrigerated condenser installed on a washer must be checked.

(B) The inlet air temperature must be entered in the operations and maintenance record at the time it is checked.

(C) The air temperature sensor must meet these requirements:

(I) An air temperature sensor must be permanently installed on a washer at the inlet of the refrigerated condenser. The air temperature sensor must be installed by September 23, 1996, if the dry cleaning system was constructed before December 9, 1991.

(II) The air temperature sensor must be accurate to within 2°F (1.1°C).

(III) The air temperature sensor must be designed to measure at least a temperature range from 32°F (0°C) to 120°F (48.9°C).

(IV) The air temperature sensor must be labeled "RC inlet."

(iii) For a refrigerated condenser used on the washer unit of a transfer system, the following are additional requirements:

(A) Each week the difference between the air temperature at the inlet and outlet of the refrigerated condenser must be calculated.

(B) The difference between the air temperature at the inlet and outlet of a refrigerated condenser installed on a washer must be greater than or equal to 20°F (11.1°C).

(C) The difference between the inlet and outlet air temperature must be entered in the operations and maintenance record each time it is checked.

(iv) A converted machine with a refrigerated condenser must be operated with a diverter valve that prevents air drawn into the dry cleaning machine from passing through the refrigerated condenser when the door of the machine is open;

(v) The refrigerated condenser must not vent the air-PCE gas-vapor stream while the dry cleaning machine drum is rotating or, if installed on a washer, until the washer door is opened; and

(vi) The refrigerated condenser in a transfer machine may not be coupled with any other equipment.

**(g) Requirements for systems with carbon adsorbers.** A dry cleaning system using a carbon adsorber must meet all of the following requirements:

(i) Each week the concentration of PCE in the exhaust of the carbon adsorber must be measured at the outlet of the carbon adsorber using a colorimetric detector tube.

(ii) The concentration of PCE must be written in the operations and maintenance record each time the concentration is checked.

(iii) If the dry cleaning system was constructed before December 9, 1991, monitoring must begin by September 23, 1996.

(iv) The colorimetric tube must meet these requirements:

(A) The colorimetric tube must be able to measure a concentration of 100 parts per million of PCE in air.

(B) The colorimetric tube must be accurate to within 25 parts per million.

(C) The concentration of PCE in the exhaust of the carbon adsorber must not exceed 100 ppm while the dry clean-

ing machine is venting to the carbon adsorber at the end of the last dry cleaning cycle prior to desorption of the carbon adsorber.

(v) If the dry cleaning system does not have a permanently fixed colorimetric tube, a sampling port must be provided within the exhaust outlet of the carbon adsorber. The sampling port must meet all of these requirements:

(A) The sampling port must be easily accessible;

(B) The sampling port must be located 8 stack or duct diameters downstream from a bend, expansion, contraction or outlet; and

(C) The sampling port must be 2 stack or duct diameters upstream from a bend, expansion, contraction, inlet or outlet.

**AMENDATORY SECTION** (Amending Order 93-40, filed 3/22/95, effective 4/22/95)

**WAC 173-400-099 Registration program.** (1) Program purpose.

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

(b) Permit program sources, as defined in RCW 70.94-.030(17), are not required to comply with the registration requirements of WAC 173-400-100 through 173-400-104.

(2) Program components. The components of the registration program consist of:

(a) Initial registration and annual or other periodic reports from stationary source owners providing information on location, size, height of contaminant outlets, processes employed, nature and quantity of the air contaminant emissions, and other information that is relevant to air pollution and available or reasonably capable of being assembled. For purposes of this chapter, information relevant to air pollution may include air pollution requirements established by rule, regulatory order, or ordinance pursuant to chapter 70.94 RCW.

(b) On-site inspections necessary to verify compliance with registration requirements.

(c) Data storage and retrieval systems necessary for support of the registration program.

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

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

(f) Clerical and other office support in direct furtherance of the registration program.

(g) Administrative support provided in directly carrying out the registration program.

**AMENDATORY SECTION** (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-100 Source classifications.** (1) **Source classification list.** In counties without a local authority, or for sources under the jurisdiction of ecology, the owner or oper-

ator of each **source** within the following **source categories** shall register the **source** with **ecology**:

(a) Agricultural chemical facilities engaging in the manufacturing of liquid or dry fertilizers or pesticides;

(b) Agricultural drying and dehydrating operations;

(c) Any category of **stationary source(s)** that includes an emissions unit subject to a **new source performance standard (NSPS)** under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters);

(d) Any **source, or emissions unit** subject to a **National Emission Standard for Hazardous Air Pollutants (NES-HAP)** under 40 CFR Part 61, other than:

(i) Subpart M (National Emission Standard for Asbestos); or

(ii) Sources or emission units emitting only radionuclides, which are required to obtain a license under WAC 246-247-060, and are subject to 40 CFR Part 61, subparts H and/or I;

(e) Any **source, or emissions unit** subject to a **National Emission Standard for Hazardous Air Pollutants for Source Categories** (Maximum Achievable Control Technology (MACT) standard) under 40 CFR Part 63;

(f) Any **source, stationary source or emission unit** with an emission rate of one or more pollutants equal to or greater than an "emission threshold" defined ((as "significant")) in WAC ((173-400-112 and/or 173-400-113, as applicable)) 173-400-030;

(g) Asphalt and asphalt products production facilities;

(h) Brick and clay manufacturing plants, including tiles and ceramics;

(i) Casting facilities and foundries, ferrous and nonferrous;

(j) Cattle feedlots with operational facilities which have an inventory of one thousand or more cattle in operation between June 1 and October 1, where vegetation forage growth is not sustained over the majority of the lot during the normal growing season;

(k) Chemical manufacturing plants;

(l) Composting operations, including commercial, industrial and municipal, but exempting residential composting activities;

(m) Concrete product manufacturers and ready mix and premix concrete plants;

(n) Crematoria or animal carcass **incinerators**;

(o) Dry cleaning plants;

(p) **Materials handling** and transfer facilities that generate fine particulate, which may include pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems that exhaust to the atmosphere;

(q) Flexible vinyl and urethane coating and printing operations;

(r) Grain, seed, animal feed, legume, and flour processing operations, and handling facilities;

(s) Hay cubers and pelletizers;

(t) Hazardous waste treatment and disposal facilities;

(u) Ink manufacturers;

(v) Insulation fiber manufacturers;

(w) Landfills, active and inactive, including covers, gas collections systems or flares;

- (x) Metal plating and anodizing operations;
- (y) Metallic and nonmetallic mineral processing plants, including rock crushing plants;
- (z) Mills such as lumber, plywood, shake, shingle, wood-chip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;
  - (aa) Mineralogical processing plants;
  - (bb) Other metallurgical processing plants;
  - (cc) Paper manufacturers;
  - (dd) Petroleum refineries;
  - (ee) Petroleum product blending operations;
  - ~~((ff))~~ (gg) Plastics and fiberglass product fabrication facilities;
  - ~~((gg))~~ (hh) Rendering plants;
  - ~~((hh))~~ (ii) Soil and ground water remediation projects;
  - ~~((ii))~~ (jj) Surface coating manufacturers;
  - ~~((jj))~~ (kk) Surface coating operations including: Automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper and other substrates;
  - ~~((kk))~~ (ll) Synthetic fiber production facilities;
  - ~~((ll))~~ (mm) Synthetic organic chemical manufacturing industries;
  - ~~((mm))~~ (nn) Tire recapping facilities;
  - ~~((nn))~~ (oo) Wastewater treatment plants;
  - ~~((oo))~~ (pp) Any source that has elected to opt-out of the operating permit program by limiting its potential-to-emit (**synthetic minor**) or is required to report periodically to demonstrate nonapplicability to EPA requirements under Sections 111 or 112 of Federal Clean Air Act.
- (2) **Equipment classification list.** In counties without a local **authority**, the owner or operator of the following equipment shall register the **source** with **ecology**:
  - (a) Boilers, all solid and liquid fuel burning boilers with the exception of those utilized for residential heating;
  - (b) Boilers, all gas fired boilers above 10 million British thermal units per hour input;
  - (c) Chemical concentration evaporators;
  - (d) Degreasers of the cold or vapor type in which more than five percent of the solvent is comprised of halogens or such aromatic hydrocarbons as benzene, ethylbenzene, toluene or xylene;
  - (e) Ethylene oxide (ETO) sterilizers;
  - (f) Flares utilized to combust any gaseous material;
  - (g) Fuel burning equipment with a heat input of more than 1 million Btu per hour; except heating, air conditioning systems, or ventilating systems not designed to remove contaminants generated by or released from equipment;
  - (h) **Incinerators** designed for a capacity of one hundred pounds per hour or more;
  - (i) Ovens, burn-out and heat-treat;
  - (j) Stationary internal combustion engines and turbines rated at five hundred horsepower or more;
  - (k) Storage tanks for organic liquids associated with commercial or industrial facilities with capacities equal to or greater than 40,000 gallons;
  - (l) Vapor collection systems within commercial or industrial facilities;
  - (m) Waste oil burners above 0.5 mm Btu heat output;
  - (n) Woodwaste **incinerators**;
  - (o) Commercial and industrial solid waste incineration units subject to WAC 173-400-050(4);

- (p) Small municipal waste combustion units subject to WAC 173-400-050(5).

AMENDATORY SECTION (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-102 Scope of registration and reporting requirements.** (1) **Administrative options.** A source in a listed **source category** that is located in a county without an active local **authority** will be addressed in one of several ways:

(a) The **source** will be required to register and report once each year. The criteria for identifying these **sources** are listed in subsection (2) of this section.

(b) The **source** will be required to register and report once every three years. The criteria for identifying these **sources** are listed in subsection (3) of this section.

(c) The **source** will be exempted from registration program requirements. The criteria for identifying these **sources** are listed in subsection (4) of this section.

(2) **Sources requiring annual registration and inspections.** An owner or operator of a **source** in a listed **source category** that meets any of the following criteria shall register and report once each year:

(a) The **source** emits one or more **air pollutants** at rates greater than the "emission threshold" rates (~~(listed in the definition of "significant")~~) defined in WAC (~~(173-400-112 and/or 173-400-113, as applicable)~~) 173-400-030;

(b) Annual registration and reporting is necessary to comply with federal reporting requirements or **emission standards**; or

(c) Annual registration and reporting is required in a **reasonably available control technology** determination for the **source category**; or

(d) The **director of ecology** determines that the **source** poses a potential threat to human health and the environment.

(3) **Sources requiring periodic registration and inspections.** An owner or operator of a **source** in a listed **source category** that meets any of the following criteria shall register and report once every three years:

(a) The **source** emits one or more **air pollutants** at rates greater than the emission rates listed in subsection (5) of this section and all **air pollutants** at rates less than the "emission threshold" rates (~~(listed in the definition of "significant")~~) defined in WAC (~~(173-400-112 and/or 173-400-113, as applicable)~~) 173-400-030; or

(b) The **source** emits measurable amounts of one or more Class A or Class B **toxic air pollutants** listed in WAC 173-460-150 and 173-460-160.

(4) **Sources exempt from registration program requirements.** Any **source** included in a listed **source category** that is located in a county without an active local **authority** shall not be required to register if **ecology** determines the following:

(a) The **source** emits pollutants below **emission** rates specified in subsection (5) of this section; and

(b) The **source** or **emission unit** does not emit measurable amounts of Class A or Class B **toxic air pollutants** specified in WAC 173-460-150 and 173-460-160.

(5) **Criteria for defining exempt sources.** The following emission rates will be used to identify listed sources that are exempt from registration program requirements:

Pollutant	Tons/Year
Carbon Monoxide . . . . .	5.0
Nitrogen oxides . . . . .	2.0
Sulfur dioxide . . . . .	2.0
<b>Particulate Matter (PM)</b> . . . . .	1.25
Fine Particulate (PM10) . . . . .	0.75
<b>Volatile organic compounds (VOC)</b> . . . . .	2.0
Lead . . . . .	0.005

AMENDATORY SECTION (Amending Order 98-27, filed 11/22/00, effective 12/23/00)

**WAC 173-400-104 Registration fees.** (1) Registration fee determination. In counties without an active local air pollution control authority, ecology shall establish registration fees based on workload using the process outlined below. The fees collected shall be sufficient to cover the direct and indirect costs of administering the registration program within ecology's jurisdiction.

(2) Budget preparation. Ecology shall conduct a workload analysis projecting resource requirements for administering the registration program. Workload estimates shall be prepared on a biennial basis and shall estimate the resources required to perform registration program activities listed in WAC 173-400-099(2). Ecology shall prepare a budget for administering the registration program using workload estimates identified in the workload analysis for the biennium.

(3) Registration fee schedule. Ecology's registration program budget shall be distributed to sources located in its jurisdiction according to the following:

(a) Sources requiring periodic registration and inspections shall pay an annual registration fee of four hundred dollars.

(b) Sources requiring annual registration and inspections shall pay a registration fee comprised of the following three components:

(i) Flat component. This portion of a source's fee shall be calculated by the equal division of thirty-five percent of the budget amount allocated to annual registration sources by the total number of sources requiring annual registration.

(ii) Complexity component. Each source is assigned a complexity rating of 1, 3, or 5 which is based on the estimated amount of time needed to review and inspect the source. This portion of the fee is calculated by dividing forty percent of the budget amount allocated to annually registered sources by the total complexity of sources located in ecology's jurisdiction. The quotient is then multiplied by an individual source's complexity rating to determine that source's complexity portion of the fee.

(iii) Emissions component. This portion of a source's fee is calculated by dividing twenty-five percent of the budget amount allocated to annually registered sources by the total billable emissions from those sources. The quotient is then multiplied by an individual source's billable emissions to determine that source's emissions portion of the fee. Billable

emissions include all air pollutants except carbon monoxide and total suspended particulate.

(4) Regulatory orders. Owners or operators registering a source as a synthetic minor must obtain a regulatory order which limits the source's emissions. The owner will be required to pay a fee based on the amount of time required to research and write the order multiplied by an hourly rate of sixty dollars.

(5) Fee reductions for pollution prevention initiatives. Ecology may reduce registration fees for an individual source if that source demonstrates the use of approved pollution prevention measures or best management practices beyond those required of the source.

(6) Fee reductions for economic hardships. If a small business owner believes the registration fee results in an extreme economic hardship, the small business owner may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which ecology may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the registration fee through to customers; average annual profits, and cumulative effects of multiple site ownership. In no case will a registration fee be reduced below two hundred dollars.

(7) Fee payments. Fees specified in this section shall be paid within thirty days of receipt of ecology's billing statement. All fees collected under this regulation shall be made payable to the Washington department of ecology. A late fee surcharge of fifty dollars or ten percent of the fee, whichever is more, may be assessed for any fee not received after the thirty-day period.

(8) Dedicated account. All registration fees collected by ecology shall be deposited in the air pollution control account.

(9) Tracking revenues, time, and expenditures. Ecology shall track revenues collected under this subsection on a source-specific basis. Ecology shall track time and expenditures on the basis of ecology budget functions.

(10) Additional registration fee for fossil fueled electric generating facilities. A fossil fueled electric generating facility subject to the provisions of chapter 80.70 RCW and RCW 70.94.892, is subject to additional fees pursuant to that chapter.

AMENDATORY SECTION (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-105 Records, monitoring, and reporting.** The owner or operator of a source shall upon notification by the director of ecology, maintain records on the type and quantity of emissions from the source and other information deemed necessary to determine whether the source is in compliance with applicable emission limitations and control measures.

(1) **Emission inventory.** The owner(s) or operator(s) of any air contaminant source shall submit an inventory of emissions from the source each year. The inventory ((may))

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will include stack and fugitive emissions of particulate matter, PM-10, PM-2.5, sulfur dioxide, oxides of nitrogen, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, VOCs, ammonia, and other contaminants (and)). The format for the submittal of these inventories will be specified by the permitting authority or ecology. When submittal of emission inventory information is requested, the emissions inventory shall be submitted ((when required)) no later than one hundred five days after the end of the calendar year. The owner(s) or operator(s) shall maintain records of information necessary to substantiate any reported emissions, consistent with the averaging times for the applicable standards.

(2) **Monitoring.** Ecology shall conduct a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of **air contaminants**. As a part of this program, the **director of ecology** or an authorized representative may require any **source** under the jurisdiction of **ecology** to conduct **stack** and/or **ambient air** monitoring and to report the results to **ecology**.

(3) **Investigation of conditions.** Upon presentation of appropriate credentials, for the purpose of investigating conditions specific to the control, recovery, or release of **air contaminants** into the atmosphere, **personnel** from **ecology** or an **authority** shall have the power to enter at reasonable times upon any private or public property, excepting nonmultiple unit private dwellings housing one or two families.

(4) **Source testing.** To demonstrate compliance, **ecology** or the **authority** may conduct or require that a test be conducted of the **source** using approved **EPA** methods from 40 CFR parts 51, 60, 61 and 63 (in effect on ((February 20, 2001)) July 1, 2004), or ((approved)) procedures contained in "**Source Test Manual - Procedures for Compliance Testing**," state of Washington, department of **ecology**, as of July 12, 1990, on file at **ecology**. The operator of a **source** may be required to provide the necessary platform and sampling ports for **ecology** personnel or others to perform a test of an **emissions unit**. **Ecology** shall be allowed to obtain a sample from any **emissions unit**. The operator of the **source** shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

(5) **Continuous monitoring and recording.** Owners and operators of the following categories of **sources** shall install, calibrate, maintain and operate equipment for continuous monitoring and recording those **emissions** specified.

(a) Fossil fuel-fired steam generators.

(i) **Opacity**, except where:

(A) Steam generator capacity is less than two hundred fifty million BTU per hour heat input; or

(B) Only gaseous fuel is burned.

(ii) Sulfur dioxide, except where steam generator capacity is less than two hundred fifty million BTU per hour heat input or if sulfur dioxide control equipment is not required.

(iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur dioxide continuous **emission** monitoring data.

(iv) General exception. These requirements do not apply to a fossil fuel-fired steam generator with an annual average **capacity factor** of less than thirty percent, as reported to the Federal Power Commission for calendar year 1974, or as oth-

erwise demonstrated to **ecology** or the **authority** by the owner(s) or operator(s).

(b) **Sulfuric acid plants.** Sulfur dioxide where production capacity is more than three hundred tons per day, expressed as one hundred percent acid, except for those facilities where conversion to sulfuric acid is utilized primarily as a means of preventing **emissions** to the atmosphere of sulfur dioxide or other sulfur compounds.

(c) Fluid bed catalytic cracking units catalyst regenerators at petroleum refineries. **Opacity** where fresh feed capacity is more than twenty thousand barrels per day.

(d) Wood residue fuel-fired steam generators.

(i) **Opacity**, except where steam generator capacity is less than one hundred million BTU per hour heat input.

(ii) Continuous monitoring equipment. The requirements of (e) of this subsection do not apply to wood residue fuel-fired steam generators, but continuous monitoring equipment required by (d) of this subsection shall be subject to approval by **ecology**.

(e) Owners and operators of those **sources** required to install continuous monitoring equipment under this subsection shall demonstrate to **ecology** or the **authority**, compliance with the equipment and performance specifications and observe the reporting requirements contained in 40 CFR Part 51, Appendix P, Sections 3, 4 and 5 (in effect on ((October 17, 2000)) July 1, 2004).

(f) Special considerations. If for reason of physical plant limitations or extreme economic situations, **ecology** determines that continuous monitoring is not a reasonable requirement, alternative monitoring and reporting procedures will be established on an individual basis. These will generally take the form of **stack** tests conducted at a frequency sufficient to establish the **emission** levels over time and to monitor deviations in these levels.

(g) Exemptions. This subsection (5) does not apply to any ((source which is:

(i) ~~Subject to a new source performance standard. These sources will be governed by WAC 173 400 115.~~

(ii) ~~Not subject to an applicable emission standard)) continuous emissions monitoring requirement imposed by standard or requirement under 40 CFR Parts 60, 61, 62, 63, or 75 or a permitting authority's adoption by reference of such federal standards.~~

(h) Monitoring system malfunctions. A **source** may be temporarily exempted from the monitoring and reporting requirements of this chapter during periods of monitoring system malfunctions provided that the **source** owner(s) or operator(s) shows to the satisfaction of ((ecology or)) the permitting authority that the malfunction was unavoidable and is being repaired as expeditiously as practicable.

(6) Change in raw materials or fuels for **sources** not subject to requirements of the operating permit program. Any change or series of changes in raw material or fuel which will result in a cumulative increase in **emissions** of sulfur dioxide of forty tons per year or more over that stated in the initial inventory required by subsection (1) of this section shall require the submittal of sufficient information to **ecology** or the **authority** to determine the effect of the increase upon ambient concentrations of sulfur dioxide. **Ecology** or the **authority** may issue **regulatory orders** requiring controls to

reduce the effect of such increases. Cumulative changes in raw material or fuel of less than 0.5 percent increase in average annual sulfur content over the initial inventory shall not require such notice.

(7) No person shall make any false material statement, representation or certification in any form, notice or report required under chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit or order in force pursuant thereto.

(8) No person shall render inaccurate any monitoring device or method required under chapter 70.94 or 70.120 RCW, or any ordinance, resolution, regulation, permit, or order in force pursuant thereto.

AMENDATORY SECTION (Amending Order 93-03, filed 8/20/93, effective 9/20/93)

~~WAC 173-400-107 Excess emissions. (1) ((The owner or operator of a source shall have the burden of proving to ecology or the authority or the decision-making authority in an enforcement action that excess emissions were unavoidable. This demonstration shall be a condition to obtaining relief under subsections (4), (5) and (6) of this section.~~

~~(2) Excess emissions determined to be unavoidable under the procedures and criteria in this section shall be excused and not subject to penalty.~~

~~(3) Excess emissions which represent a potential threat to human health or safety or which the owner or operator of the source believes to be unavoidable shall be reported to ecology or the authority as soon as possible. Other excess emissions shall be reported within thirty days after the end of the month during which the event occurred or as part of the routine emission monitoring reports. Upon request by ecology or the authority, the owner(s) or operator(s) of the source(s) shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.)~~ Applicability. This provision establishes an affirmative defense to an action for penalties for emissions in excess of an emission standard or limitation, provided that all of the requirements in subsection (4), (5), or (6) of this section are met. This provision applies to all emission standards or limitations except for those:

(a) Under 40 CFR Parts 60, 61, 62, or 63 or a permitting authority's adoption by reference of such federal standards; or

(b) Promulgated under Titles IV or VI of the Clean Air Act, or a permitting authority's adoption by reference of such federal standards.

(2) Excess emissions determined to meet the requirements and procedures of subsections (4), (5), or (6) of this section, as applicable, are subject to injunctive relief, but not subject to penalty.

(3) Reporting and recording of excess emissions:

(a) Excess emissions at a chapter 173-401 WAC source shall be recorded and reported as required in its chapter 173-401 WAC permit pursuant to WAC 173-401-615(3).

(b) Excess emissions at a nonchapter 173-401 WAC source that represent a potential threat to human health and safety shall be reported to the permitting authority as soon as possible but in no case later than twelve hours after the excess

emissions were discovered. A follow-up written report is required to be submitted within thirty days.

(c) Excess emissions at a nonchapter 173-401 WAC source which do not represent a potential threat to human health or safety shall be reported to the permitting authority within thirty days after the end of the month in which the excess emissions were discovered. Written reports shall include the date and time of the occurrence, known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.

(d) A written contemporaneous record of all excess emissions shall be kept. The record shall include the estimated quantity of emissions released, the probable cause of such excess emissions and any corrective actions or preventive measures taken.

(4) Excess emissions due to startup or shutdown conditions shall be considered unavoidable provided the source records and reports as required under subsection (3) of this section and adequately demonstrates that the excess emissions could not have been prevented through careful planning and design and if a bypass of control equipment occurs, that such bypass is necessary to prevent loss of life, personal injury, or severe property damage.

(5) Maintenance. Excess emissions due to scheduled maintenance shall be considered unavoidable if the source records and reports as required under subsection (3) of this section and adequately demonstrates that the excess emissions could not have been avoided through reasonable design, better scheduling for maintenance or through better operation and maintenance practices.

(6) Excess emissions due to upsets shall be considered unavoidable provided the source records and reports as required under subsection (3) of this section and adequately demonstrates that:

(a) The event was beyond the reasonable control of the owner or operator, and was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;

(b) The event was not of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(c) The operator took immediate and appropriate corrective action in a manner consistent with safety and good air pollution control practice for minimizing emissions during the event, taking into account the total emissions impact of the corrective action, including slowing or shutting down the emission unit as necessary to minimize emissions, when the operator knew or should have known that an emission standard or permit condition was being exceeded.

AMENDATORY SECTION (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

WAC 173-400-110 New source review (NSR). In lieu of filing a notice of construction application under this section, the owner or operator may apply for coverage under an applicable general order of approval issued under WAC 173-400-560. Coverage under a general order of approval satisfies the requirement for new source review under RCW 70.94.152.

(1) **Applicability.** This section, WAC 173-400-112 and ((173-400-113)) 173-400-720 apply statewide except where an **authority** has adopted its own **new source** review rule.

(2) **Projects subject to NSR - notice of construction application.**

(a) A notice of construction application must be filed by the owner or operator and an order of approval issued by the permitting ((agency)) **authority** prior to the establishment of any new source, except for the following:

(i) Those sources exempt under subsection (4) or (5) of this section; and

(ii) A source regulated under WAC 173-400-035.

For purposes of this section "establishment" shall mean to begin actual construction, as that term is defined in WAC 173-400-030, and "new source" shall include any modification to an existing stationary source, as defined in WAC 173-400-030.

(b) Regardless of any other subsection of this section, a notice of construction application must be filed and an order of approval issued by the permitting ((agency)) **authority** prior to establishment of any of the following new sources:

(i) Any project that qualifies as construction, reconstruction or modification of an affected facility, within the meaning of 40 CFR Part 60 (**New Source Performance Standards**), except Part AAA, Wood stoves (in effect on February 20, 2001);

(ii) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (**National Emission Standards for Hazardous Air Pollutants**) (in effect on ((February 20, 2001)) July 1, 2004), except for asbestos demolition and renovation projects subject to 40 CFR 61.145, and except from sources or emission units emitting only radionuclides, which are required to obtain a license under WAC 246-247-060, and are subject to 40 CFR Part 61, subparts H and/or I;

(iii) Any project that qualifies as a new source within the meaning of 40 CFR 63.2 (**National Emission Standards for Hazardous Air Pollutants for Source Categories**) (in effect on ((February 20, 2001)) July 1, 2004);

(iv) Any project that qualifies as a new **major stationary source**, or a **major modification to a major stationary source subject to the requirements of WAC 173-400-112;**

(v) Any **modification** to a source that requires an increase either in a plant-wide cap or in a unit specific **emission limit.**

(c) An applicant filing a **notice of construction application** for a project described in WAC 173-400-117(2), Special protection requirements for **Class I areas**, must send a copy of the application to the responsible **federal land manager.**

(3) **Modifications.** New source review of a **modification** shall be limited to the **emission unit** or **units** proposed to be added to an existing source or modified and the **air contaminants** whose **emissions** would increase as a result of the **modification**; provided, however, that review of a **major modification** must comply with WAC 173-400-112 and/or ((173-400-113)) 173-400-720, as applicable.

(4) **Emission unit and activity exemptions.**

Except as provided in subsection (2) of this section, establishment of a new **emission unit** that falls within one of the categories listed below is exempt from **new source**

review. **Modification** of any **emission unit** listed below is exempt from **new source** review, provided that the modified unit continues to fall within one of the listed categories. The installation or **modification** of a unit exempt under this subsection does not require the filing of a **notice of construction application.**

(a) Maintenance/construction:

(i) Cleaning and sweeping of streets and paved surfaces;

(ii) Concrete application, and installation;

(iii) Dredging wet spoils handling and placement;

(iv) Paving application and maintenance, excluding asphalt plants;

(v) Plant maintenance and upkeep activities (grounds keeping, general repairs, routine house keeping, routine plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.);

(vi) Plumbing installation, plumbing protective coating application and maintenance activities;

(vii) Roofing application;

(viii) Insulation application and maintenance, excluding products for resale;

(ix) Janitorial services and consumer use of janitorial products.

(b) Storage tanks:

Note: It can be difficult to determine requirements for storage tanks. **Ecology** strongly recommends that an owner or operator contact the permitting ((agency)) **authority** to determine the exemption status of storage tanks prior to their installation.

(i) Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils;

(ii) Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;

(iii) Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;

(iv) Process and white water storage tanks;

(v) Operation, loading and unloading of storage tanks and storage vessels, with lids or other appropriate closure and less than 260 gallon capacity (35 cft);

(vi) Operation, loading and unloading of storage tanks, ≤ 1100 gallon capacity, with lids or other appropriate closure, not for use with materials containing toxic air pollutants, as defined in chapter 173-460 WAC, max. VP 550 mm Hg @21°C;

(vii) Operation, loading and unloading storage of butane, propane, or liquefied petroleum gas with a vessel capacity less than 40,000 gallons;

(viii) Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids.

(c) A project with combined aggregate heat inputs of combustion units, ≤ all of the following:

(i) ≤ 500,000 Btu/hr using coal with ≤ 0.5% sulfur or other fuels with ≤ 0.5% sulfur;

(ii) ≤ 500,000 Btu/hr used oil, per the requirements of RCW 70.94.610;

(iii) ≤ 400,000 Btu/hr wood waste or paper;

(iv) < 1,000,000 Btu/hr using kerosene, #1, or #2 fuel oil and with ≤0.05% sulfur;

(v) ≤ 4,000,000 Btu/hr using natural gas, propane, or LPG.

(d) Material handling:

(i) Continuous digester chip feeders;

(ii) Grain elevators not licensed as warehouses or dealers by either the Washington state department of agriculture or the U.S. Department of Agriculture;

(iii) Storage and handling of water based lubricants for metal working where organic content of the lubricant is ≤ 10%;

(iv) Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than one million gallon, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm Hg @21°C, with lids or other appropriate closure.

(e) Water treatment:

(i) Septic sewer systems, not including active wastewater treatment facilities;

(ii) NPDES permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease;

(iii) De-aeration (oxygen scavenging) of water where toxic air pollutants as defined in chapter 173-460 WAC are not emitted;

(iv) Process water filtration system and demineralizer vents;

(v) Sewer manholes, junction boxes, sumps and lift stations associated with wastewater treatment systems;

(vi) Demineralizer tanks;

(vii) Alum tanks;

(viii) Clean water condensate tanks.

(f) Environmental chambers and laboratory equipment:

(i) Environmental chambers and humidity chambers not using **toxic air pollutant** gases, as regulated under chapter 173-460 WAC;

(ii) Gas cabinets using only gases that are not toxic air pollutants regulated under chapter 173-460 WAC;

(iii) Installation or **modification** of a single laboratory fume hood;

(iv) Laboratory calibration and maintenance equipment.

(g) Monitoring/quality assurance/testing:

(i) Equipment and instrumentation used for quality control/assurance or inspection purpose;

(ii) Hydraulic and hydrostatic testing equipment;

(iii) Sample gathering, preparation and management;

(iv) Vents from continuous **emission** monitors and other analyzers.

(h) Miscellaneous:

(i) Single-family residences and duplexes;

(ii) Plastic pipe welding;

(iii) Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;

(iv) Comfort air conditioning;

(v) Flares used to indicate danger to the public;

(vi) Natural and forced air vents and **stacks** for bathroom/toilet activities;

(vii) Personal care activities;

(viii) Recreational fireplaces including the use of barbecues, campfires, and ceremonial fires;

(ix) Tobacco smoking rooms and areas;

(x) Noncommercial smokehouses;

(xi) Blacksmith forges for single forges;

(xii) Vehicle maintenance activities, not including vehicle surface coating;

(xiii) Vehicle or equipment washing (see (c) of this subsection for threshold for boilers);

(xiv) Wax application;

(xv) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;

(xvi) Ozone generators and ozonation equipment;

(xvii) Solar simulators;

(xviii) Ultraviolet curing processes, to the extent that **toxic air pollutant** gases as defined in chapter 173-460 WAC are not emitted;

(xix) Electrical circuit breakers, transformers, or switching equipment installation or operation;

(xx) Pulse capacitors;

(xxi) Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;

(xxii) Fire suppression equipment;

(xxiii) Recovery boiler blow-down tank;

(xxiv) Screw press vents;

(xxv) Drop hammers or hydraulic presses for forging or metal working;

(xxvi) Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;

(xxvii) Kraft lime mud storage tanks and process vessels;

(xxviii) Lime grits washers, filters and handling;

(xxix) Lime mud filtrate tanks;

(xxx) Lime mud water;

(xxxi) Stock cleaning and pressurized pulp washing down process of the brown stock washer;

(xxxii) Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;

(xxxiii) Nontoxic air pollutant, as defined in chapter 173-460 WAC, solvent cleaners less than 10 square feet air-vapor interface with solvent vapor pressure not more than 30 mm Hg @21°C;

(xxxiv) Surface coating, aqueous solution or suspension containing ≤ 1% (by weight) VOCs, and/or toxic air pollutants as defined in chapter 173-460 WAC;

(xxxv) Cleaning and stripping activities and equipment using solutions having ≤ 1% VOCs (by weight); on metallic substances, acid solutions are not exempt;

(xxxvi) Dip coating operations, using materials less than 1% VOCs (by weight) and/or toxic air pollutants as defined in chapter 173-460 WAC.

(5) **Exemptions based on emissions ((thresholds)).**

(a) Except as provided in subsection (2) of this section and in this subsection:

(i) A new **emissions unit** that has a **potential to emit** below each of the ((**threshold**)) levels listed in the table contained in (d) of this subsection is exempt from **new source** review provided that the conditions of (b) of this subsection are met.

(ii) A **modification** to an existing **emissions unit** that increases the unit's **actual emissions** by less than each of the threshold levels listed in the table contained in (d) of this subsection is exempt from **new source** review provided that the conditions of (b) of this subsection are met.

(b) The owner or operator seeking to exempt a project from **new source** review under this section shall notify, and upon request, file a brief project summary with the **permitting ((agency)) authority** prior to **beginning actual construction** on the project. If the **permitting ((agency)) authority** determines that the project will have more than a de minimus impact on air quality, the **permitting ((agency)) authority** may require the filing of a **notice of construction application**. The **permitting ((agency)) authority** may require the owner or operator to demonstrate that the **emissions** increase from the new **emissions unit** is smaller than all of the ~~((thresholds))~~ levels listed below.

(c) The owner/operator may **begin actual construction** on the project thirty-one days after the **permitting ((agency)) authority** receives the summary, unless the **permitting ((agency)) authority** notifies the owner/operator within thirty days that the proposed **new source** requires a **notice of construction application**.

(d) Exemption ~~((threshold))~~ level table:

POLLUTANT	<del>((THRESHOLD))</del> LEVEL (TONS PER YEAR)
(a) Total Suspended Particulates	1.25
(b) PM-10	0.75
(c) Sulfur Oxides	2.0
(d) Nitrogen Oxides	2.0
(e) Volatile Organic Compounds, total	2.0
(f) Carbon Monoxide	5.0
(g) Lead	0.005
(h) Ozone Depleting Substances (in effect on July 1, 2000), total	1.0
(i) Toxic Air Pollutants	Aspecified in chapter 173-460 WAC.

**(6) Application processing - completeness determination.**

(a) Within thirty days after receiving a **notice of construction application** ~~((or PSD permit application))~~, the **permitting ((agency)) authority** shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application.

(b) ~~((For a project subject to PSD review under WAC 173-400-141, a completeness determination includes a determination that the application provides all information required to conduct PSD review.~~

~~((e)))~~ For a project subject to the Special protection requirements for **federal Class I areas** in WAC 173-400-117(2), a completeness determination includes a determina-

tion that the application includes all information required for review of that project under WAC 173-400-117(3).

**(7) Final determination.**

(a) Within sixty days of receipt of a complete **notice of construction** ~~((or PSD permit application))~~, the **permitting ((agency)) authority** shall either issue a final decision on the application or initiate public notice under WAC 173-400-171 on a proposed decision, followed as promptly as possible by a final decision.

(b) A **person** seeking approval to construct or **modify a source** that requires an operating permit may elect to integrate review of the operating permit application or amendment required under ~~((RCW 70.94.164))~~ chapter 173-401 WAC and the **notice of construction application** required by this section. A **notice of construction application** designated for integrated review shall be processed in accordance with operating permit program procedures and deadlines in chapter 173-401 WAC. ~~((A PSD permit application under WAC 173-400-141, a notice of nonattainment area construction))~~ An application for a major modification in a nonattainment area, ((or)) a notice of construction application for a major stationary source in a nonattainment area, or a notice of construction application for a modification which is not a major modification to a major stationary source in a nonattainment area must also comply with WAC 173-400-171.

(c) Every final determination on a notice of construction application shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the **permitting ((agency)) authority**.

(d) If the **new source** is a **major stationary source** or the change is a **major modification**, the **permitting ((agency)) authority** shall:

(i) Submit any control technology determination included in a final **order of approval** ~~((or PSD permit))~~ for a major source or a major modification to a major stationary source in a nonattainment area to the **RACT/BACT/LAER** clearinghouse maintained by EPA; and

(ii) Send a copy of the final **approval order** ~~((or PSD permit))~~ to EPA.

(8) **Appeals.** ~~((An order of approval or a PSD permit;))~~ Any conditions contained in an order of approval ((or PSD permit)), or the denial of a notice of construction application ((or PSD permit)) may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW. The permitting ((agency)) authority shall promptly mail copies of each order approving or denying a notice of construction application ((or PSD permit)) to the applicant and to any other party who submitted timely comments on the application, along with a notice advising parties of their rights of appeal to the pollution control hearings board.

(9) **Construction time limitations.** Approval to construct or modify a **stationary source** becomes invalid if the applicant does not begin actual construction ((is not commenced)) or commences construction within eighteen months after receipt of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The **permitting ((agency)) authority** may extend the eighteen-month

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period upon a satisfactory showing that an extension is justified. ~~((An))~~ Any extension allowed for a project ~~((operating under a PSD permit))~~ must also comply with public notice requirements in WAC 173-400-171. This provision does not apply to the time period between construction of the approved phases of a phased construction project. Each phase must commence or begin actual construction within eighteen months of the projected and approved ~~((commencement))~~ commence or begin construction date.

**(10) Change of conditions.**

(a) The owner or operator may request, at any time, a change in conditions of an **approval order** ~~((or PSD permit))~~ and the **permitting ((agency)) authority** may approve the request provided the **permitting ((agency)) authority** finds that:

(i) The change in conditions will not cause the **source** to exceed an **emissions standard**;

(ii) No **ambient air quality standard** ~~((or PSD increment))~~ will be exceeded as a result of the change;

(iii) The change will not adversely impact the ability of **ecology** or the **authority** to determine compliance with an **emissions standard**;

(iv) The revised **order** will continue to require **BACT**, as defined at the time of the original approval, for each **new source** approved by the **order** except where the **Federal Clean Air Act** requires **LAER**; and

(v) The revised order meets the requirements of WAC 173-400-110, 173-400-112, 173-400-113 and ~~((173-400-141))~~ 173-400-720, as applicable.

(b) Actions taken under this subsection are subject to the public involvement provisions of WAC 173-400-171.

(c) This rule does not prescribe the exact form such requests must take. However, if the request is filed as a **notice of construction application**, that application must be acted upon using the timelines found in subsections (6) and (7) of this section. The fee schedule found in WAC 173-400-116 shall also apply to requests filed as **notice of construction applications**.

**(11) Enforcement.** All persons who receive an order of approval must comply with all approval conditions contained in the order of approval.

**AMENDATORY SECTION** (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-112 Requirements for new sources in nonattainment areas. (1) Definitions.** All usage of the term "source" in WAC 173-400-112 is to be interpreted to mean "stationary source" as defined in 40 CFR 165(a)(1)(i). The following definitions apply to this section:

(a) "**Major modification**," for the purposes of WAC 173-400-112, means any physical change in or change in the method of operation of a **major stationary source** that would result in a **significant net emissions increase** of any pollutant subject to regulation under the **Federal Clean Air Act**.

(i) Any **net emissions increase** that is considered **significant for volatile organic compounds** or nitrogen oxides shall be considered **significant** for ozone.

(ii) A physical change or change in the method of operation shall not include:

(A) Routine maintenance, repair and replacement;

(B) Use of an alternative fuel or raw material by reason of an **order** under section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(C) Use of an alternative fuel by reason of an **order** or rule under section 125 of the **Federal Clean Air Act**;

(D) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste; (E) Use of an alternative fuel or raw material by a **source** which:

(I) The **source** was capable of accommodating before December 21, 1976, unless such change would be prohibited under any **federally enforceable permit** or **approval order**-condition which was established after December 12, 1976, pursuant to 40 CFR 52.21 or a **SIP** approved **new source** review regulation; or

(II) The **source** is approved to use under any permit or **approval order** issued under WAC 173-400-112;

(iii) An increase in the hours of operation or in the production rate, unless such change is prohibited under any **federally enforceable permit** or **approval order** condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or a **SIP** approved **new source** review regulation.

(iv) Any change in ownership at a **source**.

(v) The addition, replacement, or use of a pollution control project (as defined in 40 CFR 51.165 (a)(1)(xxv), in effect on July 1, 2001) at an existing electric utility steam generating unit, unless the **permitting ((agency)) authority** determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except:

(A) When the **permitting ((agency)) authority** has reason to believe that the pollution control project would result in a **significant net emissions** increase in representative actual annual **emissions** of any **criteria pollutant** over levels used for that **source** in the most recent air quality impact analysis in the area conducted for the purpose of title I of the **Federal Clean Air Act**, if any; and

(B) The **permitting ((agency)) authority** determines that the increase will cause or contribute to a violation of any **National Ambient Air Quality Standard** or **PSD** increment, or visibility limitation.

(vi) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(A) The **SIP**; and

(B) Other requirements necessary to attain and maintain the **National Ambient Air Quality Standard** during the project and after it is terminated.

(b) "**Major stationary source**," for the purposes of WAC 173-400-112, means:

(i) Any **stationary source** of air pollutants which emits, or has the **potential to emit**, 100 tons per year or more of any pollutant subject to regulation under the **Federal Clean Air Act**, except that lower **emissions** thresholds shall apply as follows:

(A) 70 tons per year of **PM-10** in any "serious" **nonattainment area** for PM-10.

(B) 50 tons per year of carbon monoxide in any "serious" **nonattainment area** for carbon monoxide where **stationary sources** contribute **significantly** to carbon monoxide levels in the area.

(ii) Any physical change that would occur at a **stationary source** not qualifying under (b)(i) of this subsection as a major stationary source, if the change would constitute a major stationary source by itself.

(iii) A major stationary source that is major for **volatile organic compounds** or NO<sub>x</sub> shall be considered major for ozone.

(iv) The **fugitive emissions** of a **stationary source** shall not be included in determining for any of the purposes of this paragraph whether it is a major stationary source, unless the **source** belongs to one of the following categories of **stationary sources** or the **source** is a major stationary source due to (b)(i)(A) or (b)(i)(B) of this subsection:

- (A) Coal cleaning plants (with thermal dryers);
- (B) Kraft pulp mills;
- (C) Portland cement plants;
- (D) Primary zinc smelters;
- (E) Iron and steel mills;
- (F) Primary aluminum ore reduction plants;
- (G) Primary copper smelters;
- (H) Municipal incinerators capable of charging more than 50 tons of refuse per day;
- (I) Hydrofluoric, sulfuric, or nitric acid plants;
- (J) Petroleum refineries;
- (K) Lime plants;
- (L) Phosphate rock processing plants;
- (M) Coke oven batteries;
- (N) Sulfur recovery plants;
- (O) Carbon black plants (furnace process);
- (P) Primary lead smelters;
- (Q) Fuel conversion plants;
- (R) Sintering plants;
- (S) Secondary metal production plants;
- (T) Chemical process plants;
- (U) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (V) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (W) Taconite ore processing plants;
- (X) Glass fiber processing plants;
- (Y) Charcoal production plants;
- (Z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and
- (AA) Any other **stationary source** category which, as of August 7, 1980, is being regulated under section 111 or 112 of the **Federal Clean Air Act**.

~~((v) For purposes of determining whether a stationary source is a major stationary source, the term "building, structure, facility, or installation" means all the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities shall be con-~~

~~sidered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, as amended.))~~

(c) "**Net emissions increase**," for the purposes of WAC 173-400-112, means:

(i) The amount by which the sum of the following exceeds zero:

(A) Any increase in **actual emissions** from a particular physical change or change in method of operation at a **source**; and

(B) Any other increases and decreases in **actual emissions** at the **source** that are contemporaneous with the particular change and are otherwise creditable.

(ii) An increase or decrease in **actual emissions** is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs.

(iii) An increase or decrease in **actual emissions** is creditable only if:

(A) It occurred no more than one year prior to the date of submittal of a complete **notice of construction application** for the particular change, or it has been documented by an **emission reduction credit (ERC)**. Any **emissions** increases occurring between the date of issuance of the **ERC** and the date when a particular change becomes operational shall be counted against the **ERC**.

(B) The **permitting ((agency)) authority** has not relied on it in issuing any permit or **order of approval** for the **source** under this section or a previous **SIP** approved **nonattainment area new source** review regulation, which **order** or permit is in effect when the increase in actual emissions from the particular change occurs.

(iv) An increase in **actual emissions** is creditable only to the extent that the new level of **actual emissions** exceeds the old level.

(v) A decrease in **actual emissions** is creditable only to the extent that:

(A) The old level of **actual emissions** or the old level of **allowable emissions**, whichever is lower, exceeds the new level of **actual emissions**;

(B) It is federally enforceable at and after the time that actual construction on the particular change begins;

(C) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

(D) The **permitting ((agency)) authority** has not relied on it in issuing any permit or **order of approval** under this section or a **SIP** approved **nonattainment area new source** review regulation; or the **permitting ((agency)) authority** has not relied on it in demonstrating attainment or reasonable further progress.

(vi) An increase that results from a physical change at a **source** occurs when the **emission unit** on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty days.

(d) "**Significant**," for purposes of WAC 173-400-112, means, in reference to a **net emissions increase** or the **poten-**



tial of a **major stationary source to emit** any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

*Pollutant and Emissions Rate*

Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
<b>Volatile organic compounds:</b>	40 tpy
Lead:	0.6 tpy
<b>PM-10:</b>	15 tpy

(e) "**Commence**" for the purposes of WAC 173-400-112, as applied to construction, means:

(i) That the owner or operator has all the necessary pre-construction approvals or permits and either has:

(A) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(B) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(ii) For the purposes of this definition, "necessary pre-construction approvals" means those permits or orders of approval required under federal air quality control laws and regulations, including state, local and federal regulations and orders contained in the SIP.

(f) "**Stationary source**" and "**source**" for the purposes of WAC 173-400-112 means any building, structure, facility or installation which emits or may emit any air pollutant subject to regulation under the FCAA.

(g) "**Building, structure facility or installation**" means for the purposes of WAC 173-400-112, all the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual*, as amended by the 1977 supplement.

(2) The **permitting ((agency)) authority** that is reviewing an application to establish a **new source** in a **nonattainment area** shall issue the **order of approval** if it determines that the proposed project satisfies each of the following requirements:

(a) The proposed **new source** or **modification** will comply with all applicable **new source performance standards, national emission standards for hazardous air pollutants, national emission standards for hazardous air pollutants for source categories, emission standards** adopted under chapter 70.94 RCW and, for sources regulated by an **authority**, the applicable **emission standards** of that **authority**.

(b) The proposed **new source** will employ **BACT** for all **air contaminants**, except that if the **new source** is a **major stationary source** or the proposed **modification** is a **major modification** it will achieve **LAER** for the **air contaminants**

for which the area has been designated **nonattainment** and for which the proposed **new source** or **modification** is **major**.

(c) The proposed **new source** will not cause any **ambient air quality standard** to be exceeded, will not violate the requirements for reasonable further progress established by the **SIP** and will comply with WAC 173-400-113((2)(e)) (3) for all **air contaminants** for which the area has not been designated **nonattainment**.

(d) If the proposed **new source** is a **major stationary source** or the proposed **modification** is a **major modification**, the **permitting ((agency)) authority** has determined, based on review of an analysis performed by the **source** of alternative sites, sizes, production processes, and environmental control techniques, that the benefits of the project significantly outweigh the environmental and social costs imposed as a result of its location, construction, or **modification**.

(e) If the proposed **new source** or the proposed **modification** is **major** for the **air contaminant** for which the area is designated **nonattainment**, **allowable emissions** from the proposed **new source** or **modification** of that **air contaminant** are offset by reductions in **actual emissions** from existing sources in the **nonattainment area**. **Emission offsets** must be sufficient to ensure that total **allowable emissions** from existing **major stationary sources** in the **nonattainment area**, **new or modified sources** which are not **major stationary sources**, and the proposed **new or modified source** will be less than total **actual emissions** from existing sources (before submitting the application) so as to represent (when considered together with the nonattainment provisions of section 172 of the **Federal Clean Air Act**) reasonable further progress. All offsetting **emission reductions** must satisfy the following requirements:

(i) The proposed new level of **allowable emissions** of the source or **emissions unit(s)** providing the reduction must be less than the current level of **actual emissions** of that **source** or **emissions unit(s)**. No emission reduction can be credited for **actual emissions** which exceed the current **allowable emissions** of the source or **emissions unit(s)** providing the reduction. **Emission reductions** imposed by local, state, or federal regulations, regulatory orders, or permits required by the **Federal Clean Air Act**, including the **SIP**, cannot be credited.

(ii) The **emission reductions** must provide for a net air quality benefit. For marginal ozone **nonattainment areas**, the total **emissions** of **volatile organic compounds** or total **emissions** of nitrogen oxides are reduced by a ratio of 1.1 to 1 for the area in which the **new source** is located. For any other **nonattainment area**, the **emissions offsets** must provide a positive net air quality benefit in the **nonattainment area**. Determinations on whether **emissions offsets** provide a positive net air quality benefit will be made in accordance with the guidelines contained in 40 CFR 51 Appendix S (in effect on July 1, ((2000)) 2004).

(iii) If the offsets are provided by another **source**, the reductions in **emissions** from that **source** must be federally enforceable by the time the **order of approval** for the **new or modified source** is effective. An **emission reduction credit**



issued under WAC 173-400-131 may be used to satisfy some or all of the offset requirements of this subsection.

(f) If the proposed **new source** is a **major stationary source** or the proposed **modification** is a **major modification**, the owner or operator has demonstrated that all **major stationary sources** owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in Washington are subject to **emission limitations** and are in compliance, or on a schedule for compliance, with all applicable **emission limitations and standards** under the **Federal Clean Air Act**, including all rules in the **SIP**.

(g) If the proposed **new source** is a **major stationary source** within the meaning of WAC ((173-400-113(1))) 173-400-720, or the proposed **modification** is a **major modification** within the meaning of WAC ((173-400-113(1))) 173-400-720, it meets the requirements of the **PSD** program in WAC ((173-400-141)) 173-400-720 for all **air contaminants** for which the area has not been designated **nonattainment**.

(h) If the proposed **new source** or **modification** will emit any **toxic air pollutants** regulated under chapter 173-460 WAC, the **source** meets all applicable requirements of that chapter.

(i) If the proposed **new source** is a **major stationary source** within the meaning of WAC ((173-400-113(1))) 173-400-720, or the proposed **modification** is a **major modification** within the meaning of WAC ((173-400-113(1))) 173-400-720, the project meets the special protection requirements for **federal Class I areas** in WAC 173-400-117.

**AMENDATORY SECTION** (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-113 Requirements for new sources in attainment or unclassifiable areas.** ((1) Definitions. The following definitions apply to this section:

(a) "Major modification" for purposes of WAC 173-400-113, means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Federal Clean Air Act.

(i) Any net emissions increase that is considered significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone.

(ii) A physical change or change in the method of operation shall not include:

(A) Routine maintenance, repair and replacement;

(B) Use of an alternative fuel or raw material by reason of an order under section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(C) Use of an alternative fuel by reason of an order or rule section 125 of the Federal Clean Air Act;

(D) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(E) Use of an alternative fuel or raw material by a source which:

(I) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition or approval order which was established after January 6, 1975, pursuant to 40 CFR 52.21 or a SIP approved new source review regulation; or

(II) The source is approved to use under any PSD permit;

(F) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition or an approval order which was established after January 6, 1975, pursuant to 40 CFR 52.21 or a SIP approved new source review regulation.

(G) Any change in ownership at a source.

(H) The addition, replacement, or use of a pollution control project at an existing electric utility steam generating unit, unless the permitting agency determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except:

(I) When the permitting agency has reason to believe that the pollution control project (as defined in 40 CFR 51.166, in effect on July 1, 2001) would result in a significant net emissions increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis in the area conducted for the purpose of title I of the Federal Clean Air Act, if any; and

(II) The permitting agency determines that the increase will cause or contribute to a violation of any National Ambient Air Quality Standard or PSD increment, or visibility limitation.

(I) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with the SIP, and other requirements necessary to attain and maintain the National Ambient Air Quality Standard during the project and after it is terminated.

(b) "Major stationary source," for purposes of WAC 173-400-113, means:

(i) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Federal Clean Air Act:

(A) Fossil fuel fired steam electric plants of more than 50 million British thermal units per hour heat input;

(B) Coal cleaning plants (with thermal dryers);

(C) Kraft pulp mills;

(D) Portland cement plants;

(E) Primary zinc smelters;

(F) Iron and steel mill plants;

(G) Primary aluminum ore reduction plants;

(H) Primary copper smelters;

(I) Municipal incinerators capable of charging more than 50 tons of refuse per day;

(J) Hydrofluoric, sulfuric, and nitric acid plants;

(K) Petroleum refineries;

(L) Lime plants;

(M) Phosphate rock processing plants;

(N) Coke oven batteries;

(O) Sulfur recovery plants;

(P) Carbon black plants (furnace process);

- (Q) Primary lead smelters;
- (R) Fuel conversion plants;
- (S) Sintering plants;
- (T) Secondary metal production plants;
- (U) Chemical process plants;

(V) Fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input;

(W) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

- (X) Taconite ore processing plants;
- (Y) Glass fiber processing plants; and
- (Z) Charcoal production plants.

(ii) Regardless of the stationary source size specified in (b)(i) of this subsection, any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the Federal Clean Air Act; or

(iii) Any physical change that would occur at a stationary source not otherwise qualifying under (b)(i) or (ii) of this subsection, as a major stationary source if the change would constitute a major stationary source by itself.

(iv) A major stationary source that is major for volatile organic compounds or NO<sub>x</sub> shall be considered major for ozone.

(v) The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this section whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (A) Coal cleaning plants (with thermal dryers);
- (B) Kraft pulp mills;
- (C) Portland cement plants;
- (D) Primary zinc smelters;
- (E) Iron and steel mills;
- (F) Primary aluminum ore reduction plants;
- (G) Primary copper smelters;
- (H) Municipal incinerators capable of charging more than 50 tons of refuse per day;
- (I) Hydrofluoric, sulfuric, or nitric acid plants;
- (J) Petroleum refineries;
- (K) Lime plants;
- (L) Phosphate rock processing plants;
- (M) Coke oven batteries;
- (N) Sulfur recovery plants;
- (O) Carbon black plants (furnace process);
- (P) Primary lead smelters;
- (Q) Fuel conversion plants;
- (R) Sintering plants;
- (S) Secondary metal production plants;
- (T) Chemical process plants;

(U) Fossil fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(V) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

- (W) Taconite ore processing plants;
- (X) Glass fiber processing plants;
- (Y) Charcoal production plants;

(Z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(AA) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the Federal Clean Air Act.

(vi) For purposes of determining whether a stationary source is a major stationary source, the term "building, structure, facility, or installation" means all the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two digit code) as described in the Standard Industrial Classification Manual, 1972, as amended.

(e) "Net emissions increase" for purposes of WAC 173-400-113, means:

(i) The amount by which the sum of the following exceeds zero:

(A) Any increase in actual emissions from a particular physical change or change in the method of operation at a source; and

(B) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs within five years before the date that the increase from the particular change occurs.

(iii) An increase or decrease in actual emissions is creditable only if ecology or EPA has not relied on it in issuing a PSD permit for the source, which permit is in effect when the increase in actual emissions from the particular change occurs.

(iv) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides, which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM-10 emissions can be used to evaluate the net emissions increase for PM-10.

(v) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(vi) A decrease in actual emissions is creditable only to the extent that:

(A) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(B) It is federally enforceable at and after the time that actual construction on the particular change begins; and

(C) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(vii) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown

becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty days.

(d) "Significant," for purposes of WAC 173-400-113, means:

(i) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate	
Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
Particulate matter (PM):	25 tpy of PM emissions 15 tpy of PM-10 emissions
Volatile organic compounds:	40 tpy
Fluorides:	3 tpy
Lead:	0.6 tpy
Sulfuric acid mist:	7 tpy
Hydrogen sulfide (H <sub>2</sub> S):	10 tpy
Total reduced sulfur (including H <sub>2</sub> S):	10 tpy
Reduced sulfur compounds (including H <sub>2</sub> S):	10 tpy
Municipal waste combustor organics: (measured as total tetra through octa chlorinated dibenzo-p-dioxins and dibenzofurans)	3.2 grams per year (0.112 oz. per year or 49 grains per year)
Municipal waste combustor metals: (measured as particulate matter)	14 megagrams per year (15 tpy)
Municipal waste combustor acid gases: (measured as sulfur dioxide and hydrogen chloride)	36 megagrams per year (40 tpy)
Municipal solid waste landfill emissions: (measured as non-methane organic compounds)	45 megagrams per year (50 tpy)
Ozone depleting substances (in effect on July 1, 2000):	100 tpy

(ii) In reference to a net emissions increase or the potential of a source to emit a pollutant subject to regulation under the Federal Clean Air Act that the definition in (d)(i) of this subsection does not list, any emissions rate. However, for purposes of the applicability of this section, the hazardous air pollutants listed under section 112(b) of the Federal Clean Air Act, including the hazardous air pollutants that may have been added to the list, are not considered subject to regulation.

(iii) Regardless of the definition in (d)(i) of this subsection, significant means any emissions rate or any net emissions increase associated with a major stationary source or major modification which would construct within 10 kilome-

ters of a Class I area, and have an impact on such area equal to or greater than 1 microgram per cubic meter (twenty-four-hour average).

((2)) The permitting ((agency)) authority that is reviewing an application to establish a new source or modification in an attainment or unclassifiable area shall issue an order of approval if it determines that the proposed project satisfies each of the following requirements:

((a)) (1) The proposed new source or modification will comply with all applicable new source performance standards, national emission standards for hazardous air pollutants, national emission standards for hazardous air pollutants for source categories, emission standards adopted under chapter 70.94 RCW and, for sources regulated by an authority, the applicable emission standards of that authority.

((b)) (2) The proposed new source or modification will employ BACT for all pollutants not previously emitted or whose emissions would increase as a result of the new source or modification.

((c)) (3) Allowable emissions from the proposed new source or modification will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed new source or the projected impact of the increase in allowable emissions from the proposed modification at any location within a nonattainment area does not exceed the following levels for the pollutants for which the area has been designated nonattainment:

Pollutant	Annual Average	24-Hour Average	8-Hour Average	3-Hour Average	1-Hour Average
CO-	-	-	0.5 mg/m <sup>3</sup>	-	2 mg/m <sup>3</sup>
SO <sub>2</sub>	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>	-	25 µg/m <sup>3</sup>	30 µg/m <sup>3</sup>
PM <sub>10</sub>	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>	-	-	-
NO <sub>2</sub>	1.0 µg/m <sup>3</sup>	-	-	-	-

An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection.

((d)) (4) If the proposed new source is a major stationary source or the proposed modification is a major modification, it meets all applicable requirements of WAC ((173-400-141)) 173-400-720 through 173-400-750.

((e)) (5) If the proposed new source or the proposed modification will emit any toxic air pollutants regulated under chapter 173-460 WAC, the source meets all applicable requirements of that program.

((f)) (6) If the proposed new source is a major stationary source or the proposed modification is a major modification, the project meets the special protection requirements for federal Class I areas of WAC 173-400-117.

AMENDATORY SECTION (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

WAC 173-400-115 Standards of performance for new sources. NSPS. Standards of performance for new sources are called New Source Performance Standards, or NSPS.

## (1) Adoption by reference.

(a) 40 CFR Part 60 and Appendices in effect on ((February 20, 2001)) July 1, 2004, is adopted by reference. Exceptions are listed in subsection (1)((d))(b) of this section.

((b) 40 CFR Part 60, subpart AAAA (new small municipal waste combustion units) in effect on June 6, 2001, is adopted by reference.

(c) 40 CFR Part 60, subpart CCCC (commercial and industrial solid waste incineration units) in effect on June 1, 2001, is adopted by reference.

The following list is provided for informational purposes:

Subpart A	General Provisions, except 40 CFR 60.5 and 60.6	Subpart Ka	Storage vessels for petroleum liquids constructed after May 18, 1978, which have a capacity greater than 40,000 gallons
Subpart D	Fossil fuel fired steam generators for which construction commenced after August 17, 1971, and prior to September 19, 1978, which have a heat input greater than 73 megawatts but not greater than 350 megawatts	Subpart Kb	Volatile organic liquid storage vessels (including petroleum liquid storage vessels) constructed, reconstructed, or modified after July 23, 1984
Subpart Da	Electric utility steam generating units for which construction commenced after September 18, 1978, which have a heat input greater than 73 megawatts but not greater than 350 megawatts	Subpart L	Secondary lead smelters
Subpart Db	Industrial commercial institutional steam generating units for which construction commenced after June 19, 1984, and prior to June 19, 1986, which have a heat input greater than 29 megawatts but less than 73 megawatts	Subpart M	Brass and bronze ingot production plants
Subpart De	Small industrial commercial institutional steam generating units	Subpart N	Iron and steel plants
Subpart E	Incinerators	Subpart Na	Secondary emissions from basic oxygen process steel making facilities
Subpart Ea	Municipal waste combustors	Subpart O	Sewage treatment plants
Subpart Eb	Large municipal waste combustors constructed after September 20, 1964, or modified or reconstructed after June 19, 1964	Subpart P	Primary copper smelters
Subpart Ec	Hospital/Medical/Infectious Waste Incinerators Constructed after June 20, 1996	Subpart Q	Primary zinc smelters
Subpart F	Portland cement plants	Subpart R	Primary lead smelters
Subpart G	Nitric acid plants	Subpart S	Primary aluminum reduction plants
Subpart H	Sulfuric acid plants	Subpart T	Phosphate fertilizer industry: Wet process phosphoric acid plants
Subpart I	Asphalt concrete plants	Subpart U	Phosphate fertilizer industry: Superphosphoric acid plants
Subpart J	Petroleum refineries which produce less than 25,000 barrels per day of refined products	Subpart V	Phosphate fertilizer industry: Diammonium phosphate plants
Subpart K	Storage vessels for petroleum liquid constructed after June 11, 1973, and prior to May 19, 1978, which have a capacity greater than 40,000 gallons	Subpart W	Phosphate fertilizer industry: Triple superphosphate plants
		Subpart X	Phosphate fertilizer industry: Granular triple superphosphate storage facilities
		Subpart Y	Coal preparation plants
		Subpart Z	Ferroalloy production facilities
		Subpart AA	Steel plants: Electric arc furnaces
		Subpart AAa	Steel plants: Electric arc furnaces and argon-oxygen decarburization vessels
		Subpart BB	Kraft pulp mills
		Subpart CC	Glass manufacturing plants
		Subpart DD	Grain elevators
		Subpart EE	Industrial surface coating: Metal furniture
		Subpart GG	Stationary gas turbines
		Subpart HH	Lime manufacturing plants
		Subpart KK	Lead acid battery plants
		Subpart LL	Metallic mineral processing plants
		Subpart MM	Automobile and light duty truck surface coating operations
		Subpart NN	Phosphate rock plants
		Subpart PP	Ammonium sulfate manufacture
		Subpart QQ	Publication rotogravure printing
		Subpart RR	Pressure sensitive tape and label surface coating operations
		Subpart SS	Industrial surface coating: Large appliances
		Subpart TT	Industrial surface coating: Metal coils

Subpart UU	Asphalt processing and asphalt roofing manufacture
Subpart VV	SOCMI equipment leaks (VOC)
Subpart WW	Beverage can surface coating operations
Subpart XX	Bulk gasoline terminals
Subpart AAA	New residential wood heaters
Subpart BBB	Rubber tire manufacturing industry
Subpart DDD	VOC emissions from the polymer manufacturing industry
Subpart FFF	Flexible vinyl and urethane coating and printing
Subpart GGG	Petroleum refineries—compressors and fugitive emission sources
Subpart HHH	Synthetic fiber production facilities
Subpart III	VOC emissions from SOCMI air oxidation unit processes
Subpart JJJ	Petroleum dry cleaners
Subpart KKK	Equipment leaks of VOC from onshore natural gas processing plants
Subpart LLL	Onshore natural gas processing; SO <sub>2</sub> emissions
Subpart NNN	VOC emissions from SOCMI distillation operations
Subpart OOO	Nonmetallic mineral processing plants
Subpart PPP	Wool fiberglass insulation manufacturing plants
Subpart QQQ	VOC emissions from petroleum refinery wastewater emissions
Subpart RRR	VOC emissions from synthetic organic chemical manufacturing industry
Subpart SSS	Magnetic tape coating facilities
Subpart TTT	Industrial surface coating: Surface coating of plastic parts for business machines
Subpart UUU	Calciners and dryers in mineral industries
Subpart VVV	Polymeric coating of supporting substrates facilities
Subpart WWW	Municipal Solid Waste Landfills constructed, reconstructed or modified on or after May 30, 1991 (See WAC 173 400 070(9) for rules regulating MSW landfills constructed or modified before May 30, 1991.)
Subpart AAAA	Small municipal waste combustion units constructed after August 30, 1999, or modified or reconstructed after June 6, 2001 (See WAC 173 400 050(5) for rules regulating small municipal waste combustion units constructed on or before August 30, 1999.)

Subpart CCCC	Commercial and industrial solid waste incinerators constructed after November 30, 1999; or modified or reconstructed on or after June 1, 2001 (See WAC 173 400 050(4) for rules regulating commercial and industrial solid waste incinerators constructed on or before November 30, 1999.)
Appendix A	Test Methods
Appendix B	Performance Specifications
Appendix C	Determination of Emission Rate Change
Appendix D	Required Emission Inventory Information
Appendix F	Quality Assurance Procedures
Appendix I	Removable Label and Owner's Manual

(d)) The following list of subparts to 40 CFR Part 60 which are shown as blank or reserved in the Code of Federal Regulations as of the date listed above, is provided for informational purposes only:

40 CFR Part 60, subparts FF, II, JJ, OO, YY, ZZ, CCC, EEE, MMM, XXX, YYY, ZZZ, Appendix E, and Appendix H.

(b) Exceptions to adopting 40 CFR Part 60 by reference.

(i) The term "administrator" in 40 CFR Part 60 includes the **permitting ((agency)) authority**.

(ii) The following sections and subparts of 40 CFR Part 60 are not adopted by reference:

(A) 40 CFR 60.5 (determination of construction or modification);

(B) 40 CFR 60.6 (review of plans); ((and))

(C) 40 CFR Part 60, subpart((s C, Cb, Ce, Cd, and Ce (emission guidelines)).

(iii) Effective June 6, 2001, 40 CFR 60.17 (subpart A) is amended by revising paragraphs (h)(1), (h)(2), and (h)(3) to read as follows:

(h)(1) ~~ASME QRO 1 1994, Standard for the Qualification and Certification of Resource Recovery Facility Operators approved for Section 60.56a, 60.54b(a), 60.54b(b), 60.1185(a), 60.1185 (e)(2), 60.1675(a), and 60.1675 (e)(2).~~

(h)(2) ~~ASME PTC 4.1 1964 (Reaffirmed 1991), Power Test Codes: Test Code for Steam Generating Units (with 1968 and 1969 Addenda), IBR approved for Section 60.46b, 60.58a (h)(6)(ii), 60.58b (i)(6)(ii), 60.1320 (a)(3) and 60.1810 (a)(3).~~

(h)(3) ~~ASME interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th Edition (1971), IBR approved for Section 60.58a (h)(6)(ii), 60.58b (i)(6)(ii), 60.1320 (a)(4) and 60.1810 (a)(4).~~

(2) Note that under RCW 80.50.020(14), larger energy facilities subject to subparts D, Da, GG, J, K, Kb, Y, KKK, LLL, and QQQ are regulated by the energy facility site evaluation council (EFSEC) under WAC 463 39 115)) **B (Adoption and Submittal of State Plans for Designated Facilities), and subparts C, Cb, Cc, Cd, Ce, BBBB, and DDDD (emission guidelines); and**

(D) 40 CFR Part 60, Appendix G, Provisions for an Alternative Method of Demonstrating Compliance With 40 CFR 60.43 for the Newton Power Station of Central Illinois Public Service Company.

(2) Where EPA has delegated to the permitting authority, the authority to receive reports under 40 CFR Part 60, from the affected facility in lieu of providing such report to EPA, the affected facility is required to provide such reports only to the permitting authority unless otherwise requested in writing by the permitting authority or EPA.

Note: Under RCW 80.50.020(14), larger energy facilities subject to subparts D, Da, GG, J, K, Kb, Y, KKK, LLL, and OOO are regulated by the energy facility site evaluation council (EFSEC).

**AMENDATORY SECTION** (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-116 New source review fees.** (1) **Applicability.** Every person required to submit a **notice of construction application** to the department of **ecology** as authorized in RCW 70.94.152 for establishment of any proposed **new source** or **emissions unit(s)** shall pay fees as set forth in subsections (2) and (3) of this section. Persons required to submit a notice of construction application to a local air authority may be required to pay a fee as required by the local permitting authority. **Persons** required to submit a **notice of construction application** to a local air authority may be required to pay a fee to **ecology** to cover the costs of review pursuant to WAC 173-400-141, second tier analysis pursuant to WAC 173-460-090, and risk management decisions pursuant to WAC 173-460-100 as set forth in subsection (3) of this section. Fees assessed under this section shall apply without regard to whether an **order of approval** is issued or denied.

(2) **Basic review fees.** All owners or operators of proposed new sources are required to pay a basic review fee. The basic review fee covers the costs associated with preapplication assistance, completeness determination, **BACT** determination, technical review, public involvement and **approval/denial orders**. Complexity determination shall be based on the project described in the **notice of construction application**. The basic review fees are ((shown)) either (a) or (b) below:

(a) ~~((Low complexity new source or emission unit (emissions of individual criteria pollutants are all less than one-half of the levels established in the definition of "significant" in WAC 173-400-112 and/or 173-400-113, as applicable, or emissions of individual toxic air pollutants are all less than 2.0 tons/year) — one thousand dollars;~~

~~(b) Moderate complexity new source or emission unit (emissions of one or more individual criteria pollutants are greater than one-half of the levels established in the definition of "significant" in WAC 173-400-112 and/or 173-400-113, as applicable, or emissions of one or more toxic air pollutants are greater than 2.0 tons/year and less than ten tons/year) — five thousand dollars; or~~

~~(c) High complexity new source or emissions unit (emissions of one or more criteria pollutants are greater than the levels established in the definition of "significant" in WAC 173-400-112 and/or 173-400-113, as applicable, or emissions of one or more toxic air pollutants are greater than ten tons/year) — fifteen thousand dollars.~~

~~(d) Exceptions. The following fees for new source review shall be charged instead of the applicable fees listed in~~

~~(a) through (c) of this subsection and in subsection (3) of this section:~~

- ~~(i) Dry cleaners \$200~~
- ~~(ii) Gasoline stations \$200~~
- ~~(iii) Storage tanks \$200~~
- ~~(A) < 20,000 gallons \$500~~
- ~~(B) 20,000—100,000 gallons \$700~~
- ~~(C) > 100,000 \$200~~
- ~~(iv) Chromic acid plating and anodizing identified in WAC 173-460-060 \$200~~
- ~~(v) Solvent metal cleaners identified in WAC 173-460-060 \$200~~
- ~~(vi) Abrasive blasting identified in WAC 173-460-060 \$200~~
- ~~(vii) New emission units or activities that qualify as insignificant emission units under WAC 173-401-530 whether located at a chapter 401 source or nonchapter 401 source \$200~~

~~(e)) Basic new source review fees.~~

Source type	Clarifying criteria	Fee
<u>Basic Review Fees</u>		
<u>Low complexity source</u>	<u>Emissions of individual pollutants are all less than one-half of the levels established in the definition of "emission threshold" in WAC 173-400-030, or emissions of individual toxic air pollutants are all less than 2.0 tons/year</u>	<u>\$1250</u>
<u>Moderate complexity</u>	<u>Emissions of one or more individual pollutants are greater than one-half of, and less than the levels established in the definition of "emission threshold" in WAC 173-400-030, or emissions of one or more toxic air pollutants are greater than 2.0 tons/year and less than ten tons/year</u>	<u>\$8000</u>
<u>High complexity</u>	<u>Emissions of one or more pollutants are greater than the levels established in the definition of "emission threshold" in WAC 173-400-030, or emissions of one or more toxic air pollutants are greater than ten tons/year</u>	<u>\$18,000</u>

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(b) New source review fees for specific source categories.

<u>Source type</u>	<u>Clarifying criteria</u>	<u>Fee</u>
<u>Dry cleaners</u>		<u>\$250</u>
<u>Gasoline stations</u>		<u>\$250</u>
<u>Storage tanks</u>		
	<u>&lt; 20,000 gallons</u>	<u>\$250</u>
	<u>20,000 - 100,000 gallons</u>	<u>\$650</u>
	<u>&gt; 100,000 gallons</u>	<u>\$900</u>
<u>Chromic acid plating and anodizing identified in WAC 173-460-060</u>		<u>\$250</u>
<u>Solvent metal cleaners identified in WAC 173-460-060</u>		<u>\$250</u>
<u>Abrasive blasting identified in WAC 173-460-060</u>		<u>\$250</u>
<u>New emission units or activities that qualify as insignificant emission units under WAC 173-401-530 whether located at a chapter 173-401 WAC source or nonchapter 173-401 WAC source</u>		<u>\$250</u>
<u>Application for coverage under a general order of approval</u>	<u>WAC 173-400-560 and criteria included in a specific general order of approval</u>	<u>\$500</u>
<u>Nonroad engines</u>		
<u>Less than a total of 500 installed horsepower</u>		<u>\$500</u>
<u>More than 500 horsepower and less than a total of 2000 installed horsepower</u>		<u>\$900</u>
<u>More than 2000 horsepower and less than a total of 5000 installed horsepower</u>		<u>\$2000</u>
<u>More than 5000 horsepower and less than a total of 10,000 installed horsepower</u>		<u>\$4000</u>

<u>Source type</u>	<u>Clarifying criteria</u>	<u>Fee</u>
<u>More than a total of 10,000 installed horsepower</u>		<u>\$7500</u>

(c) Additional units. An owner or operator proposing to build more than one identical **emission unit** shall be charged a fee for the additional units equal to one-third the basic review fee of the first unit.

(3) **Additional charges.** In addition to those fees required under subsection (2)(a) through (c) of this section, the following fees will be required as applicable:

(a) ~~((Prevention of significant deterioration review (includes ecology review of local air authority sources) ten thousand dollars;~~

~~(b) Establishing LAER and offset requirements for a major stationary source or major modification proposing to locate in a nonattainment area ten thousand dollars;~~

~~(c) Tier II toxics review as required under WAC 173-460-090 seven thousand five hundred dollars;~~

~~(d) Tier III review as required under WAC 173-460-100 five thousand dollars;~~

~~(e) State Environmental Policy Act review (where ecology is the lead agency):~~

~~(i) Determination of nonsignificance (DNS) and environmental checklist review two hundred dollars; or~~

~~(ii) Environmental impact statement (EIS) review two thousand dollars;~~

~~(iii) Where more than one ecology program is charging a fee for reviewing or preparing SEPA documents, ecology will not charge a SEPA review fee as part of the new source review fees;~~

~~(f) Case by case MACT determinations required for a new source or modification under Section 112(g) or Section 112(j) of the FCAA five thousand dollars.)) Major NSR actions under WAC 173-400-720 and 173-400-112.~~

<u>Activity</u>	<u>Clarifying criteria</u>	<u>Fee</u>
<u>Prevention of significant deterioration review or increase in a PAL limitation</u>	<u>WAC 173-400-720</u>	<u>\$15,000</u>
<u>Establishing LAER and offset requirements</u>	<u>WAC 173-400-112</u>	<u>\$10,000</u>
<u>Establishing or renewal of clean unit status</u>	<u>Per 40 CFR 52.21(y)</u>	<u>\$1500</u>
<u>Pollution control project approval</u>	<u>Per 40 CFR 52.21(z)</u>	<u>\$1500</u>
<u>Establishment of a PAL</u>	<u>Per 40 CFR 52.21(aa)</u>	<u>\$4000</u>
<u>Renewal of a PAL</u>	<u>Per 40 CFR 52.21(aa)</u>	<u>\$4000</u>
<u>Expiration of a PAL</u>	<u>Per 40 CFR 52.21(aa)</u>	<u>\$12,000</u>
<u>PSD permit revisions</u>		
<u>All except administrative</u>	<u>WAC 173-400-750</u>	<u>\$10,000</u>

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Activity	Clarifying criteria	Fee
Administrative revisions	WAC 173-400-750	\$1500

(b) Other actions.

Activity	Clarifying criteria	Fee
Tier II toxic air pollutant impact review		\$10,000
Tier III toxic air pollutant impact review		\$10,000
Case-by-case MACT determinations		\$12,500
Fossil fueled electric generating unit	Applicability criteria found in chapter 80.70 RCW	Fees listed in rule implementing RCW 70.94.892 and chapter 80.70 RCW
<u>Changes to existing orders of approval, Tier I review, Tier II review, or other action identified above.</u>		
Activity		Fee
Modification to order of approval		50% of the fee charged in WAC 173-400-116 (2)(a)
Modification of Tier II approval		50% of the fee charged in WAC 173-400-116 (2)(b)

(4) **Small business fee reduction.** The new source review fee identified in subsections (2) and (3) of this section may be reduced for a small business.

(a) To qualify for the small business new source review fee reduction, a business must meet the requirements of "small business" as defined in RCW 19.85.020. In RCW 19.85.020, "small business" means 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.

(b) To receive a fee reduction, the owner or operator of a small business must include information in the application demonstrating that the conditions of (a) of this subsection have been met. The application must be signed:

- (i) By an authorized corporate officer in the case of a corporation;
- (ii) By an authorized partner in the case of a limited or general partnership; or

(iii) By the proprietor in the case of a sole proprietorship.  
 (c) **Ecology** may verify the application information and if the owner or operator has made false statements, deny the fee reduction request and revoke previously granted fee reductions.

(d) For small businesses determined to be eligible under (a) of this subsection, the new source review fee shall be reduced to the greater of:

- (i) Fifty percent of the new source review fee; or
- (ii) Two hundred fifty dollars.

(e) If due to special economic circumstances, the fee reduction determined under (d) of this subsection imposes an extreme hardship on a small business, the small business may request an extreme hardship fee reduction. The owner or operator must provide sufficient evidence to support a claim of an extreme hardship. The factors which **ecology** may consider in determining whether an owner or operator has special economic circumstances and in setting the extreme hardship fee include: Annual sales; labor force size; market conditions which affect the owner's or operator's ability to pass the cost of the new source review fees through to customers; and average annual profits. In no case will a new source review fee be reduced below one hundred dollars.

(5) Fee reductions for pollution prevention initiatives. **Ecology** may reduce the fees defined in subsections (2) and (3) of this section where the owner or operator of the proposed source demonstrates that approved pollution prevention measures will be used.

(6) Fee payments. Fees specified in subsections (2) through (5) of this section shall be paid at the time a **notice of construction application** is submitted to the department. A **notice of construction application** is considered incomplete until **ecology** has received the appropriate new source review payment. Additional charges assessed pursuant to subsection (3) of this section shall be due thirty days after receipt of an **ecology** billing statement. All fees collected under this regulation shall be made payable to the Washington department of **ecology**.

(7) Dedicated account. All new source review fees collected by the department (~~from permit program sources shall be deposited in the air operating permit account created under RCW 70.94.015. All new source review fees collected by the department from nonpermit program sources~~) shall be deposited in the air pollution control account.

(8) Tracking revenues, time, and expenditures. **Ecology** shall track revenues collected under this subsection on a source-specific basis. **Ecology** shall track time and expenditures on the basis of complexity categories.

(9) Periodic review. **Ecology** shall review and, as appropriate, update this section at least once every two years.

AMENDATORY SECTION (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-117 Special protection requirements for federal Class I areas.** (1) **Definitions.** The following definition applies to this section:

"Adverse impact on visibility" means visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience

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of the **federal Class I area**. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with:

- (a) Times of visitor use of the **federal Class I area**; and
- (b) The frequency and timing of natural conditions that reduce visibility.

(2) **Applicability**. The requirements of this section apply to all of the following ~~((sources))~~ **permitting actions**:

(a) A ~~((source that is submitting a))~~ **PSD permit application for a new major stationary source or a major modification**; or

(b) ~~((A source in a nonattainment area that is submitting))~~ **Submittal of a notice of construction application for a major stationary source or a major modification to a stationary source in a nonattainment area**, as either of those terms are defined in WAC ~~((173-400-113, Requirements for new sources in attainment or unclassifiable areas))~~ **173-400-720**.

(3) **Contents and distribution of application**.

(a) The application shall include an analysis of the anticipated impacts of the project on visibility in any **federal Class I area**.

(b) The applicant must mail a copy of the application for the project and all amendments to the application to the **permitting ((agency)) authority**, EPA and to the responsible **federal land managers**. Ecology will provide a list of the names and addresses of the **federal land manager**.

(4) **Notice to federal land manager**.

(a) The **permitting ((agency)) authority** shall send a copy of the completeness determination to the responsible **federal land manager**.

(b) If, prior to receiving a **notice of construction application** or a **PSD permit application**, the **permitting ((agency)) authority** receives notice of a project described in subsection (2) of this section that may affect visibility in a **federal Class I area**, the **permitting ((agency)) authority** shall notify the responsible **federal land manager** within thirty days of the notification.

(5) **Analysis by federal land manager**.

(a) The **permitting ((agency)) authority** will consider any demonstration presented by the responsible **federal land manager** that **emissions** from a proposed **new source** or the **net emissions increase** from a proposed modification described in subsection (2) of this section would have an **adverse impact on visibility** in any **federal Class I area**, provided that the demonstration is received by the **permitting ((agency)) authority** within thirty days of the **federal land manager's** receipt of the complete application.

(b) If the **permitting ((agency)) authority** concurs with the **federal land manager's** demonstration, the **PSD permit** or **approval order** for the project either shall be denied, or conditions shall be included in the ~~((permit of))~~ **approval order** to prevent the adverse impact.

(c) If the **permitting ((agency)) authority** finds that the **federal land manager's** analysis does not demonstrate that the project will have an **adverse impact on visibility** in a **federal Class I area**, the **permitting ((agency)) authority** either shall explain its decision in the public notice required by WAC ~~((173-400-171(2)))~~ **173-400-730**, or, in the case of

public notice of proposed action on a **PSD permit application**, state that an explanation of the decision appears in the ~~((Fact Sheet))~~ **Technical Support Document** for the proposed permit.

(6) **Additional requirements for projects that require a PSD permit**.

(a) For sources impacting **federal Class I areas**, the **permitting ((agency)) authority** shall provide notice to EPA of every action related to consideration of the **PSD permit**.

(b) The **permitting ((agency)) authority** shall consider any demonstration received from the responsible **federal land manager** prior to the close of the public comment period on a proposed **PSD permit** that emissions from the proposed **new source** or the **net emissions increase** from a proposed **modification** would have an adverse impact on the air quality-related values (including visibility) of any **mandatory Class I federal area**.

(c) If the **permitting ((agency)) authority** concurs with the demonstration, the **PSD permit** either shall be denied, or conditions shall be included in the **PSD permit** to prevent the adverse impact.

(7) **Additional requirements for projects located in nonattainment areas**. In reviewing a **PSD permit application** or **notice of construction application** for a project proposed for construction in an area classified as **nonattainment**, the **permitting ((agency)) authority** must ensure that the **source's emissions** will be consistent with making reasonable progress toward meeting the national goal of preventing any future, and remedying any existing, **impairment of visibility** by human-caused air pollution in **mandatory Class I federal areas**. In determining the need for **approval order** conditions to meet this requirement, the **permitting ((agency)) authority** may take into account the costs of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source.

(8) **Monitoring**. The **permitting ((agency)) authority** may require post-construction monitoring of the impact from the project. The monitoring shall be limited to the impacts on visibility in any **federal Class I area** near the proposed project.

**AMENDATORY SECTION** (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-118 Designation of Class I, II, and III areas. (1) Designation.**

(a) Lands within the exterior boundaries of Indian reservations may be redesignated only by the appropriate Indian governing body. This restriction does not apply to nontrust lands within the 1873 Survey Area of the Puyallup Indian Reservation.

(b) All areas of the state must be designated either **Class I, II or III**.

(i) The following areas are the **Class I areas** in Washington state:

- (A) Alpine Lakes Wilderness;
- (B) Glacier Peak Wilderness;
- (C) Goat Rocks Wilderness;
- (D) Adams Wilderness;

- (E) Mount Rainier National Park;
- (F) North Cascades National Park;
- (G) Olympic National Park;
- (H) Pasayten Wilderness; and
- (I) Spokane Indian Reservation.<sup>1</sup>

(ii) All other areas of the state are Class II, but may be redesignated as provided in subsections (2) and (3) of this section.

<sup>1</sup> EPA redesignated this land based on a request from the Spokane Tribal Council. See 40 CFR 52.2497 and 56 FR 14862, April 12, 1991, for details.

**(2) Restrictions on area classifications.**

(a) Except for the Spokane Indian Reservation, the **Class I areas** listed in subsection (1) of this section may not be redesignated.

(b) Except as provided in (a) of this subsection, the following areas that exceed 10,000 acres in size may be redesignated as **Class I** or **II**:

(i) Areas in existence on August 7, 1977:

- (A) A national monument;
- (B) A national primitive area;
- (C) A national preserve;
- (D) A national wild and scenic river;
- (E) A national wildlife refuge; ((~~or~~))
- (F) A national lakeshore or seashore; or
- (G) A national recreation area.

(ii) Areas established after August 7, 1977:

- (A) A national park; ((~~or~~))
- (B) A national wilderness area; or
- (C) Only the department of ecology is allowed to designate or redesignate the classification of the areas of the state.

**(3) Redesignation of area classifications.**

(a) **Ecology** shall propose the redesignation of an area classification as a revision to the **SIP**.

(b) **Ecology** may submit to **EPA** a proposal to redesignate areas of the state as **Class I** or **II** if:

(i) **Ecology** followed the public involvement procedures in WAC 173-400-171;

(ii) **Ecology** explained the reasons for the proposed redesignation, including a description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation;

(iii) **Ecology** made available for public inspection at least thirty days before the hearing the explanation of the reasons for the proposed redesignation;

(iv) **Ecology** notified other states, tribal governing bodies, and **federal land managers** (as defined in 40 CFR 52.21 (b)(24)) whose lands may be affected by the proposed redesignation at least thirty days prior to the public hearing;

(v) **Ecology** consulted with the elected leadership of local governments in the area covered by the proposed redesignation before proposing the redesignation; and

(vi) **Ecology** followed these procedures when a redesignation includes any federal lands:

(A) **Ecology** notified in writing the appropriate **federal land manager** on the proposed redesignation. **Ecology** allowed forty-five days for the **federal land manager** to confer with **ecology** and to submit written comments.

(B) **Ecology** responded to any written comments from the **federal land manager** that were received within forty-

five days of notification. **Ecology's** response was available to the public in advance of the notice of the hearing.

(I) **Ecology** sent the written comments of the **federal land manager**, along with **ecology's** response to those comments, to the public location as required in WAC 173-400-171 (2)(a).

(II) If **ecology** disagreed with the **federal land manager's** written comments, **ecology** published a list of any inconsistency between the redesignation and the comments of the **federal land manager**, together with the reasons for making the redesignation against the recommendation of the **federal land manager**.

(c) **Ecology** may submit to **EPA** a proposal to redesignate any area other than an area to which subsection (1) of this section applies as **Class III** if:

(i) The redesignation followed the public involvement requirements of WAC 173-400-171 and 173-400-118(3);

(ii) The redesignation has been specifically approved by the governor of Washington state, after consultation with the appropriate committees of the legislature if it is in session, or with the leadership of the legislature, if it is not in session;

(iii) The redesignation has been approved by local governments representing a majority of the residents of the area to be redesignated. The local governments enacted legislation or passed resolutions concurring in the redesignation;

(iv) The redesignation would not cause, or contribute to, a concentration of any **air contaminant** which would exceed any maximum allowable increase permitted under the classification of any other area or any **National Ambient Air Quality Standard**; and

(v) A **PSD** permit under WAC ((173-400-141)) 173-400-720 for a new **major stationary source** or **major modification** could be issued only if the area in question were redesignated as **Class III**, and material submitted as part of that application was available for public inspection prior to any public hearing on redesignation of the area as **Class III**.

**AMENDATORY SECTION** (Amending Order 93-03, filed 8/20/93, effective 9/20/93)

**WAC 173-400-120 Bubble rules.** (1) Applicability. The owner(s) or operator(s) of any source(s) may apply for a bubble for any contaminant regulated by state or federal law for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions units involved.

(2) Conditions. A bubble may be authorized provided the following conditions have been demonstrated to the satisfaction of ((~~ecology~~ or)) the permitting authority.

(a) The contaminants exchanged must be of the same type, that is,  $PM_{10}$  for  $PM_{10}$ , sulfur dioxide for sulfur dioxide, etc.

(b) The bubble will not interfere with the attainment and maintenance of air quality standards. No bubble shall be authorized in a nonattainment area unless there is an EPA-approved **SIP** which demonstrates attainment for that area.

(c) The bubble will not result in a delay in compliance by any source, nor a delay in any existing enforcement action.

(d) The bubble will not supersede NSPS, NESHAPS, BACT, or LAER. The emissions of hazardous contaminants shall not be increased.

(e) The bubble will not result in an increase in the sum of actual emission rates of the contaminant involved from the emissions units involved.

(f) A bubble may not be authorized only for opacity limits. However, if the emission limit for particulates for a given emissions unit is increased as part of a bubble, the opacity limit for the given emissions unit may be increased subject to the following limitations:

(i) The new opacity limit shall be specific for the given emissions unit;

(ii) The new opacity limit shall be consistent with the new particulates limit;

(iii) An opacity greater than sixty percent shall never be authorized;

(iv) If the given emissions unit emits or has the potential to emit one hundred tons per year or more of particulate matter, the opacity shall be monitored continuously.

(g) The emission limits of the bubble are equivalent to existing limits in enforceability.

(h) Concurrent with or prior to the authorization of a bubble, each emission unit involved in a bubble shall receive or have received a regulatory order or permit that establishes total allowable emissions from the source ~~((of))~~ for the contaminant being bubbled, expressed as weight of the contaminant per unit time.

(i) There will be no net adverse impact upon air quality from the establishment of new emission requirements for a specific source or emissions unit. Determination of net adverse impact shall include but not be limited to public perception of opacity and public perception of odorous contaminants.

(j) Specific situations may require additional demonstration as requested by ~~((ecology or))~~ the permitting authority.

(3) Jurisdiction. Whenever a bubble application involves emissions units, some of which are under the jurisdiction of an authority, approval will require concurrence by both authorities. The new emission limits for each emissions unit will be enforced by the authority of original jurisdiction.

(4) Additional information. Within thirty days, after the receipt of a bubble application and all supporting data and documentation, ~~((ecology or))~~ the permitting authority may require the submission of additional information needed to review the application.

(5) Approval. Within thirty days after all the required information has been received, ~~((ecology or))~~ the permitting authority shall approve or deny the application, based on a finding that conditions in subsection (2)(a) through (j) of this section have been satisfied or not. If the application is approved, a regulatory order or equivalent document shall be issued which includes new allowable emissions limits expressed in weight of pollutant per unit time for each emissions unit affected by the bubble. The regulatory order or equivalent document shall include any conditions required to assure that subsection (2)(a) through (j) of this section will be satisfied. If the bubble depends in whole or in part upon the shutdown of equipment, the regulatory order or equivalent document must prohibit operation of the affected equipment.

The regulatory order establishing the bubble is subject to the public involvement requirements of WAC 173-400-171.

AMENDATORY SECTION (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-131 Issuance of emission reduction credits.** (1) **Applicability.** The owner or operator of any source may apply to the permitting ~~((agency))~~ authority for an **emission reduction credit (ERC)** if the source proposes to reduce its **actual emissions** rate for any contaminant regulated by state or federal law for which the **emission** requirement may be stated as an allowable limit in weight of contaminant per unit time for the **emissions units** involved.

(2) **Time of application.** The application for an **ERC** must be made prior to or within one hundred eighty days after the **emission** reduction has been accomplished.

(3) **Conditions.** An **ERC** may be authorized provided the following conditions have been demonstrated to the satisfaction of the permitting ~~((agency))~~ authority.

(a) The quantity of **emissions** in the **ERC** shall be less than or equal to the old **allowable emissions** rate or the old **actual emissions** rate, whichever is the lesser, minus the new **allowable emissions** rate.

(b) The **ERC** application must include a description of all the changes that are required to accomplish the claimed **emissions** reduction, such as, new control equipment, process modifications, limitation of hours of operation, permanent shutdown of equipment, specified control practices, etc.

(c) The **ERC** must be large enough to be readily quantifiable relative to the source strength of the **emissions unit(s)** involved.

(d) No part of the **emission** reductions claimed for credit shall have been used as part of a determination of **net emission increase**, nor as part of an offsetting transaction under WAC 173-400-112 (2)(d), nor as part of a **bubble** transaction under WAC 173-400-120, nor to satisfy NSPS, NESHAPS, for Source Categories, BACT, or LAER.

(e) Concurrent with or prior to the authorization of an **ERC**, the applicant shall receive (have received) a **regulatory order** or permit that establishes total **allowable emissions** from the source or **emissions unit** of the contaminant for which the **ERC** is requested, expressed as weight of contaminant per unit time.

(f) The use of any **ERC** shall be consistent with all other federal, state, and local requirements of the program in which it is used.

(4) **Additional information.** Within thirty days after the receipt of an **ERC** application and all supporting data and documentation, the permitting ~~((agency))~~ authority may require the submission of additional information needed to review the application.

(5) **Approval.** Within thirty days after all required information has been received, the permitting ~~((agency))~~ authority shall approve or deny the application, based on a finding that conditions in subsection (3)(a) through (e) of this section have been satisfied or not. If the application is approved, the permitting ~~((agency))~~ authority shall:

(a) Issue a **regulatory order** or equivalent document to assure that the **emissions** from the source will not exceed the

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allowable **emission** rates claimed in the ERC application, expressed in weight of pollutant per unit time for each **emission unit** involved. The **regulatory order** or equivalent document shall include any conditions required to assure that subsection (3)(a) through (e) of this section will be satisfied. If the **ERC** depends in whole or in part upon the shutdown of equipment, the **regulatory order** or equivalent document must prohibit operation of the affected equipment; and

(b) Issue a certificate of **emission reduction credit**. The certificate shall specify the issue date, the contaminants involved, the **emission** decrease expressed as weight of pollutant per unit time, the **nonattainment area** involved, if applicable, and the **person** to whom the certificate is issued.

AMENDATORY SECTION (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-136 Use of emission reduction credits (ERC).** (1) **Permissible use.** An ERC may be used to satisfy the requirements for authorization of a **bubble** under WAC 173-400-120; as a part of a determination of "**net emissions increase**;" or as an offsetting reduction to satisfy the requirements for **new source** review in WAC 173-400-112 or 173-400-113 ((2)(e)) (3).

(2) **Surrender of ERC certificate.** When an ERC is used under subsection (1) of this section, the certificate for the ERC must be surrendered to the **permitting ((agency)) authority**. If only a portion of the ERC is used, the amended certificate will be returned to the owner.

(3) **Conditions of use.**

(a) An ERC may be used only for the **air contaminants** for which it was issued.

(b) The **permitting ((agency)) authority** may impose additional conditions of use to account for temporal and spatial differences between the **emissions units** that generated the ERC and the **emissions units** that use the ERC.

(4) **Sale of an ERC.** An ERC may be sold or otherwise transferred to a person other than the person to whom it was originally issued. Within thirty days after the transfer of ownership, the certificate must be surrendered to the issuing **authority**. After receiving the certificate, the issuing **authority** shall reissue the certificate to the new owner.

(5) **Redemption period.** An unused ERC expires ten years after date of original issue.

(6) **Discount due to change in SIP.** If reductions in emissions beyond those identified in the **SIP** are required to meet an **ambient air quality standard**, if the standard cannot be met through controls on operating sources, and if the plan must be revised, an ERC may be discounted by ((ecology or)) the **permitting authority** after public involvement according to WAC 173-400-171. This discount shall not exceed the percentage of additional emission reduction needed to reach attainment.

AMENDATORY SECTION (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-151 Retrofit requirements for visibility protection.** (1) The requirements of this section apply to an **existing stationary facility**. An "**existing stationary**

**facility**" means a **stationary source of air contaminants** that meets all of these conditions:

(a) The **stationary source** must have the potential to emit 250 tons per year or more of any **air contaminant**. **Fugitive emissions**, to the extent quantifiable, must be counted in determining the **potential to emit**; and

(b) The **stationary source** was not in operation prior to August 7, 1962, and was in existence on August 7, 1977((-); and

(c) Is in one of the following 26 source categories:

<u>Fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input,</u>	<u>Coke oven batteries,</u>
<u>Coal cleaning plants (thermal dryers),</u>	<u>Sulfur recovery plants,</u>
<u>Kraft pulp mills,</u>	<u>Carbon black plants (furnace process),</u>
<u>Portland cement plants,</u>	<u>Primary lead smelters,</u>
<u>Primary zinc smelters,</u>	<u>Fuel conversion plants,</u>
<u>Iron and steel mill plants,</u>	<u>Sintering plants,</u>
<u>Primary aluminum ore reduction plants,</u>	<u>Secondary metal production facilities,</u>
<u>Primary copper smelters,</u>	<u>Chemical process plants,</u>
<u>Municipal incinerators capable of charging more than 250 tons of refuse per day,</u>	<u>Fossil-fuel boilers of more than 250 million British thermal units per hour heat input,</u>
<u>Hydrofluoric, sulfuric, and nitric acid plants,</u>	<u>Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels,</u>
<u>Petroleum refineries,</u>	<u>Taconite ore processing facilities,</u>
<u>Lime plants,</u>	<u>Glass fiber processing plants, and</u>
<u>Phosphate rock processing plants,</u>	<u>Charcoal production facilities,</u>

((e)) (d) For purposes of determining whether a **stationary source** is an existing stationary facility, the term "building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual, 1972*, as amended in the 1977 supplement.

(2) Ecology shall identify each **existing stationary facility** which may reasonably be anticipated to cause or contribute to **visibility impairment** in any **mandatory Class 1 federal area** in Washington and any adjacent state.

(3) For each **existing stationary facility** identified under subsection (2) of this section, ecology, in consultation with the permitting ((agency)) authority shall determine **BART** for ~~((the))~~ each air contaminant of concern and any additional air pollution control technologies that are to be required to reduce impairment from the **existing stationary facility**.

(4) Each **existing stationary facility** shall apply **BART** as new technology for control of the **air contaminant** becomes reasonably available if:

(a) The **existing stationary facility** emits the **air contaminant** contributing to **visibility impairment**;

(b) Controls representing **BART** for that **air contaminant** have not previously been required under this section; and

(c) The **impairment of visibility** in any **mandatory Class 1 federal area** is **reasonably attributable** to the emissions of the **air contaminant**.

AMENDATORY SECTION (Amending Order 99-06, filed 8/15/01, effective 9/15/01)

**WAC 173-400-171 Public involvement.** (1) ~~((Applicability-))~~ **Internet notification of receipt of an application.**

(a) For applications and actions not subject to mandatory public notification per subsection (2)(a) of this section, the permitting authority will either:

(i) Post on the permitting authority's internet website an announcement of the receipt of notice of construction applications and other proposed actions; or

(ii) Follow the public involvement process found in subsection (3) of this section.

(b) For internet notification, notice shall remain on the permitting authority's website for a minimum of fifteen consecutive days. The internet posting shall include notice of the receipt of the application, the type of proposed action, and a statement that the public may request an opportunity to comment on the proposed action.

(c) Requests for a public comment period shall be submitted to the permitting authority in writing via letter, fax, or electronic mail within fifteen days of its internet posting. A public comment period shall be provided pursuant to subsection (3) of this section for any application or proposed action that receives such a request. Any application or proposed action for which a public comment period is not requested may be processed without further public involvement.

(d) Any application or proposed action that automatically requires a public comment period pursuant to subsection (2) of this section or for which the agency proposes to have a public comment period does not have to be announced on the permitting authorities' internet website.

**(2) Actions subject to public notice.**

(a) ~~((Ecology or))~~ The **permitting authority** must provide public notice before approving or denying any of the following types of applications or other actions:

(i) **Notice of construction application** for any **new or modified source** ~~((or emissions unit, if a significant net increase in emissions of any air pollutant regulated by state or federal law would result; or~~

~~(ii) Any preliminary determination to approve or disapprove a PSD permit application, except an administrative amendment to an existing permit; or~~

~~(iii) An extension of the deadline to begin construction in a PSD permit; or~~

~~(iv)), including the initial application for operation of a portable source, if an increase in emissions of any air pollutant at a rate above the emission threshold rate (defined in WAC 173-400-030) or any increase in a pollutant regulated under chapter 173-460 WAC which will increase above the small quantity emission rate listed in WAC 173-460-080 (2)(e) would result; or~~

(ii) Any use of a modified or substituted air quality model, other than a guideline model in Appendix W of 40 CFR Part 51 (in effect on July 1, ~~((2000))~~ 2004) as part of review under WAC ~~((173-400-112, 173-400-141, or))~~ 173-400-110, 173-400-117, or 173-400-720; or

~~((v))~~ (iii) Any **order** to determine **RACT**; or

~~((vi))~~ (iv) An **order** to establish a compliance schedule or a variance; or

~~((vii))~~ (v) An **order** to demonstrate the creditable height of a stack which exceeds the **GEP** formula height and sixty-five meters, by means of a fluid model or a field study, for the purposes of establishing an **emission limitation**; or

~~((viii))~~ (vi) An **order** to authorize a **bubble**; or

(vii) Any **action** to discount the value of an **ERC** issued to a source per WAC 173-400-136(6); or

(viii) Any **regulatory order** to establish **BART** for an **existing stationary facility**; or

(ix) **Notice of construction application** or **regulatory order** used to establish a **creditable emission reduction**;

(x) An **order** issued under WAC 173-400-091 that establishes limitations on a **source's potential to emit**; or

(xi) ~~((Any application or other proposed action made under this chapter in which ecology or the authority determines there is substantial public interest))~~ The original issuance and the issuance of all revisions to a general order of approval issued under chapter 173-560 WAC.

(xii) Exception. PSD actions under WAC 173-400-730 and 173-400-740 are not required to follow the procedures in this section. The public involvement for these projects shall follow the procedures in WAC 173-400-730(4) and 173-400-740.

(b) Ecology must provide notice on the following **ecology only** actions:

(i) A Washington state recommendation that will be submitted by the **director of ecology** to **EPA** for approval of a **SIP** revision, including plans for attainment, maintenance, and visibility protection; or

(ii) A Washington state recommendation to **EPA** for designation or redesignation of an area as **attainment, nonattainment, or unclassifiable**; or

(iii) A Washington state recommendation to **EPA** for a change of boundaries of an **attainment or nonattainment** area; or

(iv) A Washington state recommendation to **EPA** for redesignation of an area under WAC 173-400-118.

(c) The permitting authority will provide public notice before approving or denying any application or other action

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for which the permitting authority determines there is substantial public interest.

(d) A **notice of construction application** designated for integrated review with an application to issue or modify an operating permit shall be processed in accordance with the operating permit program procedures and deadlines. A project designated for integrated review that includes ~~((a PSD permit application;))~~ a **notice of construction application** for a **major modification** in a **nonattainment area**, or a **notice of construction application** for a **major stationary source** in a **nonattainment area** must also comply with public notice requirements in ~~((WAC 173-400-171))~~ this section. A project designated for integrated review that includes a PSD permit application must also comply with the requirements in WAC 173-400-730 and 173-400-740.

~~((2))~~ (3) **Public notice.** Public notice shall be made only after all information required by ~~((ecology or))~~ the **permitting authority** has been submitted and after applicable preliminary determinations, if any, have been made. The applicant or other initiator of the action must pay the cost of providing public notice. Public notice shall include:

(a) Availability for public inspection. The information submitted by the applicant, and any applicable preliminary determinations, including analyses of the effects on air quality, must be available for public inspection in at least one location near the proposed project. Exemptions from this requirement include information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205 and chapter 173-03 WAC.

(i) ~~((For PSD permit determinations, ecology must include a copy or summary of other materials considered in making the preliminary determination.~~

~~((ii))~~ For a redesignation of a class II area under WAC 173-400-118, **ecology** must make available for public inspection at least thirty days before the hearing the explanation of the reasons for the proposed redesignation.

~~((iii))~~ (ii) For a revision of the **SIP** subject to subsection ~~((1))~~ (2)(b)(iii) of this section, **ecology** must make available for public inspection the information related to the action at least thirty days before the hearing.

(b) Newspaper publication. Public notice of the proposed project must be published in a newspaper of general circulation in the area of the proposed project and must include:

(i) The name and address of the owner or operator and the facility;

(ii) A brief description of the proposal;

(iii) The location of the documents made available for public inspection;

(iv) A thirty-day period for submitting written comment to ~~((ecology or))~~ the **permitting authority**;

(v) A statement that a public hearing may be held if ~~((ecology or))~~ the **permitting authority** determines within a thirty-day period that significant public interest exists or for those actions listed in WAC 173-400-171 (4)(b) with a mandatory public hearing requirement, the time, date, and location of the public hearing.

(vi) The length of the public comment period in the event of a public hearing;

(vii) For projects subject to special protection requirements for federal Class I areas in WAC 173-400-117 (5)(c),

public notice shall either explain the **permitting ((agency's)) authority's** decision or state that an explanation of the decision appears in the ~~((Fact Sheet))~~ support document for the proposed ~~((PSD permit))~~ order of approval; and

(viii) For a redesignation of an area under WAC 173-400-118, public notice shall state that an explanation of the reasons for the proposed redesignation is available for review at the public location.

(c) Notifying EPA. A copy of the public notice will be sent to the EPA Region 10 regional administrator.

~~((Additional public notice requirements for PSD projects. For projects subject to the PSD program in WAC 173-400-141, the permitting agency shall meet the public notice requirements in subsection (2)(a), (b), and (c) of this section, WAC 173-400-117(6), and the following requirements:~~

~~((i) PSD Permit Fact Sheet. All PSD permit preliminary determinations and final permits will be accompanied by a fact sheet that includes the following information:~~

~~((A) A brief description of the type of facility or activity subject to permitting;~~

~~((B) The type and quantity of pollutants proposed to be emitted into the air;~~

~~((C) A brief summary of the BACT options considered and the reasons why the selected BACT level of control was selected;~~

~~((D) A brief summary of the basis for permit conditions;~~

~~((E) The degree of increment consumption expected to result from operation of the facility at the permitted levels;~~

~~((F) An analysis of the impacts on air quality related values in federal Class I areas affected by the project; and~~

~~((G) An analysis of the impacts of the proposed emissions on visibility following the requirements in WAC 173-400-117.~~

~~((ii) For PSD permit preliminary determinations, the public notice required by subsection (2)(b) of this section shall contain:~~

~~((A) The name and address of the applicant;~~

~~((B) The location of the proposed project;~~

~~((C) A brief description of the project proposal;~~

~~((D) The preliminary determination to approve or disapprove the application;~~

~~((E) How much increment is expected to be consumed by this project;~~

~~((F) The name, address, and telephone number of the person to contact for further information;~~

~~((G) A brief explanation of how to comment on the project; and~~

~~((H) An explanation on how to request a public hearing.~~

~~((iii) For PSD permit preliminary determinations, a copy of the public notice required by subsection (2)(b) of this section shall be sent to:~~

~~((A) The applicant;~~

~~((B) U.S. Department of the Interior—National Park Service;~~

~~((C) U.S. Department of Agriculture—Forest Service;~~

~~((D) EPA Region 10;~~

~~((E) Any tribal governing body whose lands may be affected by emissions from the project;~~

~~(F) The chief executive of the city where the project is located;~~

~~(G) The chief executive of the county where the project is located;~~

~~(H) The authority in whose territory the project is located;~~

~~(I) The comprehensive regional land use planning agency whose lands may be affected by emissions from the project;~~

~~(J) Individuals or organizations that requested notification of the specific project proposal;~~

~~(K) Other individuals who requested notification of PSD permits;~~

~~(L) Any state within 100 km of the proposed project; and~~

~~(M) The location for public inspection of material required under subsection (2)(a) of this section.~~

~~(iv) A copy of the PSD permit preliminary determination and the fact sheet must be sent to:~~

~~(A) The applicant;~~

~~(B) U.S. Department of the Interior—National Park Service;~~

~~(C) U.S. Department of Agriculture—Forest Service;~~

~~(D) EPA Region 10;~~

~~(E) The authority in whose territory the project is located;~~

~~(F) Individuals or organizations who request a copy; and~~

~~(G) The location for public inspection of material required under subsection (2)(a) of this section.~~

~~(v) The final PSD permit determination shall include the following:~~

~~(A) A copy of the final PSD permit or the determination to deny the permit;~~

~~(B) A summary of the comments received;~~

~~(C) The permitting agency's response to those comments;~~

~~(D) A description of what approval conditions changed from the preliminary determination; and~~

~~(E) A cover letter that includes an explanation of how the final determination may be appealed.~~

~~(vi) The permitting agency shall mail a copy of the cover letter that accompanies the final PSD permit determination to:~~

~~(A) The applicant;~~

~~(B) U.S. Department of the Interior—National Park Service;~~

~~(C) U.S. Department of Agriculture—Forest Service;~~

~~(D) EPA Region 10;~~

~~(E) Any tribal governing body whose lands may be affected by emissions from project;~~

~~(F) The chief executive of the city where the project is located;~~

~~(G) The chief executive of the county where the project is located;~~

~~(H) The authority in whose territory the project is located;~~

~~(I) The comprehensive regional land use planning agency whose lands may be affected by emissions from the project;~~

~~(J) Individuals or organizations that requested notification of the specific project proposal;~~

~~(K) Other individuals who requested notification of PSD permits;~~

~~(L) Any state within 100 km of the proposed project; and~~

~~(M) The location for public inspection of material required under subsection (2)(a) of this section.~~

~~(vii) The permitting agency shall mail a copy of the final PSD permit determination to:~~

~~(A) The applicant;~~

~~(B) U.S. Department of the Interior—National Park Service;~~

~~(C) U.S. Department of Agriculture—Forest Service;~~

~~(D) EPA Region 10;~~

~~(E) The authority in whose territory the project is located;~~

~~(F) Individuals or organizations who request a copy; and~~

~~(G) The location for public inspection of material required under subsection (2)(a) of this section.~~

~~(e)) Additional public notice requirements for a SIP revision. For a revision to the SIP that is submitted by the **director of ecology, ecology** must publish the public notice required by subsection ((2)) (3)(b) of this section in the *Washington State Register* in advance of the date of the public hearing.~~

~~((3)) (4) Public comment.~~

~~(a) The public comment period must be at least the thirty-day period for written comment specified in the public notice.~~

~~(b) If a public hearing is held, the public comment period must extend through the hearing date.~~

~~(c) ((Ecology or)) The **permitting authority** shall make no final decision on any application or action of any type described in subsection (1) of this section until the public comment period has ended and any comments received during the public comment period have been considered.~~

~~((4)) (5) Public hearings.~~

~~(a) The applicant, any interested governmental entity, any group, or any person may request a public hearing within the thirty-day public comment period. A request must indicate the interest of the entity filing it and why a hearing is warranted. ((Ecology or)) The **permitting authority** may hold a public hearing if it determines significant public interest exists. ((Ecology or)) The **permitting authority** will determine the location, date, and time of the public hearing.~~

~~(b) **Ecology** must hold a hearing on the following **ecology only** actions:~~

~~(i) A Washington state recommendation to **EPA** that will be submitted by the **director of ecology** for approval of a SIP revision;~~

~~(ii) A Washington state recommendation to **EPA** for a change of boundaries of an **attainment or nonattainment** area;~~

~~(iii) A Washington state recommendation to **EPA** for designation of an area as **attainment, nonattainment, or unclassifiable**; and~~

~~(iv) A Washington state recommendation to **EPA** to redesignate an area under WAC 173-400-118.~~

~~(c) **Ecology** must provide at least thirty days prior notice of a hearing required under subsection (4)(b) of this section.~~

~~((5)) (6) Other requirements of law. Whenever procedures permitted or mandated by law will accomplish the~~



objectives of public notice and opportunity for comment, those procedures may be used in lieu of the provisions of this section. ~~((This subsection does not apply to a PSD permit application, a notice of construction application for a major modification, a notice of construction application for a major stationary source, and any action in WAC 173-400-171 (1)(b).))~~

~~(6) Public information. All information, except information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205, is available for public inspection at the issuing agency. This includes copies of notices of construction applications, orders, and modifications--))~~

#### NEW SECTION

**WAC 173-400-175 Public information.** All information, except information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205, is available for public inspection at the issuing agency. This includes copies of **notices of construction applications, orders, and modifications.**

AMENDATORY SECTION (Amending Order 90-06, filed 2/19/91, effective 3/22/91)

**WAC 173-400-200 Creditable stack height and dispersion techniques.** (1) Applicability. These provisions shall apply to all sources except:

(a) Stacks for which construction had commenced on or before December 31, 1970, except where pollutants are being emitted from such stacks used by sources which were constructed, or reconstructed, or for which major modifications were carried out after December 31, 1970;

(b) Coal-fired steam electric generating units subject to the provisions of Section 118 of the Federal Clean Air Act, which commenced operation before July 1, 1957, and for whose stacks construction commenced before February 8, 1974;

(c) Flares;

(d) ~~((Open))~~ Outdoor burning for agricultural or silvicultural purposes as covered under the smoke management plan;

(e) Residential wood combustion and open burning for which episodic restrictions apply.

These provisions shall not be construed to limit the actual stack height.

(2) Prohibitions. No source may use dispersion techniques or excess stack height to meet ambient air quality standards or PSD increment limitations.

(a) Excess stack height. Excess stack height is that portion of a stack which exceeds the greater of:

(i) Sixty-five meters, measured from the ground level elevation at the base of the stack; or

(ii)  $H_g = H + 1.5L$

where:  $H_g$  = "good engineering practice" (GEP) stack height, measured from the ground level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground level elevation at the base of the stack,

L = lesser dimension, height or projected width, of nearby structure(s), subject to the proviso below.

"Nearby," as used in this subsection for purposes of applying the GEP formula means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 kilometer (1/2 mile).

(b) Dispersion techniques. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This does not include:

(i) The reheating of a gas stream, following the use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(ii) The merging of gas streams where:

(A) The source was originally designed and constructed with such merged gas streams, as demonstrated by the source owner(s) or operator(s).

(B) Such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion shall apply only to the emission limitation for the pollutant affected by such change in operation.

(C) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons, and not primarily motivated by an intent to gain emissions credit for greater dispersion.

(3) Exception. EPA, ecology, or ~~((an))~~ a permitting authority may require the use of a field study or fluid model to verify the creditable stack height for the source. This also applies to a source seeking credit after the effective date of this rule for an increase in existing stack height up to that established by the GEP formula. A fluid model or field study shall be performed according to the procedures described in the EPA Guideline for Determination of Good Engineering Practice Height (Technical Support Document of the Stack Height Regulations). The creditable height demonstrated by a fluid model or field study shall ensure that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

(a) "Nearby," as used in this subsection for conducting a field study or fluid model, means not greater than 0.8 km, except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten times the maximum height of the feature, not to exceed two miles if such feature achieves a height 0.8 km from the stack that is at least forty percent of the GEP stack height or twenty-six meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(b) "Excessive concentration" is defined for the purpose of determining creditable stack height under this subsection



and means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over an ambient air quality standard. For sources subject to PSD review (WAC ((173-400-141)) 173-400-720 and 40 CFR 52.21) an excessive concentration alternatively means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over a PSD increment. The emission rate used in this demonstration shall be the emission rate specified in the state implementation plan, or in the absence of such, the actual emission rate of the source. "Significant downwash effect" means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

### NEW SECTION

**WAC 173-400-560 General order of approval.** In lieu of filing a notice of construction application under WAC 173-400-110, the owner or operator may apply for coverage under a general order of approval issued under this section. A general order of approval satisfies the requirement for new source review under RCW 70.94.152.

(1) **Issuance of general orders of approval.** A permitting authority may issue a general order of approval applicable to a specific type of emission unit or source, subject to the conditions in this section. A general order of approval shall identify criteria by which an emission unit or source may qualify for coverage under the associated general order of approval and shall include terms and conditions under which the owner or operator agrees to install and/or operate the covered emission unit or source. At a minimum, these terms and conditions shall include:

(a) Applicable emissions limitations and/or control requirements;

(b) Best available control technology;

(c) Appropriate operational restrictions, such as:

(i) Criteria related to the physical size of the unit(s) covered;

(ii) Criteria related to raw materials and fuels used;

(iii) Criteria related to allowed or prohibited locations; and

(iv) Other similar criteria determined by a permitting authority;

(d) Monitoring, reporting and recordkeeping requirements to ensure compliance with the applicable emission limits and control requirements;

(e) Appropriate initial and periodic emission testing requirements;

(f) Compliance with chapter 173-460 WAC, and WAC 173-400-112 (2)(c) or 173-400-113(3) as applicable;

(g) Compliance with 40 CFR Parts 60, 61, 62, and 63; and

(h) The application and approval process to obtain coverage under the specific general order of approval.

(2) **Public comment.** A permitting authority shall provide an opportunity for public comment on a proposed new

general order of approval or modification of an existing general order of approval in accordance with WAC 173-400-171.

(3) **Modification of general orders of approval.** A permitting authority may review and modify a general order of approval at any time. Only the permitting authority that issued a general order of approval may modify that general order of approval. Modifications to general orders of approval shall follow the procedures of this regulation and shall only take effect prospectively.

(4) **Application for coverage under a general order of approval.**

(a) In lieu of applying for an individual order of approval under WAC 173-400-110, an owner or operator of an emission unit or source may apply for and receive coverage from a permitting authority under a general order of approval if:

(i) The owner or operator of the emission unit or source applies for coverage under a general order of approval in accordance with this regulation and any conditions of the approval related to application for and granting coverage under the general order of approval;

(ii) The emission unit or source meets all the qualifications listed in the requested general order of approval;

(iii) The requested emission unit or source is not part of a new major stationary source or major modification subject to the requirements of WAC 173-400-112 or 173-400-720; and

(iv) The requested emission unit or source does not trigger applicability of the operating permit program under chapter 173-401 WAC or trigger a required modification of an existing operating permit.

(b) Owners or operators of emission units or sources applying for coverage under a general order of approval shall do so using the forms supplied by a permitting authority and include the required fee. The application must include all information necessary to determine qualification for, and to assure compliance with, a general order of approval.

(c) An application shall be incomplete until a permitting authority has received any required fees.

(d) The owner or operator of a new source or modification of an existing source that qualifies for coverage under a general order of approval may not begin actual construction of the new source or modification until its application for coverage has been approved or accepted under the procedures established in WAC 173-400-560(5).

(5) **Processing applications for coverage under a general order of approval.** Each general order of approval shall include a section on how an applicant is to request coverage and how the permitting authority will grant coverage. The section of the general order of approval will include either the method in subsection (6)(a) or (b) of this section to describe the process for the applicant to be granted coverage.

(a) Within thirty days of receipt of an application for coverage under a general order of approval, the permitting authority shall notify an applicant in writing that the application is incomplete, approved, or denied. If an application is incomplete, the permitting authority shall notify an applicant of the information needed to complete the application. If an application is denied, the permitting authority shall notify an applicant of the reasons why the application is denied. Cov-

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erage under a general order of approval is effective as of the date of issuance of approval by the permitting authority.

(b) The applicant is approved for coverage under the general order of approval unless the owner or operator receives a letter from the permitting authority, postmarked within thirty days of when the application for coverage was received by the permitting authority, notifying the owner or operator that the emissions unit or source does not qualify for coverage under the general order of approval. The letter denying coverage shall notify the applicant of the disqualification and the reasons why coverage is denied.

(6) **Termination of coverage under a general order of approval.** An owner or operator who has received approval of an application for coverage under a general order of approval may later request to be excluded from coverage under that general order of approval by applying to the same permitting authority for an individual order of approval, under WAC 173-400-110, or for coverage under another general order of approval. If the same permitting authority issues an individual order of approval or other permit or order serving the same purpose as the original general order of approval, or approves coverage under a different general order of approval, coverage under the original general order of approval is automatically terminated, effective on the effective date of the individual order of approval, order or permit or new general order of approval.

(7) **Failure to qualify or comply.** An owner or operator who requests and is granted approval for coverage under a general order of approval shall be subject to enforcement action for establishment of a new source in violation of WAC 173-400-110 if the emission unit or source is later determined not to qualify for the terms and conditions of the general order of approval.

**PERMITTING OF MAJOR STATIONARY SOURCES AND MAJOR MODIFICATIONS TO MAJOR STATIONARY SOURCES**

NEW SECTION

**WAC 173-400-700 Review of major stationary sources of air pollution.** (1) The following sections are to be used by ecology when reviewing and permitting new major stationary sources and major modifications to major stationary sources located in attainment or unclassified areas in Washington.

(2) WAC 173-400-700 through 173-400-750 apply state-wide except:

(a) Where the authority has relieved delegation of the federal PSD program from EPA or has a SIP approved PSD program.

(b) To projects under the jurisdiction of the energy facility site evaluation council site certification process pursuant to chapter 80.50 RCW.

(c) Applications or requests to designate an emissions unit as a Clean Unit under 40 CFR 52.21(y), to permit a Pollution Control Project under 40 CFR 52.21(z)(5), or to establish an allowables Plantwide Applicability Limit under 40 CFR 52.21(aa) shall be processed by the authority where the

authority has received delegation from EPA to administer the relevant alternative PSD applicability tests.

(3) The construction of a major stationary source or major modification subject to the permitting requirements of the following section might also be subject to permitting program in WAC 173-400-110.

NEW SECTION

**WAC 173-400-710 Definitions.** (1) The definitions in WAC 173-400-030 are to be used in WAC 173-400-700 through 173-400-750 unless:

(a) A term is defined differently in WAC 173-400-710 for use in the major source permitting requirements in WAC 173-400-700 through 173-400-750; or

(b) A term is defined differently in the federal program requirements adopted by reference in WAC 173-400-720.

(2) All usage of the term "source" in WAC 173-400-710 through 173-400-750 and in 40 CFR 52.21 as adopted by reference is to be interpreted to mean "stationary source" as defined in 40 CFR 52.21(b)(5) as modified by section 302(z) of the Federal Clean Air Act.

NEW SECTION

**WAC 173-400-720 Prevention of significant deterioration (PSD).** (1) No major stationary source or major modification to which the requirements of this section apply shall begin actual construction without having received a PSD permit.

(2) **Early planning encouraged.** In order to develop an appropriate application, the source should engage in an early planning process to assess the needs of the facility. An opportunity for a preapplication meeting with ecology is available to any potential applicant.

(3) **Enforcement.** Ecology or the permitting authority with jurisdiction over the source under chapter 173-401 WAC, the Operating permit regulation, shall:

(a) Receive all reports required in the PSD permit;

(b) Enforce the requirement to apply for a PSD permit when one is required; and

(c) Enforce the conditions in the PSD permit.

(4) **Applicable requirements.**

(a) A PSD permit must assure compliance with the following requirements:

(i) Allowable emissions from the proposed major stationary source or major modification will not delay the attainment date for an area not in attainment nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed major stationary source or the projected impact of the increase in allowable emissions from the proposed major modification at any location within a nonattainment area does not exceed the following levels for the pollutants for which the area has been designated nonattainment:

Pollutant	Annual Average	24-Hour Average	8-Hour Average	3-Hour Average	1-Hour Average
CO-	-	-	0.5 mg/m <sup>3</sup>	-	2 mg/m <sup>3</sup>
SO <sub>2</sub>	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>	-	25 µg/m <sup>3</sup>	30 µg/m <sup>3</sup>

Pollutant	Annual Average	24-Hour Average	8-Hour Average	3-Hour Average	1-Hour Average
PM <sub>10</sub>	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>	-	-	-
NO <sub>2</sub>	1.0 µg/m <sup>3</sup>	-	-	-	-

An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection.

(ii) WAC 173-400-117 - Special protection requirements for federal Class I areas;

(iii) WAC 173-400-730 - Prevention of significant deterioration application processing;

(iv) WAC 173-400-740 - Prevention of significant deterioration public involvement requirements; and

(v) The following subparts of 40 CFR 52.21, in effect on March 30, 2003, which are adopted by reference. Exceptions are listed in (b)(i), (ii), and (iii) of this subsection:

Section	Title
40 CFR 52.21(a)(2)	Applicability Procedures.
40 CFR 52.21 (b)	Definitions.
40 CFR 52.21 (c)	Ambient air increments.
40 CFR 52.21 (d)	Ambient air ceilings.
40 CFR 52.21 (h)	Stack heights.
40 CFR 52.21 (i)	Review of major stationary sources and major modifications - source applicability and exemptions.
40 CFR 52.21 (j)	Control technology review.
40 CFR 52.21 (k)	Source impact analysis.
40 CFR 52.21 (l)	Air quality models.
40 CFR 52.21 (m)	Air quality analysis.
40 CFR 52.21 (n)	Source information.
40 CFR 52.21 (o)	Additional impact analysis.
40 CFR 52.21 (r)	Source obligation.
40 CFR 52.21 (v)	Innovative control technology.
40 CFR 52.21 (w)	Permit rescission.
40 CFR 52.21 (x)	Clean unit test for emission units subject to BACT or LAER.
40 CFR 52.21 (y)	Clean unit test for emission units that achieve an emission limitation comparable to BACT.
40 CFR 52.21 (z)	Pollution Control Project exclusion.
40 CFR 52.21 (aa)	Actuals Plantwide Applicability Limitation.
40 CFR 52.21 (bb)	Severability clause.
40 CFR 52.21 (cc)	Equipment replacement provisions.

(b) Exceptions to adopting 40 CFR 52.21 by reference.

(i) Every use of the word "administrator" in 40 CFR 52.21 means ecology except for the following:

(A) In 40 CFR 52.21 (b)(17), the definition of federally enforceable, "administrator" means the EPA administrator.

(B) In 40 CFR 52.21 (l)(2), air quality models, "administrator" means the EPA administrator.

(C) In 40 CFR 52.21 (b)(43) the definition of prevention of significant deterioration program, "administrator" means the EPA administrator.

(D) In 40 CFR 52.21 (b)(48)(ii)(c) related to regulations promulgated by the administrator, "administrator" means the EPA administrator.

(E) In 40 CFR 52.21 (b)(50)(i) related to the definition of a regulated NSR pollutant, "administrator" means the EPA administrator.

(ii) Each reference in 40 CFR 52.21(i) to "paragraphs (j) through (r) of this section" is amended to state "paragraphs (j) through (o) of this section, paragraph (r) of this section, WAC 173-400-117 and 173-400-730."

(iii) The following paragraphs replace the designated paragraphs of 40 CFR 52.21:

(A) In 40 CFR 52.21 (b)(1)(i)(a) and (b)(1)(iii)(h), the size threshold for municipal waste incinerators is changed to 50 tons of refuse per day.

(B) 40 CFR 52.21 (b)(23)(i) After the entry for municipal solid waste landfills emissions, add Ozone Depleting Substances: 100 tpy.

(C) 40 CFR 52.21 (r)(6) The provisions of this paragraph (r)(6) apply to projects at an existing emissions unit at a major stationary source (other than projects at a Clean Unit or at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in paragraphs (b)(41)(ii)(a) through (c) of this section for calculating projected actual emissions.

(i) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

(A) A description of the project;

(B) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(C) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph (b)(41)(ii)(c) of this section and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(ii) The owner or operator shall submit a copy of the information set out in paragraph (r)(6)(i) of this section to the permitting authority before beginning actual construction. This information may be submitted in conjunction with any NOC application required under the provisions of WAC 173-400-110. Nothing in this paragraph (r)(6)(ii) shall be construed to require the owner or operator of such a unit to obtain any PSD determination from the permitting authority before beginning actual construction.

(iii) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit iden-

tified in paragraph (r)(6)(i)(b) of this section; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity of or potential to emit that regulated NSR pollutant at such emissions unit.

(iv) The owner or operator shall submit a report to the permitting authority within 60 days after the end of each year during which records must be generated under paragraph (r)(6)(iii) of this section setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(v) The owner or operator shall submit a report to the permitting authority if the annual emissions, in tons per year, from the project identified in paragraph (r)(6)(i) of this section, exceed the baseline actual emissions (as documented and maintained pursuant to paragraph (r)(6)(i)(c) of this section), by a significant amount (as defined in paragraph (b)(23) of this section) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph (r)(6)(i)(c) of this section. Such report shall be submitted to the permitting authority within 60 days after the end of such year. The report shall contain the following:

(a) The name, address and telephone number of the major stationary source;

(b) The annual emissions as calculated pursuant to paragraph (r)(6)(iii) of this section; and

(c) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

(D) 40 CFR 52.21 (r)(7) The owner or operator of the source shall submit the information required to be documented and maintained pursuant to paragraphs (r)(6)(iv) and (v) of this section annually within 60 days after the anniversary date of the original analysis. The original analysis and annual reviews shall also be available for review upon a request for inspection by the permitting authority or the general public pursuant to the requirements contained in 40 CFR 70.4 (b)(3)(viii).

(E) 40 CFR 52.21 (y)(7) Procedures for designating emissions units as Clean Units. Ecology shall designate an emissions unit a Clean Unit only by issuing a regulatory order issued under the authority of WAC 173-400-091 or (when requested by the applicant as part of its NOC application) in an order of approval issued under WAC 173-400-110, including requirements for public notice of the proposed Clean Unit designation and opportunity for public comment and when WAC 173-400-091 is used to designate a Clean Unit, a demonstration that the ambient air quality impact limitations of WAC 173-400-113 (1) through (3) will be required. Such permit must also meet the requirements in paragraph (y)(8) of this section.

(F) 40 CFR 52.21 (z)(5) Permit process for unlisted projects. Before an owner or operator may begin actual construction of a PCP project that is not listed in paragraphs (b)(32)(i) through (vi) of this section, the project must be approved by ecology and included in an order of approval

issued by ecology pursuant to the requirements in WAC 173-400-110, and/or WAC 173-400-091, following opportunity for public comment as provided for in those sections. When WAC 173-400-091 is used to approve a PCP, a demonstration that the ambient air quality impact limitations of WAC 173-400-112(2) and/or WAC 173-400-113 (1) through (3) will be required.

(G) 40 CFR 52.21 (z)(6)(iii) Permit requirements. The owner or operator must comply with any provisions in the order of approval or other order issued for the project related to use and approval of the PCP exclusion.

(H) 40 CFR 52.21 (aa)(2)(ix) PAL permit means the PSD permit, an ecology issued order of approval issued under WAC 173-400-110, or regulatory order issued under WAC 173-400-091 issued by ecology that establishes a PAL for a major stationary source.

(I) 40 CFR 52.21 (aa)(5) Public participation requirements for PALs. PALs for existing major stationary sources shall be established, renewed, or expired through the public participation process in WAC 173-400-171. A request to increase a PAL shall be processed in accordance with the application processing and public participation process in WAC 173-400-730 and 173-400-740.

(J) 40 CFR 52.21 (aa)(9)(i)(b) Ecology, after consultation with the permitting authority, shall decide whether and how the PAL allowable emissions will be distributed and issue a revised order, order of approval or PSD permit incorporating allowable limits for each emissions unit, or each group of emissions units, as ecology determines is appropriate.

(K) 40 CFR 52.21 (aa)(14) Reporting and notification requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the permitting authority in accordance with the requirements in chapter 173-401 WAC. The reports shall meet the requirements in paragraphs (aa)(14)(i) through (iii) of this section

(L) 40 CFR 52.21 (aa)(14)(ii) Deviation report. The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to WAC 173-401-615 (3)(b) and within the time limits prescribed shall satisfy this reporting requirement. The reports shall contain the information found at WAC 173-401-615(3).

#### NEW SECTION

**WAC 173-400-730 Prevention of significant deterioration application processing procedures. (1) Application submittal.**

(a) The applicant shall submit an application that provides complete information adequate for ecology to determine compliance with all PSD program requirements.

(b) The applicant shall submit complete copies of its PSD application or an application to increase a PAL, distributed in the following manner:

(i) Three copies to ecology: Air Quality Program, P.O. Box 47600, Olympia, WA 98504-7600.

(ii) One copy to each of the following federal land managers:

(A) U.S. Department of the Interior - National Park Service; and

(B) U.S. Department of Agriculture - U.S. Forest Service.

(iii) One copy to the permitting authority with authority over the source under chapter 173-401 WAC.

(iv) One copy to EPA.

(c) Application submittal and processing for requests for a Clean Unit designation under 40 CFR 52.21(y), a pollution control project exemption under 40 CFR 52.21(z) or the initial request, renewal or expiration of a PAL under 40 CFR 52.21(aa) shall be done as provided in WAC 173-400-720 (4)(b)(iii).

(2) **Application processing.**

(a) Completeness determination.

(i) Within thirty days after receiving a PSD permit application, ecology shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Ecology may request additional information clarifying aspects of the application after it has been determined to be complete.

(ii) The effective date of the application is the date on which ecology notifies the applicant that the application is complete pursuant to (a)(i) of this subsection.

(iii) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement action taken.

(iv) The permitting authority shall send a copy of the completeness determination to the responsible federal land manager.

(b) Preparation and issuance of the preliminary determination.

(i) When the application has been determined to be complete, ecology shall begin developing the preliminary determination to approve or deny the application.

(ii) Within one year after the effective date of the application, ecology shall provide the applicant with a preliminary determination along with a technical support document and a public notice.

(c) Issuance of the final determination.

(i) Ecology shall make no final decision until the public comment period has ended and all comments received during the public comment period have been considered.

(ii) As expeditiously as possible after the close of the public comment period, or hearing if one is held, ecology shall prepare and issue the final determination.

(d) The effective date of a final determination is one of the following dates:

(i) If no comments on the preliminary determination were received, the date of issuance; or

(ii) If comments were received, thirty days after receipt of the final determination; or

(iii) A later date as specified within the PSD permit approval.

(3) **PSD technical support document.** Ecology shall develop a technical support document for each preliminary PSD determination. The preliminary technical support document will be updated prior to issuance of the final determination to reflect changes to the final determination based on

comments received. The technical support document shall include the following information:

(a) A brief description of the major stationary source, major modification, or activity subject to review;

(b) The physical location, ownership, products and processes involved in the major stationary source or major modification subject to review;

(c) The type and quantity of pollutants proposed to be emitted into the air;

(d) A brief summary of the BACT options considered and the reasons why the selected BACT level of control was selected;

(e) A brief summary of the basis for the permit approval conditions;

(f) A statement on whether the emissions will or will not cause a state and national ambient air quality standard to be exceeded;

(g) The degree of increment consumption expected to result from the source or modification;

(h) An analysis of the impacts on air quality related values in federal Class I areas and other Class I areas affected by the project; and

(i) An analysis of the impacts of the proposed emissions on visibility following the requirements in WAC 173-400-117.

(4) **Public notice content.** The public notice shall contain at least the following information:

(a) The name and address of the applicant;

(b) The location of the proposed project;

(c) A brief description of the project proposal;

(d) The preliminary determination to approve or disapprove the application;

(e) How much increment is expected to be consumed by this project;

(f) The name, address, and telephone number of the person to contact for further information;

(g) A brief explanation of how to comment on the project;

(h) An explanation on how to request a public hearing;

(i) The location of the documents made available for public inspection;

(j) There is a thirty-day period from the date of publication of the notice for submitting written comment to ecology;

(k) A statement that a public hearing may be held if ecology determines within a thirty-day period that significant public interest exists;

(l) The length of the public comment period in the event of a public hearing;

(m) For projects subject to special protection requirements for federal Class I areas, in WAC 173-400-760, and where the permitting agency disagrees with the analysis done by the Federal Land Manager, the permitting agency shall explain its decision in the public notice or state that an explanation of the decision appears in the technical support document for the proposed approval or denial.

(5) **Appeals.** A PSD permit, any conditions contained in a PSD permit, or the denial of PSD permit may be appealed to the pollution control hearings board as provided in chapter 43.21B RCW. A PSD permit issued under the terms of a delegation agreement can be appealed to the EPA's environmen-

tal appeals board as provided in 40 CFR 124.13 and 40 CFR 124.19.

**(6) Construction time limitations.**

(a) Approval to construct or modify a major stationary source becomes invalid if construction is not commenced within eighteen months of the effective date of the approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The time period between construction of the approved phases of a phased construction project cannot be extended. Each phase must commence construction within eighteen months of the projected and approved commencement date.

(b) Ecology may extend the eighteen-month effective period of a PSD permit upon a satisfactory showing that an extension is justified. A request to extend the effective time to begin or complete actual construction under a PSD permit may be submitted. The request may result from the cessation of on-site construction before completion or failure to begin actual construction of the project(s) covered by the PSD permit.

**(i) Request requirements.**

(A) A written request for the extension, submitted by the PSD permit holder, as soon as possible prior to the expiration of the current PSD permit.

(B) An evaluation of BACT for all pollutants subject to the approval conditions in the PSD approval.

**(ii) Duration of extensions.**

(A) No single extension of time shall be longer than eighteen months.

(B) The cumulative time prior to beginning actual construction under the original PSD permit and all approved time extensions shall not exceed fifty-four months.

**(iii) Issuance of an extension.**

(A) Ecology may approve and issue an extension of the current PSD permit.

(B) The extension of approval shall reflect any revised BACT limitations based on the evaluation of BACT presented in the request for extension and other information available to ecology.

(C) The issuance of an extension is subject to the public involvement requirements in WAC 173-400-740.

(iv) For the extension of a PSD permit, ecology must prepare a technical support document consistent with WAC 173-400-730(3) only to the extent that those criteria apply a request to extend the construction time limitation.

**NEW SECTION**

**WAC 173-400-740 PSD permitting public involvement requirements.** (1) **Actions requiring notification of the public.** Ecology must provide public notice before approving or denying any of the following types of actions related to implementation of the PSD program contained in WAC 173-400-720:

(a) Any preliminary determination to approve or disapprove a PSD permit application; or

(b) An extension of the time to begin construction or suspend construction under a PSD permit; or

(c) A revision to a PSD permit, except an administrative amendment to an existing permit.

(2) **Notification of the public.** Within one year of the receipt of a complete PSD application, and as expeditiously as possible after receipt of a request for extension of the construction time limit under WAC 173-400-730(7) or for a non-administrative revision to a PSD permit under WAC 173-400-750, ecology shall:

(a) Make available for public inspection in at least one location in the vicinity where the proposed source would be constructed, or for revisions to a PSD permit where the permittee exists, a copy of the information submitted by the applicant, and any applicable preliminary determinations, including analyses of the effects on air quality and air quality related values, considered in making the preliminary determination. Exemptions from this requirement include information protected from disclosure under any applicable law, including, but not limited to, RCW 70.94.205 and chapter 173-03 WAC.

(b) Notify the public by:

(i) Causing to be published, in a newspaper of general circulation in the area of the proposed project, the public notice prepared in accordance with WAC 173-400-730(4). The date the public notice is published in the newspaper starts the required thirty-day comment period.

(ii) If ecology grants a request to extend the public comment period, the extension notice must also be published in a newspaper as noted above and a copy of the extension notice sent to the organizations and individuals listed in (c) and (d) of this subsection. The closing date of the extended comment period shall be as defined in the public comment period extension notification.

(iii) If a hearing is held, the public comment period must extend through the hearing date.

(iv) The applicant or other initiator of the action must pay the cost of providing public notice.

(c) Send a copy of the public notice to:

(i) Any Indian governing body whose lands may be affected by emissions from the project;

(ii) The chief executive of the city where the project is located;

(iii) The chief executive of the county where the project is located;

(iv) Individuals or organizations that requested notification of the specific project proposal;

(v) Other individuals who requested notification of PSD permits;

(vi) Any state within 100 km of the proposed project.

(d) Send a copy of the public notice, PSD preliminary determination, and the technical support document to:

(i) The applicant;

(ii) U.S. Department of the Interior - National Park Service;

(iii) U.S. Department of Agriculture - Forest Service;

(iv) EPA Region 10;

(v) The permitting authority with authority over the source under chapter 173-401 WAC;

(vi) Individuals or organizations who request a copy; and

(vii) The location for public inspection of material required under (a) of this subsection.

**(3) Public hearings.**

(a) The applicant, any interested governmental entity, any group, or any person may request a public hearing within the thirty-day public comment period. A request must indicate the interest of the entity filing it and why a hearing is warranted. Whether a request for a hearing is filed or not, ecology may hold a public hearing if it determines significant public interest exists. Ecology will determine the location, date, and time of the public hearing.

(b) Notification of a public hearing will be accomplished per the requirements of WAC 173-400-740(2).

(c) The public must be notified at least thirty days prior to the date of the hearing (or first of a series of hearings).

(4) **Consideration of public comments.** Ecology shall make no final decision on any application or action of any type described in subsection (1) of this section until the public comment period has ended and any comments received during the public comment period have been considered. Ecology shall make all public comments available for public inspection at the same locations where the preconstruction information on the proposed major source or major modification was made available.

**(5) Issuance of a final determination.**

(a) The final approval or disapproval determination shall include the following:

(i) A copy of the final PSD permit or the determination to deny the permit;

(ii) A summary of the comments received;

(iii) Ecology's response to those comments;

(iv) A description of what approval conditions changed from the preliminary determination; and

(v) A cover letter that includes an explanation of how the final determination may be appealed.

(b) Ecology shall mail a copy of the cover letter that accompanies the final determination to:

(i) Individuals or organizations that requested notification of the specific project proposal;

(ii) Other individuals who requested notification of PSD permits.

(c) A copy of the final determination shall be sent to:

(i) The applicant;

(ii) U.S. Department of the Interior - National Park Service;

(iii) U.S. Department of Agriculture - Forest Service;

(iv) EPA Region 10;

(v) The permitting authority with authority over the source under chapter 173-401 WAC;

(vi) Any person who commented on the preliminary determination; and

(vii) The location for public inspection of material required under subsection (2)(a) of this section.

**NEW SECTION**

**WAC 173-400-750 Revisions to PSD permits.** (1) The owner or operator may request, at any time, a change in conditions of a PSD permit and ecology may approve the request provided ecology finds that:

(a) The change in conditions will not cause the source to exceed an emissions standard;

(b) No ambient air quality standard or PSD increment will be exceeded as a result of the change;

(c) The change will not adversely impact the ability of ecology or the authority to determine compliance with an emissions standard;

(d) The revised PSD permit will continue to require BACT, as defined at the time of the original PSD permit, for each new or modified emission unit approved by the original PSD permit; and

(e) The revised PSD permit continues to meet the requirements of WAC 173-400-112(2), and 173-400-113, as applicable.

(2) Actions taken under this subsection are subject to the public involvement provisions of WAC 173-400-740. Ecology may choose to require public involvement for administrative revisions, if in its judgment, an opportunity for public comment should be provided.

(3) A request to revise a PSD permit must be acted upon using the timelines found in WAC 173-400-730. The fee schedule found in WAC 173-400-116 shall also apply.

(4) All revisions to PSD permits are subject to public involvement except for the following administrative revisions:

(a) Change of the owner or operator's business name and/or mailing address;

(b) Corrections to typographical errors;

(c) Revisions to compliance monitoring methods that do not reduce the permittee's or ecology's ability to determine compliance with the emission limitations; or

(d) Any other revision (except an extension of the construction time limitation) that does not reduce the stringency of the emission limitations in the PSD permit or the ability of ecology, the permitting authority, EPA, or the public to determine compliance with the approval conditions in the PSD permit.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 173-400-141	Prevention of significant deterioration (PSD).
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**WSR 04-20-106****PROPOSED RULES****GAMBLING COMMISSION**

[Filed October 5, 2004, 4:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-17-006.

Title of Rule and Other Identifying Information: WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval.

Hearing Location(s): Red Lion Hotel, Yakima Center, 607 East Yakima Avenue, Yakima, WA 98901, (509) 248-5900, on November 19, 2004, at 9:30 a.m.

Date of Intended Adoption: November 19, 2004.



Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504, e-mail Susana@wsgc.wa.gov, fax (360) 486-3625, by November 1, 2004.

Assistance for Persons with Disabilities: Contact Shirley Corbett by November 1, 2004, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Dolores Chiechi, on behalf of the Recreational Gaming Association, has submitted a petition for rule change to amend WAC 230-40-610. The petitioner requests an amendment to WAC 230-40-610 which sets operating restrictions for poker games offering player-supported jackpots. This rule limits cash payout of prizes to \$500 and any remaining winnings must be paid by check. This rule also prohibits players from cashing checks from winnings at the card room where the check was issued.

The petitioner requests that cash payouts be increased from \$500 to \$2500 and that players be allowed to cash checks at the card room where the check was issued.

Reasons Supporting Proposal: At the September meeting, the commission filed the petition and anticipate staff providing a recommendation on whether to support the petition or not at the next meeting.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington State Gambling Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Neal Nunamaker, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

October 5, 2004

Susan Arland  
Rules Coordinator

**AMENDATORY SECTION** (Amending Order 414, filed 8/13/02, effective 1/1/03)

**WAC 230-40-610 Player-supported jackpots—Restrictions—Manner of conducting—Approval.** A player-supported jackpot (PSJ) is a separate contest of chance directly related to the play and/or outcome of authorized non-house-banked card games but which is not the card game itself. Card rooms with a Class F or house-banked license may establish a prize fund for the purpose of operating a PSJ for nonhouse-banked card games. Any PSJ must be approved in writing by the director or the director's designee prior to play. A PSJ must meet the following requirements:

**Funding a PSJ.**

(1) A licensee may provide house funds to establish a PSJ. The licensee shall issue a check from the general busi-

ness account into the PSJ account to start the prize fund. Recouping of start up funds shall be done by issuing a check from the PSJ account to the business general account. Electronic bank transfers shall satisfy this requirement. Start up funds shall not exceed five thousand dollars per PSJ.

**Using a rake to fund a PSJ.**

(2) A licensee may assess a portion of players' wagers for a jackpot prize. Such amount shall not exceed one dollar per hand or game for each PSJ. This assessment shall be separately collected using the rake method.

**PSJ funds are player funds - exception from administrative fee.**

(3) The licensee acts only as the custodian of the PSJ funds, including any interest earned on this money, and maintains no legal right to the funds. All PSJ funds shall be awarded as prizes, based upon a format approved by commission staff. An administrative fee not to exceed ten percent of the amount collected for a PSJ may be imposed by the licensee. This administrative fee includes all expenses incurred by the licensee, including banking fees. No other expenses beyond the ten percent administrative fee shall be deducted from the PSJ account.

**Prize fund custodian.**

(4) Each licensee shall designate at least one "prize fund custodian" who shall be responsible for safeguarding and disbursing funds to winners. A prize fund custodian may be an owner, partner, officer, or licensed individual designated by a card room owner, partner, or officer. The custodian shall have signature authority for prize fund bank accounts and ensure accountability of all funds collected for use in a PSJ. The licensee shall meet the deposit requirements of WAC 230-40-608.

**Payout of prizes.**

(5) Prize amounts paid in cash shall not exceed two thousand five hundred dollars. Prize amounts not awarded in cash shall be paid within twenty-four hours, by check, the type which provides a duplicate copy(~~(, which shall not be cashed on the licensee's premises)~~). A record of all prizes paid shall be maintained in the format prescribed by commission staff and shall include:

(a) For prizes less than one hundred dollars, a system of accounting denoting each individual prize may be utilized.

(b) For prizes one hundred dollars and above, the following information shall be recorded on a prize record:

- (i) Full printed name;
- (ii) Date of birth;
- (iii) Street address;
- (iv) Type of identification reviewed;
- (v) Amount of the prize awarded;
- (vi) Description of the winning hand;
- (vii) Time and date awarded; and
- (viii) The supervisor's and dealer's initials.

(c) Upon awarding a prize of five hundred dollars or more, the dealer shall fan the winning hand in view of the surveillance camera. The hand shall be collected and sealed with the prize record. The winning hand and remaining deck shall



be maintained on the premises as part of daily card room records for a period of seven days, unless released by a commission agent.

#### **Owners and employees competing for a PSJ.**

(6) Owners, custodians and on-duty card room employees may participate in card games that offer a PSJ, but may not share in the winnings of any prize awarded. Any prize winnings an owner or on-duty employee may be entitled to under game rules, must be divided equally among the other players at the table: Provided, That off-duty employees may participate in card games that offer a PSJ and share in the prize winnings.

#### **Owners and employees showing cards.**

(7) Owners and on-duty card room employees must turn their cards face up at the end of each game so they may be observed by other players at the table and surveillance if:

- (a) Playing in a game with a PSJ;
- (b) The prize is not based upon a predetermined hand; and
- (c) There is a qualifying hand at the end of a game (such as a "bad beat" hand).

#### **House dealer required.**

(8) All card games offering a PSJ must utilize a house dealer.

#### **Security requirements.**

(9) Each gaming table offering a PSJ shall be required to install a closed circuit television system as outlined in WAC 230-40-625: Provided, That licensees operating any house-banked card games shall follow the security requirements set forth in WAC 230-40-825 for all tables in the card room, including those offering a PSJ.

#### **Removing a PSJ from play.**

(10) The following procedures shall be followed for all discontinued player-supported jackpots:

##### *Discontinued.*

(a) In the event a licensee elects to discontinue a PSJ, the balance, less any nonrecouped seed money, shall be distributed to players within sixty days of discontinuance by offering an approved promotion or card tournament of the same game under which the PSJ was originally accrued.

##### *Closure of business.*

(b) In the event a licensee ceases to operate a card room, or fails to maintain a valid card room license, all funds associated with the PSJ shall be distributed to the Washington state council on problem gambling.

##### *Posting rules.*

(c) The licensee shall conspicuously post a sign stating how PSJ money will be distributed in the event the PSJ is discontinued or the business closes. The sign must be posted at the inception of the PSJ.

#### **House rules.**

(11) House rules, to include administrative fees shall be posted in a location readily visible by all players and disclose the conditions under which prizes may be won, the prize amount, cost to participate, and any other conditions which may affect the outcome of the game.

#### **Dispute resolution.**

(12) If a dispute arises involving the outcome of a PSJ, the licensee shall preserve the video recording, the winning hand and remaining deck, and all records for the game where the dispute occurred and shall notify commission staff within twenty-four hours. The licensee shall document all information pertaining to the dispute including:

- (a) The names, addresses, and phone numbers of all players, card room staff, and any witnesses involved;
- (b) Amount of the advertised PSJ; and
- (c) A full description of the circumstances surrounding the dispute.

(13) All disputes involving a PSJ will be investigated by commission staff, with a report submitted to the director. A written decision will be issued by the director, or the director's designee, and such decision shall be final.

(14) During the course of dispute resolution, the commission may become the temporary custodian of any and all prize funds. The PSJ will be suspended until the dispute is resolved.

**WSR 04-20-107**  
**PROPOSED RULES**  
**GAMBLING COMMISSION**  
[Filed October 5, 2004, 4:47 p.m.]

#### **Original Notice.**

Preproposal statement of inquiry was filed as WSR 04-17-007.

Title of Rule and Other Identifying Information: WAC 230-02-205 Gambling service supplier defined.

Hearing Location(s): Red Lion Hotel, Yakima Center, 607 East Yakima Avenue, Yakima, WA 98901, (509) 248-5900, on November 19, 2004, at 9:30 a.m.

Date of Intended Adoption: November 19, 2004.

Submit Written Comments to: Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504, e-mail Susana@wsgc.wa.gov, fax (360) 486-3625, by November 1, 2004.

Assistance for Persons with Disabilities: Contact Shirley Corbett by November 1, 2004, TTY (360) 486-3637 or (360) 486-3447.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Delores Chiechi, representing the Recreational Gaming Association, has submitted a petition for rule change to amend WAC 230-02-205. This rule outlines what types of gambling related services would require the person or business performing them to obtain a gambling licensee [license]. Persons or businesses that loan money to more than one licensee must hold a service supplier license. This rule exempts banks and credit

unions that are regulated by the Department of Financial Institutions (DFI) or any federally regulated commercial lending institution from licensure by the commission. First, Ms. Chiechi is requesting that mortgage companies no longer be required to obtain a service supplier license. The petitioner states that mortgage companies are licensed by DFI and should not have to obtain a license from the commission in order to loan funds to licensees. Secondly, this rule requires persons that provide gambling related consulting or other services to obtain a service supplier license. Ms. Chiechi is requesting that licensed certified public accountants providing gambling related services not have to hold a service supplier license.

Reasons Supporting Proposal: At the September meeting, the commission filed the petition and anticipate staff providing a recommendation on whether to support the petition or not at the next meeting.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Washington State Gambling Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Neal Nunamaker, Deputy Director, Lacey, (360) 486-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

October 5, 2004

Susan Arland  
Rules Coordinator

AMENDATORY SECTION [(Amending Order 380, filed 2/16/00)]

**WAC 230-02-205 Gambling service supplier defined.**

A "gambling service supplier" is any person who provides gambling related services for compensation, whether directly or indirectly.

(1) Gambling related services include at least the following:

(a) Providing consulting or advisory services regarding gambling activities;

(b) Providing gambling related management services;

(c) Providing financing for purchases or leases of gambling equipment or ~~((for providing infrastructure that supports gambling))~~ operations for more than one licensee. For purposes of this section, financing by any bank, mutual savings bank, ~~((or))~~ credit union or other financial institution, such as mortgage companies, licensed and regulated by the Washington state department of financial institutions or any federally regulated commercial lending institution shall not be deemed as providing gambling related services;

(d) Providing any other service or activity where influence may be exerted over any gambling activity licensed by the commission;

(e) Providing assembly of components for gambling equipment under a contract with a licensed manufacturer; or  
(f) Training individuals to conduct authorized gambling activities.

(2) The term "gambling services supplier" does not include the following:

(a) Universities and colleges that are regulated by the Washington state board of community and technical colleges and the higher education coordinating board which train individuals to conduct authorized gambling activities;

(b) Licensed manufacturers or distributors who service and repair pull-tab dispensing devices, bingo equipment or any other authorized gambling equipment;

(c) Attorneys and certified public accountants licensed in Washington state;

(d) Accountants, and governmental affairs consultants whose ((primary)) business is providing professional services that are primarily unrelated to the management or operation of gambling activities; and

~~((d))~~ (e) Persons that only provide nonmanagement related recordkeeping services for punch board and pull-tab operators, when the combined total gross billings from such services does not exceed twenty thousand dollars during any calendar year.

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.

**WSR 04-20-109**

**PROPOSED RULES**

**DEPARTMENT OF REVENUE**

[Filed October 6, 2004, 10:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-19-060.

Title of Rule and Other Identifying Information: Amending WAC 458-12-050 (~~(Listing of real property—))~~Omitted property and omitted value and 458-12-110 (~~(Listing of personalty—Estimate listing penalty))~~ Listing of personal property by the assessor—Penalties for failing to list personal property and for making a false or fraudulent listing; and repealing WAC 458-12-095 Listing of personalty—Partial listing, 458-12-100 Listing of personalty—Omitted property—Omitted value and 458-12-105 Listing of personalty—Willful failure to list or fraudulent listing—Penalty.

Hearing Location(s): Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on November 18, 2004, at 10:00 a.m.

Date of Intended Adoption: November 29, 2004.

Submit Written Comments to: James A. Winterstein, P.O. Box 47453, Olympia, WA 98504-7453, e-mail JimWi@dor.wa.gov, fax (360) 586-5543, by November 18, 2004.

Assistance for Persons with Disabilities: Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7499.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 458-12-050 proposes to amend the existing rule and incorporate portions of the rules proposed for repeal by defining omitted property and omitted value and explaining how the assessor deals with omitted property and value under chapter 84.40 RCW. The rule also explains when the taxes are due on omitted property and value assessments, and the appeal rights of persons affected by these assessments.

WAC 458-12-110 proposes to amend the existing rule and incorporate portions of the rules proposed for repeal by explaining the process for listing and assessing taxable personal property by the assessor when the taxpayer fails or refuses to provide the information to the assessor as required under chapter 84.40 RCW. The rule also explains how and when penalties are imposed and provides examples.

Reasons Supporting Proposal: The two rules update and consolidate information with respect to omitted property and value and provide the information in a clearer and more user-friendly manner.

Statutory Authority for Adoption: RCW 84.08.010 and 84.08.070.

Statute Being Implemented: RCW 84.40.040, [84.40.]080, [84.40.]085, [84.40.]130, and [84.40.]200.

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

Name of Proponent: [Department of Revenue], governmental.

Name of Agency Personnel Responsible for Drafting: James A. Winterstein, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6117; Implementation and Enforcement: Peri Maxey, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 570-5860.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required for the reason that the rule does not impose any new performance requirement or administrative burden on any small business.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are not significant legislative rules as defined by RCW 34.05.328.

October 6, 2004

Alan R. Lynn

#### AMENDATORY SECTION (Amending Order PT 68-6, filed 4/29/68)

~~WAC 458-12-050 ((Listing of real property—)) Omitted property and omitted value. ((Whenever any real property is omitted from the assessment rolls, the assessor shall have the right and duty to go back and separately value and list such property as omitted property. When improvements or land are omitted, the assessor shall check back for a period of three years and base his assessment on the value of the improvements as of the year or years omitted regardless of the reason why the improvements or land were omitted from the rolls. If it is found that a bona fide purchaser (third party)~~

~~had purchased or acquired any interest in the property prior to the time such improvements are assessed and without knowledge that the property is omitted, then there shall be no assessment made. (RCW 84.40.080) If any question arises as to whether or not the improvement has in fact been omitted, the burden of proof shall be on the assessor to show that it has. (TCR 3-17-1953) Under no circumstances, however, is this section to be used for the purpose of revaluation or reassessment. (Wood Lbr. Company v. Whatcom County, 5 Wn.2d 63 (1940))~~

Once the omitted improvement assessment is made the taxpayer shall have one year from the date the tax for the current year becomes due to pay the back taxes without penalty or interest. (RCW 84.40.080.)) (1) **Introduction.** Under RCW 84.40.080, an assessor is required to add to the assessment roll any real or personal property omitted from the assessment roll for any preceding year, at the value for the preceding year. The assessor is also required to add to the assessment roll any omitted value of personal property. This rule explains the meaning of the terms "omitted property" and "omitted value." It also provides information about omitted property and omitted value assessments, including when the taxes on these assessments are due and the appeal rights of persons receiving an omitted property or omitted value assessment.

(2) **What is omitted property?** Omitted property includes all real and personal property that was not entered on the assessment roll. Omitted property does not include:

(a) Real or personal property that was listed on the assessment roll but improperly exempted from taxation in prior years; and

(b) Real or personal property that was accurately listed but improperly valued by the assessor.

(3) **What is omitted value?** Omitted value includes all personal property that was assessed at less than its true and fair value due to inaccurate reporting by the taxpayer or person making the listing. Omitted value does not include:

(a) Personal property that was listed on the assessment roll but improperly exempted from taxation in prior years; and

(b) Personal property that was accurately listed but improperly valued by the assessor.

(4) **What is the duty of the assessor upon discovery of omitted property or value?** Whenever the assessor discovers or is made aware of omitted property or omitted value, the assessor is required to make an omitted property or omitted value assessment at the property's true and fair value for each year omitted, subject to the requirements of (a) and (b) of this subsection. The assessor is required to notify the property owner or taxpayer of the omitted property or value assessment for each year omitted and the value shall be stated separately from the value of any other year. The assessor must value real property for the years omitted in accordance with the revaluation cycle of the county. For an omitted value assessment, the assessor must provide the taxpayer with a copy of the amended personal property statement along with a letter of particulars informing the taxpayer of the assessor's findings. The assessor must also notify the property owner or taxpayer of the right to appeal an omitted value assessment to the board of equalization and the right to request the board be

reconvened to act on the omitted property or omitted value assessment.

**(a) Improvements omitted from the assessment roll.** Where improvements have not been valued and assessed as a part of the real estate upon which the improvements are located, as evidenced by the assessment rolls, they may be separately valued and assessed as omitted property. No such omitted assessment can be made where a bona fide purchaser, encumbrancer, or contract buyer has acquired any interest in the property prior to the time the improvements are assessed. Thus, if a purchaser, encumbrancer, or contract buyer has acquired an interest in improvements that have been omitted from the assessment roll by giving valuable consideration, in good faith, and without actual or constructive knowledge of the omission of the assessment, the assessor is prohibited from making an omitted property assessment. However, if the assessment roll is still open in the year the omission is discovered, the improvements must be added to the assessment roll for that assessment year. If the assessment roll is closed for that year, the improvements must be placed on the assessment roll in the following year.

**(b) Limitation period for omitted property or omitted value assessments.** No omitted property or omitted value assessment can be made for any period more than three years preceding the year in which the omission is discovered. RCW 84.40.085.

**(5) When are taxes on omitted property or omitted value assessments due?** When an omitted property or omitted value assessment is made, the taxes levied as a result of the assessment may be paid within one year of the due date of the taxes for the year in which the assessment is made without penalty or interest. An assessment is "made," for purposes of omitted property or omitted value assessments, when the assessor notifies the taxpayer in writing of the property and/or value that was previously omitted from the assessment roll. Taxes resulting from an omitted property or omitted value assessment are due on April 30th and cannot be timely paid in two installments, unlike taxes for the current tax year.

**(a) Penalties and interest.** If the taxes due on an omitted property or omitted value assessment are not paid by the due date, the penalties and interest provided in RCW 84.56.020 begin to accrue from the date the taxes become delinquent.

**(b) Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each actual situation must be determined after a review of all of the facts and circumstances.

**(i)** In April 2003, an assessor discovers an improvement that has never been valued, that is, the assessment roll shows no improvement on the property. Construction of the improvement was completed in June 2001. (This fact means the assessor should have added the improvement to the assessment roll by the end of August 2001 under the "new construction" statute, RCW 36.21.080.) No bona fide purchaser, encumbrancer, or contract buyer has acquired any interest in the improvement. The assessor values the improvement for 2001, 2002, and the current assessment year of 2003, and mails a valuation notice to the taxpayer. The

taxes for the 2003 assessment year are due on April 30, 2004. If the amount due is fifty dollars or more, one-half of the tax due may be paid by April 30, 2004, and the balance may be paid by October 31, 2004. The taxes for the omitted property assessment covering the 2001 and 2002 assessment years are due in full by April 30, 2005, which is one year after the due date for the taxes for the assessment year in which the omitted property assessment is made. If the taxes for the omitted assessment are not paid in full by April 30, 2005, the penalties and interest provided in RCW 84.56.020 begin to accrue as of May 1, 2005, on the unpaid amount.

**(ii)** In November 2002, after the assessment rolls are closed, an assessor discovers an improvement that has never been valued, that is, the assessment roll shows no improvement on the property. Construction of the improvement was completed in March 1998. No bona fide purchaser, encumbrancer, or contract buyer has acquired any interest in the improvement. The assessor adds the improvement to the assessment roll at true and fair value for 1999, 2000, 2001, and 2002, and mails a valuation notice to the taxpayer. Because the roll is closed for assessment year 2002, no taxes are due on the improvement in 2003. The taxes resulting from this omitted property assessment are due in full by April 30, 2004, which is one year after the due date for the taxes for the assessment year in which the omitted property assessment is made. (Although the roll is closed in 2002, the assessment is still "made" in 2002.) If the taxes for the omitted property assessment are not paid in full by April 30, 2004, the penalties and interest provided in RCW 84.56.020 begin to accrue as of May 1, 2004, on the unpaid amount. The taxes for the 2003 assessment year are due on April 30, 2004. If the amount due is fifty dollars or more, one-half of the tax due may be paid by April 30, 2004, and the balance may be paid by October 31, 2004.

**(iii)** In May 2004, an assessor audits a taxpayer's personal property records and discovers omitted value not reported by the taxpayer. The personal property was acquired by the taxpayer in 1997, and disposed of by the taxpayer in November 2003. The assessor values the property at true and fair value for assessment years 2001, 2002, and 2003, and notifies the taxpayer of the omitted value by forwarding a copy of the amended personal property statements along with a letter of particulars informing the taxpayer of the assessor's findings and of the taxpayer's right to appeal those findings to the board of equalization, and/or to request that the board of equalization be reconvened to act on the omitted value assessment. The taxes resulting from the omitted value assessment are due in full by April 30, 2006, which is one year after the due date for the taxes for the assessment year in which the omitted value assessment is made. If the taxes for the omitted value assessment are not paid in full by April 30, 2006, the penalties and interest provided in RCW 84.56.020 begin to accrue as of May 1, 2006, on the unpaid amount.

**(6) What are the appeal rights of taxpayers receiving an omitted property or omitted value assessment?** Upon request of either the taxpayer or the assessor, the county board of equalization may be reconvened to act on an omitted property or omitted value assessment. RCW 84.40.085. For additional information on reconvened boards of equalization, refer to WAC 458-14-127.

AMENDATORY SECTION (Amending Order PT 68-6, filed 4/29/68)

WAC 458-12-110 ((Listing of personal property—Estimate listing penalty.)) Listing of personal property by the assessor—Penalties for failing to list personal property and for making a false or fraudulent listing. ((If a personal property statement or list is not submitted within the time allowed either by law or by the assessor where an extension has been granted, the assessor shall ascertain the amount and value of the property which should have been reported. (RCW 84.40.200) When such a listing is made by the assessor, he shall deliver or mail a copy to the person for whom the listing is made. The copy delivered must show the valuation of the property listed, and must be signed by the assessor. On the copy of the listing delivered or mailed, the assessor shall notify the person for whom the listing is made of his possible liability for penalties for his failure to make the list himself.

The listing made by the assessor shall be used by him for all purposes in the same manner as though it was submitted by the person required to list, until such person does submit the required statement.

When a statement of personal property subject to taxation is not submitted by the date prescribed, the taxpayer becomes liable to a penalty of 5% of the total tax determined to be due, for each month or fraction thereof from the date that the listing was due to the date that it is actually received, in acceptable form, by the assessor. The performance by the assessor of his duty to ascertain the amount and value of taxable property in the event of the failure of the person required to do so shall not be taken to be such a report as would terminate the accrual of this penalty.

The penalty provided for by this rule shall actually be assessed at the time that taxes are spread on the rolls, to a maximum of 25% of the tax found to be due, and shall then be added to the tax assessed, and collected in the same manner as such taxes. If the person required to list property can show, to the satisfaction of the assessor, that his failure to report is due to a reasonable cause, no late filing penalty shall be assessed.)) (1) Introduction. This rule explains the process of listing and assessing taxable personal property by the assessor when the taxpayer fails to make a listing as required by chapter 84.40 RCW. This rule also provides information about the penalties imposed by RCW 84.40.130 for persons who fail or refuse to make a timely listing of their taxable personal property or who willfully provide the assessor a false or fraudulent listing of their taxable personal property. For additional information about the listing of personal property, refer to the rules found in WAC 458-12-060 through 458-12-080.

(2) Failure to provide a listing of taxable personal property to the assessor. If a person who is required under chapter 84.40 RCW to make a listing of taxable personal property with the county assessor fails to do so by April 30, it is the duty of the assessor under RCW 84.40.200 to ascertain the amount and value of the taxable personal property that should have been listed. When such a listing is made by the assessor, he or she must deliver or mail a copy of the listing, showing the valuation of the property so listed, to the person for whom the listing is made. The provisions of RCW

84.40.200 do not apply to the listing of ships and vessels required under RCW 84.40.065.

(3) Penalty for failing or refusing to make a listing of taxable personal property. A person who fails or refuses to provide the assessor with a listing of their taxable personal property by April 30 is subject to a mandatory penalty. The amount of the penalty is described below in (a) of this subsection.

(a) Amount of penalty. The amount of the penalty is five percent of the amount of tax assessed against the taxpayer on the property not listed, not to exceed fifty dollars per calendar day if the delinquency is for less than one month. If the delinquency is for more than one month, the taxpayer must pay an additional five percent of the amount of tax for each additional month or fraction of a month that the listing is delinquent, up to a maximum penalty each year of twenty-five percent of the amount of tax. The penalty provided in this subsection (3) will be collected in the same manner as the tax to which it is added.

(b) How does the penalty apply when a listing is made by the assessor? When the assessor makes a listing of taxable personal property under the provisions of RCW 84.40.200 and subsection (2) of this rule, the penalty provided in this subsection (3) continues to accrue until the taxpayer provides a listing to the assessor as required by chapter 84.40 RCW.

(c) Can the penalty be waived? If a person can establish to the satisfaction of the assessor that the failure to provide a listing of taxable personal property was due to reasonable cause and not due to willful neglect, no penalty will be imposed.

Whether reasonable cause exists depends upon the facts of each case. Reasonable cause may be shown by one or more of the following events or circumstances. These examples do not encompass all of the possible events or circumstances that could constitute reasonable cause for failing to make a listing of taxable personal property with the assessor by the due date.

(i) The taxpayer was unable to make a listing by the due date because of a death or serious illness of the taxpayer or of a member of the taxpayer's immediate family occurring at or shortly before the due date. For purposes of this subsection, the term "immediate family" includes, but is not limited to, a grandparent, parent, brother, sister, spouse, child, or grandchild.

(ii) The taxpayer was unable to make a listing by the due date because the taxpayer reasonably relied upon incorrect, ambiguous, or misleading written advice as to the proper listing requirements by either the assessor or assessor's staff, or the property tax advisor designated under RCW 84.48.140, or his or her staff.

(iii) The taxpayer was unable to make a listing by the due date because of a natural disaster such as a flood or earthquake occurring at or shortly before the due date.

(iv) The taxpayer was unable to make a listing by the due date because of a delay or loss related to the delivery of the listing form by the postal service. The taxpayer must be able to provide documentation from the postal service of such a delay or loss.

PROPOSED

(v) The failure of the assessor to provide a notice and listing form as required by RCW 84.40.040 to a taxpayer does not excuse a taxpayer from making a timely listing of taxable personal property with the assessor. The assessor's failure to provide a notice and listing form may, however, be considered in determining whether the taxpayer's failure to provide a timely listing was due to reasonable cause.

(d) How are the penalties distributed? When collected, the penalties provided for in this subsection (3) are credited to the county current expense fund. RCW 84.40.130 and 84.56.020(8).

(e) Examples. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each actual situation must be determined after a review of all of the facts and circumstances.

(i) Due to an oversight, Company A makes its listing of taxable personal property on October 6th of the assessment year, over five months after the deadline provided in RCW 84.40.040. The amount of tax imposed against Company A on its personal property in the following year is \$600.00. Company A is subject to a penalty of \$150.00, 25% of the amount of its tax liability.

(ii) Due to an oversight, Company B makes its listing of taxable personal property on May 2nd of the assessment year, two days after the deadline provided in RCW 84.40.040. The amount of tax imposed against Company B on its personal property in the following year is \$2,250.00. The amount of the penalty assessed against Company B is \$100.00. 5% of \$2,250.00 is \$112.50. However, the penalty is limited to \$50.00 per calendar day when the delinquency does not exceed one month.

(iii) Due to an oversight, Company C fails to make a listing of its taxable personal property by April 30th, the deadline provided in RCW 84.40.040. On August 24th of the assessment year, the assessor lists and values the taxable personal property of Company C and mails a copy of the listing to Company C. At this time, Company C would be subject to a penalty of 20% of the tax imposed against it on its personal property in the following year. After receiving the assessor's listing, Company C makes its own listing with the assessor on September 7th of the assessment year. The amount of penalty imposed is 25% of the tax imposed against Company C on its personal property in the following year. The listing by the assessor has no effect on the amount of the penalty Company C is subject to.

(iv) Due to an oversight, Company D fails to make a listing of its taxable personal property for assessment years 2001, 2002, and 2003. In May of 2003, the assessor learns of Company D's failure to list its taxable personal property for the 2001, 2002, and 2003 assessment years. After being notified by the assessor of its failure to make a listing, Company D makes a listing for assessment years 2001, 2002, and 2003 with the assessor on May 20, 2003. The assessor adds the taxable personal property for 2003 to the assessment roll. The assessor also adds the taxable personal property for 2001 and 2002 to the assessment roll as omitted property under the provisions of RCW 84.40.080. The penalties assessed against Company D include a penalty of 25%, for each year, of the amount of tax imposed on Company D resulting from

the omitted property assessment for assessment years 2001 and 2002. In addition, Company D is subject to a penalty for the delinquent 2003 listing in the amount of 5% of the amount of tax imposed on Company D resulting from the listing for the 2003 assessment year or \$1,000, whichever is less. The amount of \$1,000 represents \$50 per calendar day of delinquency. For additional information about omitted property, refer to WAC 458-12-050.

(4) Penalty for willfully providing a false or fraudulent listing of taxable personal property. If a person willfully provides the assessor with a false or fraudulent listing of taxable personal property, or, with the intent to defraud, fails or refuses to provide a listing of taxable personal property as required by chapter 84.40 RCW, the person is subject to a penalty of one hundred percent of the tax properly due. A false or fraudulent listing may arise because it does not include all of the taxable personal property in the ownership, possession, or control of the person making the listing, or because it contains false information relating to the proper value of the personal property listed. A person is not liable for the penalty provided in this subsection (4) if the failure to list or the false listing was the result of negligence, inadvertence, accident, or simple oversight rather than willfulness or an intent to defraud. Likewise, a person making a false listing will not be subject to the penalty provided in this subsection (4) if it is shown that the misrepresentations made by the person are entirely attributable to reasonable cause. The penalty imposed under this subsection (4) is in lieu of the penalty imposed under subsection (3) of this rule.

(a) How is the penalty imposed? The assessor does not impose the penalty provided in this subsection (4). Rather, the penalty provided for in this subsection along with any tax properly due are to be recovered in a lawsuit brought in the name of the state of Washington on the complaint of the county assessor or the county legislative authority. The provisions of this subsection (4) are in addition to any other provisions of law relating to the recovery of property taxes.

(b) How is the penalty distributed? When collected, the penalty imposed under this subsection (4) and the tax to which it was added must be paid into the county treasury to the credit of the current expense fund.

WSR 04-20-112

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed October 6, 2004, 10:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-15-040.

Title of Rule and Other Identifying Information: Chapter 308-08 WAC new sections: Brief adjudicative proceedings—When they can be used; Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings, WAC 308-08-416 Petition for reconsideration of final orders amendment.

Hearing Location(s): Conference Room 212, 405 Black Lake Boulevard, Olympia, WA 98502, on November 10, 2004, at 10:00-11:00.

Date of Intended Adoption: November 15, 2004.

Submit Written Comments to: Jon Donnellan, P.O. Box 9660, Olympia, WA 98507-9660, e-mail [jdonnellan@dol.wa.gov](mailto:jdonnellan@dol.wa.gov), fax (360) 586-4414, by November 9, 2004.

Assistance for Persons with Disabilities: Contact Jon Donnellan by November 8, 2004, TTY (360) 586-2788 or (360) 664-1528.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** These proposed rules apply to director programs within the Business and Professions Division and establish when the director can use brief adjudicative proceedings (BAP) in place of formal adjudicative proceedings, the types of issues they can be used for, and clarify the conditions when a final order will be reconsidered. They also clarify how a party can file an objection to the BAP and request a conversion to a formal adjudicative hearing. BAPs are adjudicative proceedings under the Administrative Procedure Act, chapter 34.05 RCW that are brief in form, that should take less time, and expedite a decision for an applicant or licensee.

**Reasons Supporting Proposal:** This would result in reduced administrative cost to the department while ensuring independent review and expedience for the applicant or licensee.

**Statutory Authority for Adoption:** RCW 18.235.030, chapter 34.05 RCW.

**Statute Being Implemented:** Chapter 18.235 RCW.

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

**Name of Proponent:** Department of Licensing, governmental.

**Name of Agency Personnel Responsible for Drafting and Enforcement:** Linda Moran, Attorney General's Office, (360) 753-2619; and **Implementation:** Andrea Archer, Business and Professions Division, (360) 664-1444.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules reduce costs for licensees.

A cost-benefit analysis is not required under RCW 34.05.328. The rules should reduce costs for the department.

October 4, 2004

Jon Donnellan

Assistant Director

Business and Professions Division

as delegated by Andrea C. Archer

**AMENDATORY SECTION** (Amending WSR 90-21-086, filed 10/17/90, effective 11/17/90)

**WAC 308-08-416 Petition for reconsideration of final orders.** Pursuant to RCW 34.05.470, a petition for reconsideration of a final order must be filed in the Office of the Director, Department of Licensing, Highways-Licenses Building, Olympia, Washington, within ten days of service of the final order. No matter will be reconsidered unless it clearly appears from the petition for reconsideration that there is material clerical error or specific material error of fact or law in the final order. Any response to the petition shall be filed with the office of the director within ten days of the date of service of the petition.

## NEW SECTION

**WAC 308-08-515 Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings.** (1) At least five days before the scheduled brief adjudicative proceeding, any party, including the department, may file a written objection to resolution of a matter by a brief adjudicative proceeding and may request that a matter be converted to a formal adjudicative hearing. Upon receiving a timely written objection, the presiding officer shall determine whether the matter should be converted. Regardless of whether any party files a timely objection, the presiding officer may convert any brief adjudicative proceeding to a formal adjudicative hearing whenever it appears that a brief adjudicative proceeding is insufficient to determine the issues pending before the agency.

(2) In determining whether to convert a proceeding, the presiding officer may consider the following factors:

(a) Whether witness testimony will aid the presiding officer in resolving contested issues of fact;

(b) Whether the legal or factual issues are sufficiently complex to warrant a formal adjudicative proceeding, including whether there are multiple issues of fact or law;

(c) Whether a brief adjudicative proceeding will establish an adequate record for further agency or judicial review;

(d) Whether the legal issues involved in the proceeding present questions of legal significance or are being raised for the first time before the agency;

(e) Whether conversion of the proceeding will cause unnecessary delay in resolving the issues; and

(f) Any other factors that the presiding officer deems relevant in reaching a determination.

## NEW SECTION

**WAC 308-08-525 Brief adjudicative proceedings—When they can be used.** (1) The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted at the discretion of the director. Brief adjudicative proceedings can be used in place of formal adjudicative hearings whenever the department issues a statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleging that an applicant or licensee's conduct, act(s), or condition(s) constitute unlicensed practice or unprofessional conduct as that term is defined under chapter 18.235 RCW, the Uniform Regulation of Business and Professions Act. Brief adjudicative proceedings can also be used whenever the statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleges violations of any statute or rule that specifically governs disciplinary actions within a profession for which the applicant seeks a license or from which the licensee holds a license.

(2) Brief adjudicative proceedings may be used to determine the following issues, including, but not limited to:

(a) Whether an applicant has satisfied terms for reinstatement of a license after a period of license restriction, suspension, or revocation;

(b) Whether an applicant is eligible to sit for a professional licensing examination;



(c) Whether an applicant or licensee has satisfied financial security requirements by providing adequate proof of surety bonds or other proof of financial security, as required by law;

(d) Whether a sanction proposed by the department is appropriate based on the stipulated facts;

(e) Whether an applicant meets minimum requirements for an initial or renewal application;

(f) Whether an applicant has failed the professional licensing examination;

(g) Whether a licensee has sufficient continuing education credits when the licensee submits a renewal application;

(h) Whether an applicant or licensee failed to cooperate in an investigation by the department;

(i) Whether an applicant or licensee was convicted of a crime that should disqualify the applicant or licensee from holding the specific license sought or held;

(j) Whether an applicant or licensee has defaulted on educational loans;

(k) Whether an applicant or licensee has violated the terms of a final order issued by the director or director's designee;

(l) Whether a licensee has committed recordkeeping violations;

(m) Whether a licensee has committed trust account violations;

(n) Whether an applicant or licensee has engaged in false, deceptive, or misleading advertising; or

(o) Whether a person has engaged in unlicensed practice.

(3) In addition to the situations enumerated in subsection (2) of this section, the department may conduct brief adjudicative proceedings instead of formal adjudicative hearings whenever the parties have stipulated to the facts and the only issues presented are issues of law, or whenever issues of fact exist but witness testimony is unnecessary to prove or disprove the relevant facts.

### WSR 04-20-113

#### PROPOSED RULES

#### DEPARTMENT OF PERSONNEL

[Filed October 6, 2004, 11:02 a.m.]

#### Original Notice.

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

Title of Rule and Other Identifying Information: WAC 357-43-008 What happens if a displaced employee chooses to be removed from the employee business unit before the effective date of a contract that is awarded to the employee business unit?

Hearing Location(s): Department of Personnel, 521 Capitol Way South, Olympia, WA, on November 18, 2004, at 10:00 a.m.

Date of Intended Adoption: November 18, 2004.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by November 12, 2004. FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT."

Assistance for Persons with Disabilities: Contact Department of Personnel by November 12, 2004, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule addresses what happens when a displaced employee chooses to be removed from the employee business unit before the effective date of the contract.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding employee business units. This rule will be in the employee business unit chapter.

Name of Proponent: Department of Personnel, governmental.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

A cost-benefit analysis is not required under RCW 34.05.328.

October 5, 2004

E. C. Matt

Director

#### NEW SECTION

**WAC 357-43-008 What happens if a displaced employee chooses to be removed from the employee business unit before the effective date of a contract that is awarded to the employee business unit?** When a displaced employee chooses to be removed from an employee business unit prior to the effective date of the contract that is awarded to the employee business unit, the following applies:

(1) If the displaced employee chooses to be removed before the employer notifies the employee business unit of the intent to award the contract to the employee business unit (as described in WAC 236-51-600), the displaced employee has layoff rights in accordance with WAC 357-46-012.

(2) If the displaced employee chooses to be removed after the employer notifies the employee business unit of the intent to award the contract to the employee business unit (as described in WAC 236-51-600), the displaced employee has no layoff rights under chapter 357-46 WAC and is considered to have resigned when his/her position is eliminated.



**WSR 04-20-114**  
**PROPOSED RULES**  
**DEPARTMENT OF PERSONNEL**

[Filed October 6, 2004, 11:04 a.m.]

**Original Notice.**

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

**Title of Rule and Other Identifying Information:** WAC 357-46-010 What are the reasons for layoff? and 357-46-012 Following the award of a contract under the competitive contracting process, how does an employer layoff displaced employees as defined by WAC 357-43-001?

**Hearing Location(s):** Department of Personnel, 521 Capitol Way South, Olympia, WA, on November 18, 2004, at 10:00 a.m.

**Date of Intended Adoption:** November 18, 2004.

**Submit Written Comments to:** Sharon Whitehead, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by November 12, 2004. FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT."

**Assistance for Persons with Disabilities:** Contact Department of Personnel by November 12, 2004, TTY (360) 753-4107 or (360) 586-8260.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** These rules address the reasons for layoff and how a state employer will layoff a displaced employee following the award of a contract under the competitive contracting process.

**Statutory Authority for Adoption:** Chapter 41.06 RCW.  
**Statute Being Implemented:** RCW 41.06.150.

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

**Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters:** Due to the passage of SHB 1268 the director of the Department of Personnel has rule-making authority regarding layoff. These rules will be in the layoff chapter.

**Name of Proponent:** Department of Personnel, governmental.

**Name of Agency Personnel Responsible for Drafting:** Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; **Implementation and Enforcement:** Department of Personnel.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not required.

A cost-benefit analysis is not required under RCW 34.05.328.

October 5, 2004

E. C. Matt  
 Director

**AMENDATORY SECTION** (Amending WSR 04-18-114, filed 9/1/04, effective 7/1/05)

**WAC 357-46-010 What are the reasons for layoff?**

(1) Employees may be laid off without prejudice according to layoff procedures that are consistent with these rules. The reasons for layoff include, but are not limited to, the following:

- (a) Lack of funds;
  - (b) Lack of work; or
  - (c) Organizational change.
- (2) Examples of layoff actions due to lack of work may include, but are not limited to:
- (a) Termination of a project or special employment;
  - (b) Availability of fewer positions than there are employees entitled to such positions;
  - (c) Employee's ineligibility to continue in a position following its reallocation to a class with a higher salary range maximum; or
  - (d) Employee's ineligibility to continue, or choice not to continue, in a position following its reallocation to a class with a lower salary range maximum.
- (e) Elimination of a position due to the work of the position being competitively contracted.

**NEW SECTION**

**WAC 357-46-012 Following the award of a contract under the competitive contracting process, how does an employer layoff displaced employees as defined by WAC 357-43-001?** (1) If an employee business unit as defined by WAC 357-43-001 is not awarded the contract, all displaced employees as defined by WAC 357-43-001 are subject to the employer's layoff procedure when the positions are eliminated or reduced.

(2) Displaced employees as defined by WAC 357-43-001 who are not part of the employee business unit awarded the contract are subject to the employer's layoff procedure when the employees' positions are eliminated or reduced (See WAC 357-43-008 for what happens if a displaced employee chooses to be removed from an employee business unit.)

(3) Displaced employees as defined by WAC 357-43-001 who are part of the employee business unit awarded the contract become an employee business unit member on the effective date of the contract. Employee business unit members do not have layoff rights under chapter 357-46 WAC.

**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 04-20-115**

**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF REVENUE**

[Filed October 6, 2004, 11:59 a.m.]

The Department of Revenue has withdrawn its proposal to amend WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component, filed on September 17, 2004, and published in the Washington State Register as WSR 04-19-077. The department filed another proposal to amend WAC 458-30-262 on October 6, 2004.

Alan R. Lynn  
 Rules Coordinator



## WSR 04-20-022

## EXPEDITED RULES

## TRANSPORTATION COMMISSION

[Filed September 28, 2004, 10:26 a.m.]

Title of Rule and Other Identifying Information: WAC 468-500-001 regarding Transportation Commission meetings.

## 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 THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jennifer Ziegler, Administrator, Washington State Transportation Commission, Transportation Building, P.O. Box 47308, Olympia, WA 98504-7308, AND RECEIVED BY December 6, 2004.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Change the current commission meeting date from the third Thursday and preceding Wednesday of every month to the third Wednesday of every month and the Tuesday immediately preceding that day.

Reasons Supporting Proposal: To more effectively meet the scheduling needs of the current commission membership.

Statutory Authority for Adoption: RCW 47.01.071.

Statute Being Implemented: RCW 47.01.071.

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

Name of Proponent: Transportation Commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Jennifer Ziegler, Commission Office, (360) 705-7070.

September 10, 2004

Dale Stedman  
Chairman

AMENDATORY SECTION (Amending WSR 99-11-007, filed 5/7/99, effective 6/7/99)

**WAC 468-500-001 Commission meetings.** Regular public meetings of the Washington state transportation commission are held monthly on the third (~~Thursday~~) Wednesday of every month and on the (~~Wednesday~~) Tuesday immediately preceding that day commencing at 9:00 a.m. or such other time as determined by the commission chair. Each such regular meeting shall be held in the transportation commission meeting room (1D2) in the Transportation Building, 310 Maple Park (~~Drive~~) Avenue S.E., Olympia, Washington. Persons desiring to know the starting time for a specific meeting can call the commission office at ((~~360~~))-705-7070.

## WSR 04-20-052

## EXPEDITED RULES

## DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed October 1, 2004, 10:48 a.m.]

Title of Rule and Other Identifying Information: WAC 246-915-150 Physical therapist assistant and physical therapy aide supervision ratio and 246-915-170 Special requirements for physical therapist assistant utilization. These rules need to be repealed because they are now obsolete because the language has been added to WAC 246-915-160.

## 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 THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kris Waidely, Program Manager, Department of Health, Board of Physical Therapy, P.O. Box 47868, Olympia, WA 98504-7868, AND RECEIVED BY December 7, 2004.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: On May 18, 2004, a hearing was held in Yakima, Washington, to adopt WAC 246-915-160 Responsibilities of supervision. The entire language from WAC 246-915-170 and 246-915-150 has been added to WAC 246-915-160. The changes are intended to provide clear detailed supervision requirements for physical therapists and consolidate all supervision requirements into one WAC to provide clearer understanding and the information will be easier to find in one section.

Reasons Supporting Proposal: The entire language from WAC 246-915-150 and 246-915-170 has been added to WAC 246-915-160 Responsibilities of supervision which [was] filed with the Code Reviser's Office on June 11, 2004, and became effective July 12, 2004.

Statutory Authority for Adoption: RCW 18.74.023.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Department of Health, Board of Physical Therapy, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kris Waidely, Program Manager, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4847.

August 31, 2004

Kris Waidely  
Program Manager

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 246-915-150 Physical therapist assistant and physical therapy aide supervision ratio.
- WAC 246-915-170 Special requirements for physical therapist assistant utilization.

**WSR 04-20-080  
EXPEDITED RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed October 5, 2004, 9:49 a.m.]

Title of Rule and Other Identifying Information: Respiratory hazards and respirators, the department recently adopted chapter 296-841 WAC, Respiratory hazards, and chapter 296-842 WAC, Respirators, and need to update the references to these rules throughout the other WISHA rules. References to respirators and respiratory hazards will be changed throughout the WISHA safety and health rules.

References were updated to chapter 296-841 WAC, Respiratory hazards, or chapter 296-842 WAC, Respirators, for the following sections: WAC 296-24-58513 Protective clothing, 296-24-58515 Respiratory protection devices, 296-24-58517 Appendix A—Fire brigades, 296-24-67515 Personal protective equipment, 296-24-67517 Air supply and air compressors, 296-24-71515 Beryllium, 296-24-71519 Mercury, 296-54-51150 Respiratory protection, 296-56-60001 Scope and application, 296-56-60005 Definitions, 296-56-60053 Hazardous atmospheres and substances, 296-56-60057 Fumigants, pesticides, insecticides and hazardous preservatives (see also WAC 296-56-60049, 296-56-60051, and 296-56-60053), 296-56-60107 Terminal facilities handling menhaden and similar species of fish, 296-56-60110 Respiratory protection, 296-56-60235 Welding, cutting and heating (hot work) (see also definition of "hazardous cargo, material, substance or atmosphere"), 296-62-07306 Requirements for areas containing carcinogens listed in WAC 296-62-07302, 296-62-07329 Vinyl chloride, 296-62-07336 Acrylonitrile, 296-62-07342 1, 2-Dibromo-3-chloropropane, 296-62-07367 Respiratory protection and personal protective equipment, 296-62-07413 Respirator protection, 296-62-07460 Butadiene, 296-62-07521 Lead, 296-62-07615 Respiratory protection, 296-62-07722 Employee information and training, 296-62-14533 Cotton dust, 296-62-20011 Respiratory protection, 296-62-20019 Employee information and training, 296-62-3060 Engineering controls, work practices, and personal protective equipment for employee protection, 296-62-3195 Appendix E—Training curriculum guidelines, 296-62-40001 Scope and application, 296-62-40007 Employee exposure determination, 296-78-665 Sanding machines, 296-78-71015 Tanks and chemicals, 296-78-71019 Exhaust systems, 296-78-84005 Dry kilns, 296-79-29007 Bleach plant, 296-155-160 Gases, vapors, fumes, dusts, and mists, 296-155-17317

Respiratory protection, 296-155-174 Cadmium, 296-155-17613 Respiratory protection, 296-155-17625 Employee information and training, 296-155-17652 Appendix B to WAC 296-155-176—Employee standard summary, 296-155-20301 Definitions, 296-155-220 Respiratory protection, 296-155-367 Masonry saws, 296-155-525 Cranes and derricks, 296-155-655 General protection requirements, 296-155-730 Tunnels and shafts, 296-301-220 Personal protective equipment, 296-304-02003 Precautions and the order of testing before entering confined and enclosed spaces and other dangerous atmospheres, 296-304-03001 Toxic cleaning solvents, 296-304-03005 Mechanical paint removers, 296-304-03007 Painting, 296-304-04001 Ventilation and protection in welding, cutting and heating, 296-304-09007 Respiratory protection, 296-305-02501 Emergency medical protection, 296-305-04001 Respiratory equipment protection, 296-305-05503 Summary of training requirements, 296-800-160 Summary, 286-824-20005 Develop an emergency response plan, 296-824-40005 Provide medical surveillance to employees, 296-824-60005 Personal protective equipment, 296-824-70005 Follow the appropriate post emergency response requirements, 296-824-800 Definitions, 296-835-11045 Protect employees during welding, burning, or other work using open flames, 296-839-30005 Develop or obtain material safety data sheets (MSDSs), and 296-839-500 Definitions.

**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 THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Carmen Moore, Rule Coordinator, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY December 6, 2004.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to correct references throughout WISHA rules for chapter 296-841 WAC, Respiratory hazards, and chapter 296-842 WAC, Respirators. There are no anticipated effects.

Reasons Supporting Proposal: The department recently adopted chapter 296-841 WAC, Respiratory hazards, and chapter 296-842 WAC, Respirators, and need to update the references to these rules throughout the other WISHA rules. References to respirators and respiratory hazards will be changed throughout the WISHA safety and health rules.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW.

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

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

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

October 5, 2004  
Paul Trause  
Director

**AMENDATORY SECTION** (Amending WSR 01-11-038,  
filed 5/9/01, effective 9/1/01)

**WAC 296-24-58513 Protective clothing.** The following requirements apply to those employees who perform interior structural fire fighting. The requirements do not apply to employees who use fire extinguishers or standpipe systems to control or extinguish fires only in the incipient stage.

(1) General.

(a) The employer shall provide at no cost to the employee and assure the use of protective clothing which complies with the requirements of this section. The employer shall assure that protective clothing ordered or purchased after January 1, 1982, meets the requirements contained in this section. As the new equipment is provided, the employer shall assure that all fire brigade members wear the equipment when performing interior structural fire fighting. After July 1, 1985, the employer shall assure that all fire brigade members wear protective clothing meeting the requirements of this section when performing interior structural fire fighting.

(b) The employer shall assure that protective clothing protects the head, body, and extremities, and consists of at least the following components: Foot and leg protection; hand protection; body protection; eye, face and head protection.

(2) Foot and leg protection.

(a) Foot and leg protection shall meet the requirements of (b) and (c) of this subsection, and may be achieved by either of the following methods:

(i) Fully extended boots which provide protection for the legs; or

(ii) Protective shoes or boots worn in combination with protective trousers that meet the requirements of subsection (3) of this section.

(b) Protective footwear shall meet the requirements of WAC 296-800-160 for Class 75 footwear. In addition, protective footwear shall be water-resistant for at least five inches (12.7 cm) above the bottom of the heel and shall be equipped with slip-resistant outer soles.

(c) Protective footwear shall be tested in accordance with WAC 296-24-63599(1) Appendix E, and shall provide protection against penetration of the midsole by a size 8D common nail when at least 300 pounds (1330 N) of static force is applied to the nail.

(3) Body protection.

(a) Body protection shall be coordinated with foot and leg protection to ensure full body protection for the wearer. This shall be achieved by one of the following methods:

(i) Wearing of a fire-resistive coat meeting the requirements of (b) of this subsection, in combination with fully extended boots meeting the requirements of subsection (2)(b) and (c) of this section; or

(ii) Wearing of fire-resistive coat in combination with protective trousers both of which meet the requirements of (b) of this subsection.

(b) The performance, construction, and testing of fire-resistive coats and protective trousers shall be at least equivalent to the requirements of the National Fire Protection Association (NFPA) standard NFPA No. 1971-1975, "Protective Clothing for Structural Fire Fighting," (see WAC 296-24-63499, Appendix D) with the following permissible variations from those requirements:

(i) Tearing strength of the outer shell shall be a minimum of eight pounds (35.6 N) in any direction when tested in accordance with WAC 296-24-63599(2), Appendix E; and

(ii) The outer shell may discolor but shall not separate or melt when placed in a forced air laboratory oven at a temperature of 500°F (260°C) for a period of five minutes. After cooling to ambient temperature and using the test method specified in WAC 296-24-63599(3) Appendix E, char length shall not exceed 4.0 inches (10.2 cm) and after-flame shall not exceed 2.0 seconds.

(4) Hand protection.

(a) Hand protection shall consist of protective gloves or glove system which will provide protection against cut, puncture, and heat penetration. Gloves or glove system shall be tested in accordance with the test methods contained in the National Institute for Occupational Safety and Health (NIOSH) 1976 publication, "The Development of Criteria for Fire Fighter's Gloves; Vol. II, Part II: Test Methods," (see WAC 296-24-63499, Appendix D—Availability of publications incorporated by references in WAC 296-24-58505—Fire brigades) and shall meet the following criteria for cut, puncture, and heat penetration:

(i) Materials used for gloves shall resist surface cut by a blade with an edge having a 60 degree included angle and a .001 inch (.0025 cm.) radius, under an applied force of 16 lbf (72N) and at a slicing velocity of greater or equal to 60 in/min. (2.5 cm/sec);

(ii) Materials used for the palm and palm side of the fingers shall resist puncture by a penetrometer (simulating a 4d lath nail), under an applied force of 13.2 lbf (60N) and at a velocity greater or equal to 20 in/min. (.85 cm/sec); and

(iii) The temperature inside the palm and gripping surface of the fingers of gloves shall not exceed 135°F (57°C) when gloves or glove system are exposed to 932°F (500°C) for five seconds at 4 psi (28 kPa) pressure.

(b) Exterior materials of gloves shall be flame resistant and shall be tested in accordance with WAC 296-24-63599(3) Appendix E. Maximum allowable after-flame shall be 2.0 seconds, and the maximum char length shall be 4.0 inches (10.2 cm).

(c) When design of the fire-resistive coat does not otherwise provide protection for the wrists, protective gloves shall have wristlets of at least 4.0 inches (10.2 cm) in length to protect the wrist area when the arms are extended upward and outward from the body.

(5) Head, eye and face protection.

(a) Head protection shall consist of a protective head device with ear flaps and chin strap which meet the performance, construction, and testing requirements of the National Fire Safety and Research Office of the National Fire Preven-

EXPEDITED

tion and Control Administration, United States Department of Commerce (now known as the United States Fire Administration), which are contained in, "Model Performance Criteria for Structural Fire Fighters' Helmets," (August 1977) (see WAC 296-24-63499, Appendix D).

(b) Protective eye and face devices which comply with WAC 296-800-160 shall be used by fire brigade members when performing operations where the hazards of flying or falling materials which may cause eye and face injuries are present. Protective eye and face devices provided as accessories to protective head devices (face shields) are permitted when such devices meet the requirements of WAC 296-800-160.

(c) Full facepieces, helmets, or hoods of breathing apparatus which meet the requirements of chapter (~~(296-62-WAC, Part E)~~) 296-842 WAC and WAC 296-24-58515, shall be acceptable as meeting the eye and face protection requirements of (b) of this subsection.

**AMENDATORY SECTION** (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-24-58515 Respiratory protection devices.**

(1) General requirements.

(a) The employer shall ensure that respirators are provided to, and used by, fire brigade members, and that the respirators meet the requirements of chapter (~~(296-62-WAC, Part E)~~) 296-842 WAC and this section.

(b) The employer must ensure that all employees engaged in interior structural fire fighting use self-contained breathing apparatus (SCBAs).

(c) Approved self-contained breathing apparatus may be equipped with either a "buddy-breathing" device or a quick disconnect valve, even if these devices are not certified by NIOSH. If these accessories are used, they shall not cause damage to the apparatus, or restrict the air flow of the apparatus, or obstruct the normal operation of the apparatus.

(d) Approved self-contained compressed air breathing apparatus may be used with approved cylinders from other approved self-contained compressed air breathing apparatus provided that such cylinders are of the same capacity and pressure rating. All compressed air cylinders used with self-contained breathing apparatus shall meet DOT and NIOSH criteria.

(e) Self-contained breathing apparatus shall have a minimum service life rating of 30 minutes in accordance with the methods and requirements specified by NIOSH under 42 CFR part 84, except for escape self-contained breathing apparatus (ESCBA) used only for emergency escape purposes.

(f) Self-contained breathing apparatus shall be provided with an indicator which automatically sounds an audible alarm when the remaining service life of the apparatus is reduced to within a range of twenty to twenty-five percent of its rated service time.

(2) Positive-pressure breathing apparatus.

(a) The employer shall assure that self-contained breathing apparatus ordered or purchased after January 1, 1982, for use by fire brigade members performing interior structural fire fighting operations, are of the pressure-demand or other

positive-pressure type. Effective July 1, 1983, only pressure-demand or other positive-pressure self-contained breathing apparatus shall be worn by fire brigade members performing interior structural fire fighting.

(b) This section does not prohibit the use of a self-contained breathing apparatus where the apparatus can be switched from a demand to a positive-pressure mode. However, such apparatus shall be in the positive-pressure mode when fire brigade members are performing interior structural fire fighting operations.

**AMENDATORY SECTION** (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

**WAC 296-24-58517 Appendix A—Fire brigades.** (1) Scope. This section does not require an employer to organize a fire brigade. However, if an employer does decide to organize a fire brigade, the requirements of this section apply.

(2) Prefire planning. It is suggested that prefire planning be conducted by the local fire department and/or the workplace fire brigade in order for them to be familiar with the workplace and process hazards. Involvement with the local fire department or fire prevention bureau is encouraged to facilitate coordination and cooperation between members of the fire brigade and those who might be called upon for assistance during a fire emergency.

(3) Organizational statement. In addition to the information required in the organizational statement, WAC 296-24-58507(1), it is suggested that the organizational statement also contain the following information: A description of the duties that the fire brigade members are expected to perform; the line authority of each fire brigade officer; the number of the fire brigade officers and number of training instructors; and a list and description of the types of awards or recognition that brigade members may be eligible to receive.

(4) Physical capability. The physical capability requirement applies only to those fire brigade members who perform interior structural fire fighting. Employees who cannot meet the physical capability requirement may still be members of the fire brigade as long as such employees do not perform interior structural fire fighting. It is suggested that fire brigade members who are unable to perform interior structural fire fighting be assigned less stressful and physically demanding fire brigade duties, e.g., certain types of training, recordkeeping, fire prevention inspection and maintenance, and fire pump operations.

Physically capable can be defined as being able to perform those duties specified in the training requirements of WAC 296-24-58509. Physically capable can also be determined by physical performance tests or by a physical examination when the examining physician is aware of the duties that the fire brigade member is expected to perform.

It is also recommended that fire brigade members participate in a physical fitness program. There are many benefits which can be attributed to being physically fit. It is believed that physical fitness may help to reduce the number of sprain and strain injuries as well as contributing to the improvement of the cardiovascular system.

(5) Training and education. The section on training and education does not contain specific training and education

requirements because the type, amount, and frequency of training and education will be as varied as are the purposes for which fire brigades are organized. However, the section does require that training and education be commensurate with those functions that the fire brigade is expected to perform; i.e., those functions specified in the organizational statement. Such a performance requirement provides the necessary flexibility to design a training program which meets the needs of individual fire brigades.

At a minimum, hands-on training is required to be conducted annually for all fire brigade members. However, for those fire brigade members who are expected to perform interior structural fire fighting, some type of training or education session must be provided at least quarterly.

In addition to the required hands-on training, it is strongly recommended that fire brigade members receive other types of training and education such as: Classroom instruction, review of emergency action procedures, prefire planning, review of special hazards in the workplace, and practice in the use of self-contained breathing apparatus.

It is not necessary for the employer to duplicate the same training or education that a fire brigade member receives as a member of a community volunteer fire department, rescue squad, or similar organization. However, such training or education must have been provided to the fire brigade member within the past year and it must be documented that the fire brigade member has received the training or education. For example: There is no need for a fire brigade member to receive another training class in the use of positive-pressure self-contained breathing apparatus if the fire brigade member has recently completed such training as a member of a community fire department. Instead, the fire brigade member should receive training or education covering other important equipment or duties of the fire brigade as they relate to the workplace hazards, facilities and processes.

It is generally recognized that the effectiveness of fire brigade training and education depends upon the expertise of those providing the training and education as well as the motivation of the fire brigade members. Fire brigade training instructors must receive a higher level of training and education than the fire brigade members they will be teaching. This includes being more knowledgeable about the functions to be performed by the fire brigade and the hazards involved. The instructors should be qualified to train fire brigade members and demonstrate skills in communication, methods of teaching, and motivation. It is important for instructors and fire brigade members alike to be motivated toward the goal of the fire brigade and be aware of the importance of the service that they are providing for the protection of other employees and the workplace.

It is suggested that publications from the International Fire Service Training Association, the National Fire Protection Association (NFPA-1041), the International Society of Fire Service Instructors and other fire training sources be consulted for recommended qualifications of fire brigade training instructors.

In order to be effective, fire brigades must have competent leadership and supervision. It is important for those who supervise the fire brigade during emergency situations, e.g., fire brigade chiefs, leaders, etc., to receive the necessary

training and education for supervising fire brigade activities during these hazardous and stressful situations. These fire brigade members with leadership responsibilities should demonstrate skills in strategy and tactics, fire suppression and prevention techniques, leadership principles, prefire planning, and safety practices. It is again suggested that fire service training sources be consulted for determining the kinds of training and education which are necessary for those with fire brigade leadership responsibilities.

It is further suggested that fire brigade leaders and fire brigade instructors receive more formalized training and education on a continuing basis by attending classes provided by such training sources as universities and university fire extension services.

The following recommendations should not be considered to be all of the necessary elements of a complete comprehensive training program, but the information may be helpful as a guide in developing a fire brigade training program.

All fire brigade members should be familiar with exit facilities and their location, emergency escape routes for handicapped workers, and the workplace "emergency action plan."

In addition, fire brigade members who are expected to control and extinguish fires in the incipient stage should, at a minimum, be trained in the use of fire extinguishers, standpipes, and other fire equipment they are assigned to use. They should also be aware of first aid medical procedures and procedures for dealing with special hazards to which they may be exposed. Training and education should include both classroom instruction and actual operation of the equipment under simulated emergency conditions. Hands-on type training must be conducted at least annually but some functions should be reviewed more often.

In addition to the above training, fire brigade members who are expected to perform emergency rescue and interior structural fire fighting should, at a minimum, be familiar with the proper techniques in rescue and fire suppression procedures. Training and education should include fire protection courses, classroom training, simulated fire situations including "wet drills" and, when feasible, extinguishment of actual mock fires. Frequency of training or education must be at least quarterly, but some drills or classroom training should be conducted as often as monthly or even weekly to maintain the proficiency of fire brigade members.

There are many excellent sources of training and education that the employer may want to use in developing a training program for the workplace fire brigade. These sources include publications, seminars, and courses offered by universities.

There are also excellent fire school courses by such facilities as Texas A and M University, Delaware State Fire School, Lamar University, and Reno Fire School, that deal with those unique hazards which may be encountered by fire brigades in the oil and chemical industry. These schools, and others, also offer excellent training courses which would be beneficial to fire brigades in other types of industries. These courses should be a continuing part of the training program, and employers are strongly encouraged to take advantage of these excellent resources.

It is also important that fire brigade members be informed about special hazards to which they may be exposed during fire and other emergencies. Such hazards as storage and use areas of flammable liquids and gases, toxic chemicals, water-reactive substances, etc., can pose difficult problems. There must be written procedures developed that describe the actions to be taken in situations involving special hazards. Fire brigade members must be trained in handling these special hazards as well as keeping abreast of any changes that occur in relation to these special hazards.

(6) Fire fighting equipment. It is important that fire fighting equipment that is in damaged or unserviceable condition be removed from service and replaced. This will prevent fire brigade members from using unsafe equipment by mistake.

Fire fighting equipment, except portable fire extinguishers and respirators, must be inspected at least annually. Portable fire extinguishers and respirators are required to be inspected at least monthly.

(7) Protective clothing.

(a) General. WAC 296-24-58513 does not require all fire brigade members to wear protective clothing. It is not the intention of these standards to require employers to provide a full ensemble of protective clothing for every fire brigade member without consideration given to the types of hazardous environments to which the fire brigade member might be exposed. It is the intention of these standards to require adequate protection for those fire brigade members who might be exposed to fires in an advanced stage, smoke, toxic gases, and high temperatures. Therefore, the protective clothing requirements only apply to those fire brigade members who perform interior structural fire fighting operations.

Additionally, the protective clothing requirements do not apply to the protective clothing worn during outside fire fighting operations (brush and forest fires, crash crew operations) or other special fire fighting activities. It is important that the protective clothing to be worn during these types of fire fighting operations reflect the hazards which are expected to be encountered by fire brigade members.

(b) Foot and leg protection. WAC 296-24-58513 permits an option to achieve foot and leg protection.

The section recognizes the interdependence of protective clothing to cover one or more parts of the body. Therefore, an option is given so that fire brigade members may meet the foot and leg requirements by either wearing long fire-resistant coats in combination with fully extended boots, or by wearing shorter fire-resistant coats in combination with protective trousers and protective shoes or shorter boots.

(c) Body protection. WAC 296-24-58513(3) provides an option for fire brigade members to achieve body protection. Fire brigade members may wear a fire-resistant coat in combination with fully extended boots, or they may wear a fire-resistant coat in combination with protective trousers.

Fire-resistant coats and protective trousers meeting all of the requirements contained in NFPA 1971-1975, "Protective Clothing for Structural Fire Fighters," are acceptable as meeting the requirements of this standard.

The lining is required to be permanently attached to the outer shell. However, it is permissible to attach the lining to the outer shell material by stitching in one area such as at the neck. Fastener tape or snap fasteners may be used to secure

the rest of the lining to the outer shell to facilitate cleaning. Reference to permanent lining does not refer to a winter liner which is a detachable extra lining used to give added protection to the wearer against the effects of cold weather and wind.

(d) Hand protection. The requirements of WAC 296-24-58513(4) on hand protection may be met by protective gloves or a glove system. A glove system consists of a combination of different gloves. The usual components of a glove system consist of a pair of gloves, which provide thermal insulation to the hand, worn in combination with a second pair of gloves which provide protection against flame, cut and puncture.

It is suggested that protective gloves provide dexterity and a sense of feel for objects. Criteria and test methods for dexterity are contained in the NIOSH publications, "The Development of Criteria for Firefighters' Gloves; Vol. I: Glove Requirements," and "Vol. II: Glove Criteria and Test Methods." These NIOSH publications also contain a permissible modified version of Federal Test Method 191, Method 5903, (WAC 296-24-63599(3) Appendix E) for flame resistance when gloves, rather than glove material, are tested for flame resistance.

(e) Head, eye and face protection. Head protective devices which meet the requirements contained in NFPA No. 1972 are acceptable as meeting the requirements of this standard for head protection.

Head protective devices are required to be provided with ear flaps so that the ear flaps will be available if needed. It is recommended that ear protection always be used while fighting interior structural fires.

Many head protective devices are equipped with face shields to protect the eyes and face. These face shields are permissible as meeting the eye and face protection requirements of this section as long as such face shields meet the requirements of WAC 296-800-160 of the general safety and health standards.

Additionally, full facepieces, helmets or hoods of approved breathing apparatus which meet the requirements of chapter 296-842 WAC ((296-62-071)) and WAC 296-24-58515 are also acceptable as meeting the eye and face protection requirements.

It is recommended that a flame resistant protective head covering such as a hood or snood, which will not adversely affect the seal of a respirator facepiece, be worn during interior structural fire fighting operations to protect the sides of the face and hair.

(8) Respiratory protective devices. Respiratory protection is required to be worn by fire brigade members while working inside buildings or confined spaces where toxic products of combustion or an oxygen deficiency is likely to be present; respirators are also to be worn during emergency situations involving toxic substances. When fire brigade members respond to emergency situations, they may be exposed to unknown contaminants in unknown concentrations. Therefore, it is imperative that fire brigade members wear proper respiratory protective devices during these situations. Additionally, there are many instances where toxic products of combustion are still present during mop-up and overhaul operations. Therefore, fire brigade members should continue to wear respirators during these types of operations.



Self-contained breathing apparatus are not required to be equipped with either buddy-breathing device or a quick disconnect valve. However, these accessories may be very useful and are acceptable as long as such accessories do not cause damage to the apparatus, restrict the air flow of the apparatus, or obstruct the normal operation of the apparatus.

Buddy-breathing devices are useful for emergency situations where a victim or another fire brigade member can share the same air supply with the wearer of the apparatus for emergency escape purposes.

The employer is encouraged to provide fire brigade members with an alternative means of respiratory protection to be used only for emergency escape purposes if the self-contained breathing apparatus becomes inoperative. Such alternative means of respiratory protection may be either a buddy-breathing device or an escape self-contained breathing apparatus (ESCBA). The ESCBA is a short-duration respiratory protective device which is approved for only emergency escape purposes. It is suggested that if ESCBA units are used, that they be of at least five minutes service life.

Quick disconnect valves are devices which start the flow of air by insertion of the hose (which leads to the facepiece) into the regulator of self-contained breathing apparatus, and stop the flow of air by disconnecting the hose from the regulator. These devices are particularly useful for those positive-pressure self-contained breathing apparatus which do not have the capability of being switched from the demand to the positive-pressure mode.

The use of a self-contained breathing apparatus where the apparatus can be switched from a demand to a positive-pressure mode is acceptable as long as the apparatus is in the positive-pressure mode when performing interior structural fire fighting operations. Also acceptable are approved respiratory protective devices which have been converted to the positive-pressure type when such modification is accomplished by trained and experienced persons using kits or parts approved by NIOSH and provided by the manufacturer and by following the manufacturer's instructions.

There are situations which require the use of respirators which have a duration of two hours or more. Presently, there are no approved positive-pressure apparatus with a rated service life of more than two hours. Consequently, negative-pressure self-contained breathing apparatus with a rated service life of more than two hours and which have a minimum protection factor of 5,000 as determined by an acceptable quantitative fit test performed on each individual, will be acceptable for use during situations which require long duration apparatus. Long duration apparatus may be needed in such instances as working in tunnels, subway systems, etc. Such negative-pressure breathing apparatus will continue to be acceptable for a maximum of eighteen months after a positive-pressure apparatus with the same or longer rated service life of more than two hours is certified by NIOSH/MSHA. After this eighteen-month phase-in period, all self-contained breathing apparatus used for these long duration situations will have to be of the positive-pressure type.

AMENDATORY SECTION (Amending WSR 02-12-098, filed 6/5/02, effective 8/1/02)

**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)) 296-842 WAC 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.

(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)) 296-842 WAC.

(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)) 296-842 WAC must be established wherever it is necessary to use respirators.

(5) Personal protective clothing.

(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 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-24-67517 Air supply and air compressors.**

Clean air supply. The air for abrasive-blasting respirators must be free of harmful quantities of dusts, mists, or noxious gases, and must meet the requirements for supplied-air qual-

ity and use as specified in chapter ((296-62 WAC, Part E)) 296-842 WAC.

**AMENDATORY SECTION** (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

**WAC 296-24-71515 Beryllium.** Welding or cutting indoors, outdoors, or in confined spaces involving beryllium-containing base or filler metals shall be done using local exhaust ventilation and airline respirators unless atmospheric tests under the most adverse conditions have established that the workers' exposure is within the acceptable concentrations defined by chapter ((296-62)) 296-841 WAC. In all cases, workers in the immediate vicinity of the welding or cutting operations shall be protected as necessary by local exhaust ventilation or airline respirators.

**AMENDATORY SECTION** (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-24-71519 Mercury.** In confined spaces or indoors, welding or cutting operations involving metals coated with mercury-bearing materials, including paint, must be done using local exhaust ventilation or airline respirators unless atmospheric tests under the most adverse conditions show that employee exposure is within the acceptable concentrations specified by chapter ((296-62)) 296-841 WAC. Such operations, when done outdoors, must be done using respirators certified for this purpose by NIOSH under 24 CFR part 84.

**AMENDATORY SECTION** (Amending WSR 99-17-117, filed 8/18/99, effective 12/1/99)

**WAC 296-54-51150 Respiratory protection.** The employer must provide respiratory protection when required by the general occupational health standards, chapter ((296-62)) 296-842 WAC.

**AMENDATORY SECTION** (Amending WSR 03-11-060, filed 5/19/03, effective 8/1/03)

**WAC 296-56-60001 Scope and applicability.** (1) The rules included in this chapter apply throughout the state of Washington, to any and all waterfront operations under the jurisdiction of the department of labor and industries.

(2) These minimum requirements are promulgated in order to augment the general safety and health standards, and any other safety and health standards promulgated by the department of labor and industries which are applicable to all places of employment under the jurisdiction of the department of labor and industries. The rules of this chapter, and the rules of chapters 296-24, 296-62 and 296-800 WAC are applicable to all longshore, stevedore and related waterfront operations: Provided, That such rules shall not be applicable to those operations under the exclusive safety jurisdiction of the federal government.

(3) The provisions of this chapter shall prevail in the event of a conflict with, or duplication of, provisions contained in chapters 296-24, 296-62 and 296-800 WAC. Spe-

cific standards which are applicable include, but are not limited to:

(a) Electrical—Chapter 296-24 WAC Part L, and WAC 296-800-280.

(b) Toxic and hazardous substances are regulated by chapters 296-62 and 296-841 WAC. Where references to this chapter are given they are for informational purposes only. Where specific requirements of this chapter conflict with the provisions of chapters 296-62 and 296-841 WAC, this chapter prevails. Chapter 296-62 WAC does not apply when a substance or cargo is contained within a manufacturer's original, sealed, intact means of packaging or containment complying with the department of transportation or International Maritime Organization requirements.

(c) Hearing loss prevention (noise)—Chapter 296-817 WAC.

(d) Standards for commercial diving operations—Chapter 296-37 WAC.

(e) Safety requirements for scaffolding—Chapter 296-24 WAC Part J-2.

(f) Safe practices of abrasive blasting operations—Chapter 296-24 WAC Part H-2.

(g) Access to employee exposure and medical records—Chapter 296-62 WAC Part B.

(h) Respiratory protection—Chapter ((296-62)) 296-842 WAC ((Part E)).

(i) Safety standards for grain handling facilities—Chapter 296-99 WAC.

(j) Chemical hazard communication program—WAC 296-800-170.

(k) Asbestos—Chapters 296-62 Part I-1 and 296-65 WAC.

(l) Permit - required confined spaces and confined space—Chapter 296-62 WAC Part M.

(m) Servicing multipiece and single-piece rim wheels—Chapter 296-24 WAC Part D.

(n) First-aid requirements—WAC 296-800-150.

(o) Employee emergency plans and fire prevention plans—Chapter 296-24 WAC Part G-1.

(4) The provisions of this chapter do not apply to the following:

(a) Fully automated bulk coal handling facilities contiguous to electrical power generating plants.

(b) Facilities subject to the regulations of the office of pipeline safety regulation of the materials transportation bureau, department of transportation, to the extent such regulations apply.

(5) WAC 296-62-074 shall apply to the exposure of every employee to cadmium in every employment and place of employment covered by chapter 296-56 WAC in lieu of any different standard on exposures to cadmium that would otherwise be applicable by virtue of those sections.

**AMENDATORY SECTION** (Amending WSR 00-21-103, filed 10/18/00, effective 2/1/01)

**WAC 296-56-60005 Definitions.** "Apron" means that open portion of a marine terminal immediately adjacent to a vessel berth and used in the direct transfer of cargo between the terminal and vessel.

"Assistant director for the division of WISHA services" means the assistant director of WISHA services, department of labor and industries or his/her authorized representative.

"Authorized," in reference to an employee's assignment, means selected by the employer for that purpose.

"Cargo door" (transit shed door) means a door designed to permit transfer of cargo to and from a marine terminal structure.

"Cargo packaging" means any method of containment for shipment, including cases, cartons, crates and sacks, but excluding large units such as intermodal containers, vans or similar devices.

"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.

"Conveyor" means a device designed exclusively for transporting bulk materials, packages or objects in a predetermined path and having fixed or selective points of loading or discharge.

"Danger zone" means any place in or about a machine or piece of equipment where an employee may be struck by or caught between moving parts, caught between moving and stationary objects or parts of the machine, caught between the material and a moving part of the machine, burned by hot surfaces or exposed to electric shock. Examples of danger zones are nip and shear points, shear lines, drive mechanisms, and areas beneath counterweights.

"Designated person" means a person who possesses specialized abilities in a specific area and is assigned by the employer to perform a specific task in that area.

"Dock" means a wharf or pier forming all or part of a waterfront facility, including marginal or quayside berthing facilities; not to be confused with "loading dock" as at a transit shed or container freight station, or with the body of water between piers or wharves.

"Dock facilities" includes all piers, wharves, sheds, aprons, dolphins, cranes, or other gear or equipment owned or controlled by the dock or facility owner, where cargo or materials are loaded, moved or handled to or from a vessel.

"Dockboards" (car and bridge plates) mean devices for spanning short distances between rail cars or highway vehicles and loading platforms that do not expose employees to falls greater than 4 feet (1.22 m).

"Enclosed space" means an indoor space, other than a confined space, that may contain or accumulate a hazardous atmosphere due to inadequate natural ventilation. Examples of enclosed spaces are trailers, railcars, and storage rooms.

"Examination," as applied to material handling devices required to be certified by this chapter, means a comprehensive survey consisting of the criteria outlined in WAC 296-56-60093 through 296-56-60097. The examination is supplemented by a unit proof test in the case of annual survey.

"Flammable atmosphere" means an atmosphere containing more than ten percent of the lower flammable limit (LEL)

of a flammable or combustible vapor or dust mixed with air. Such atmospheres are usually toxic as well as flammable.

"Front-end attachments."

- As applied to power-operated industrial trucks, means the various devices, such as roll clamps, rotating and side-shifting carriages, magnets, rams, crane arms or booms, load stabilizers, scoops, buckets, and dumping bins, attached to the load end for handling lifts as single or multiple units.

- As applied to cranes, means various attachments applied to the basic machine for the performance of functions such as lifting, clamshell or magnet services.

"Fumigant" is a substance or mixture of substances, used to kill pests or prevent infestation, which is a gas or is rapidly or progressively transformed to the gaseous state even though some nongaseous or particulate matter may remain and be dispersed in the treatment space.

"Hazardous cargo, material, substance or atmosphere" means:

- Any substance listed in chapters 296-62 and 296-841 WAC;

- Any material in the hazardous materials table and hazardous materials communications regulations of the Department of Transportation, 49 CFR Part 172;

- Any article not properly described by a name in the hazardous materials table and hazardous materials communications regulations of the Department of Transportation, 49 CFR Part 172, but which is properly classified under the definition of those categories of dangerous articles given in 49 CFR Part 173;

- Atmospheres having concentrations of airborne chemicals in excess of permissible exposure limits as defined in chapter 296-62 WAC; or

- Any atmosphere with an oxygen content of less than nineteen and one-half percent by volume.

"House falls" means spans and supporting members, winches, blocks, and standing and running rigging forming part of a marine terminal and used with a vessel's cargo gear to load or unload by means of married falls.

"Inspection," as applied to material handling devices required to be certified by this chapter, includes a complete visual examination of all visible parts of the device.

"Intermodal container" means a reusable cargo container of rigid construction and rectangular configuration intended to contain one or more articles of cargo or bulk commodities for transportation by water and one or more other transport modes without intermediate cargo handling. The term includes completely enclosed units, open top units, fractional height units, units incorporating liquid or gas tanks and other variations fitting into the container system, demountable or with attached wheels. It does not include cylinders, drums, crates, cases, cartons, packages, sacks, unitized loads or any other form of packaging.

"Loose gear" means removable or replaceable components of equipment or devices which may be used with or as a part of assembled material handling units for purposes such as making connections, changing line direction and multiplying mechanical advantage. Examples include shackles and snatch blocks.

"Marina" means a small harbor or boat basin providing dockage, supplies, and services for small craft.

"Marine terminal" means wharves, bulkheads, quays, piers, docks and other berthing locations and adjacent storage or contiguous areas and structures associated with the primary movement of cargo or materials from vessel to shore or shore to vessel. It includes structures which are devoted to receiving, handling, holding, consolidation, loading or delivery of waterborne shipments and passengers, and areas devoted to the maintenance of the terminal or equipment. The term does not include production or manufacturing areas having their own docking facilities and located at a marine terminal nor storage facilities directly associated with those production or manufacturing areas.

"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.

"Ramps" mean other flat-surface devices for passage between levels and across openings not covered under "dockboards."

**AMENDATORY SECTION** (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-56-60053 Hazardous atmospheres and substances.** (1) Purpose and scope. This section covers areas where a hazardous atmosphere or substance may exist, except where one or more of the following sections apply: WAC 296-56-60049 Hazardous cargo; WAC 296-56-60051 Handling explosives or hazardous materials; WAC 296-56-60055 Carbon monoxide; WAC 296-56-60057 Fumigants, pesticides, insecticides and hazardous preservatives; WAC 296-56-60107 Terminal facilities handling menhaden and similar species of fish; WAC 296-56-60235 Welding, cutting and heating (hot work); and WAC 296-56-60237 Spray painting.

(2) Determination of hazard.

(a) Whenever a room, building, vehicle, railcar or other space contains or has contained a hazardous atmosphere, a designated and appropriately equipped person shall test the atmosphere before entry to determine whether a hazardous atmosphere exists.

(b) Records of results of any tests required by this section shall be maintained for at least thirty days.

(3) Testing during ventilation. When mechanical ventilation is used to maintain a safe atmosphere, tests shall be made by a designated person to ensure that the atmosphere is not hazardous.

(4) Entry into hazardous atmospheres. Only designated persons shall enter hazardous atmospheres. The following provisions shall apply:

(a) Persons entering a space containing a hazardous atmosphere shall be protected by respiratory and emergency

protective equipment meeting the requirements of chapter ((296-62)) 296-842 WAC(, Part E));

(b) Persons entering a space containing a hazardous atmosphere shall be instructed in the nature of the hazard, precautions to be taken, and the use of protective and emergency equipment. Standby observers, similarly equipped and instructed, shall continuously monitor the activity of employees within such space; and

(c) Except for emergency or rescue operations, employees shall not enter into any atmosphere which has been identified as flammable or oxygen deficient (less than nineteen and one-half percent oxygen). Persons who may be required to enter flammable or oxygen deficient atmospheres in emergency operations shall be instructed in the dangers attendant to those atmospheres and instructed in the use of self-contained breathing apparatus, which shall be utilized.

(d) To prevent inadvertent employee entry into spaces that have been identified as having hazardous, flammable or oxygen deficient atmospheres, appropriate warning signs or equivalent means shall be posted at all means of access to those spaces.

(5) When the packaging of asbestos cargo leaks, spillage shall be cleaned up by designated employees protected from the harmful effects of asbestos as required by WAC 296-62-07517 and chapter 296-65 WAC.

**AMENDATORY SECTION** (Amending WSR 00-21-103, filed 10/18/00, effective 2/1/01)

**WAC 296-56-60057 Fumigants, pesticides, insecticides and hazardous preservatives (see also WAC 296-56-60049, 296-56-60051 and 296-56-60053).** (1) Whenever cargo in a space is or has been stowed, handled, or treated with a fumigant, pesticide, insecticide, or hazardous preservative, a determination shall be made as to whether a hazardous atmosphere is present in the space. Only employees protected as required in subsection (5) of this section shall enter the space if it is hazardous.

(2) Tests to determine the atmospheric concentration of chemicals used to treat cargo shall be:

(a) Appropriate for the hazard involved;

(b) Conducted by designated persons; and

(c) Performed at the intervals necessary to ensure that employee exposure does not exceed the permissible exposure limit for the chemical involved, see chapters 296-62 and 296-841 WAC.

(3) Results of any tests shall be available for at least thirty days.

(4) Chemicals shall only be applied to cargoes by designated persons.

(5) Only designated persons shall enter hazardous atmospheres. Whenever a hazardous atmosphere is entered the following provisions apply.

(a) Persons entering a space containing a hazardous atmosphere shall be protected by respiratory and emergency protective equipment meeting the requirements of part G of this standard; and

(b) Persons entering a space containing a hazardous atmosphere shall be instructed in the nature of the hazard, precautions to be taken, and the use of protective and emer-

gency equipment. Standby observers, similarly equipped and instructed, shall continuously monitor the activity of employees within such a space.

(6) Signs shall be clearly posted where fumigants, pesticides or hazardous preservatives have created a hazardous atmosphere. These signs shall note the danger, identify specific chemical hazards, and give appropriate information and precautions, including instructions for the emergency treatment of employees affected by any chemical in use.

(7) In the case of containerized shipments of fumigated tobacco, the contents of the container shall be aerated by opening the container doors for a period of forty-eight hours after the completion of fumigation and prior to loading. When tobacco is within shipping cases having polyethylene or similar bag liners, the aeration period shall be seventy-two hours. The employer shall obtain a written warranty from the fumigation facility stating that the appropriate aeration period has been met.

**AMENDATORY SECTION** (Amending WSR 00-21-103, filed 10/18/00, effective 2/1/01)

**WAC 296-56-60107 Terminal facilities handling menhaden and similar species of fish.** (1)(a) Tanks in terminal areas used for receiving or storing bailwater for recirculating into vessel holds in discharging operations shall be opened or ventilated to minimize contamination of water circulated to the vessel. Bailwater tanks shall be thoroughly drained upon completion of each day's operations and shall be left open to the air. Drainage is unnecessary when bailwater has been treated to remove hydrogen sulfide-producing contaminants and the efficiency of such treatment has been established.

(b) Before employees enter a dock tank, it shall first be drained, rinsed and tested for hydrogen sulfide and oxygen deficiency. Employees shall not enter the tank when the hydrogen sulfide level exceeds twenty ppm or oxygen content is less than nineteen and one-half percent, except in emergencies.

(c) Tests shall be conducted by designated personnel with suitable test equipment and respiratory protective equipment complying with the provisions of this chapter and chapter ((296-62)) 296-842 WAC.

(2) Pipelines and hoses on the dock or terminal used for receiving and circulating used bailwater shall be completely drained upon completion of each day's operation and left open to the air.

(3) At least four units of respiratory protective equipment consisting of supplied-air respirators or self-contained breathing apparatus complying with the requirements of chapter ((296-62)) 296-842 WAC shall be available in a suitably labeled cabinet for immediate use in case of an emergency caused by oxygen deficiency or hydrogen sulfide. Any employee entering a tank in an emergency shall, in addition to respiratory protective equipment, wear a lifeline and safety harness to facilitate rescue. At least two other employees, similarly equipped, shall be continuously stationed outside the tank to observe and to provide rescue services.

(4) The plant superintendent and foremen shall be trained and knowledgeable about the hazards of hydrogen

sulfide and oxygen deficiency. They shall be trained in the use of appropriate respiratory and other protective equipment, and in rescue procedures. Other supervisory plant personnel shall be informed of these hazards and instructed in the necessary safety measures, including use of respiratory and rescue equipment.

(5) Supervisory personnel shall be on hand at dockside to supervise discharging of bailwater from vessels.

**AMENDATORY SECTION** (Amending Order 86-02, filed 1/17/86)

**WAC 296-56-60110 Respiratory protection.** The respiratory protection requirements of the general occupational health standards, chapter ((296-62)) 296-842 WAC, apply.

**AMENDATORY SECTION** (Amending WSR 00-21-103, filed 10/18/00, effective 2/1/01)

**WAC 296-56-60235 Welding, cutting and heating (hot work) (see also definition of "hazardous cargo, material, substance or atmosphere").** (1) Definition. "Hot work" means riveting, welding, flame cutting or other fire or spark-producing operation.

(2) Hot work in confined spaces. Hot work shall not be performed in a confined space until all requirements of chapter 296-62 WAC, Part M, are met.

(3) Fire protection.

(a) To the extent possible, hot work shall be performed in designated locations that are free of fire hazards.

(b) When hot work must be performed in a location that is not free of fire hazards, all necessary precautions shall be taken to confine heat, sparks, and slag so that they cannot contact flammable or combustible material.

(c) Fire extinguishing equipment suitable for the location shall be immediately available and shall be maintained in readiness for use at all times.

(d) When the hot work operation is such that normal fire prevention precautions are not sufficient, additional personnel shall be assigned to guard against fire during hot work and for a sufficient time after completion of the work to ensure that no fire hazard remains. The employer shall instruct all employees involved in hot work operations as to potential fire hazards and the use of fire fighting equipment.

(e) Drums and containers which contain or have contained flammable or combustible liquids shall be kept closed. Empty containers shall be removed from the hot work area.

(f) When openings or cracks in flooring cannot be closed, precautions shall be taken to ensure that no employees or flammable or combustible materials are exposed to sparks dropping through the floor. Similar precautions shall be taken regarding cracks or holes in walls, open doorways and open or broken windows.

(g) Hot work shall not be performed:

(i) In flammable or potentially flammable atmospheres;

(ii) On or in equipment or tanks that have contained flammable gas or liquid or combustible liquid or dust-producing material, until a designated person has tested the atmosphere inside the equipment or tanks and determined that it is not hazardous; or

(iii) Near any area in which exposed readily ignitable materials such as bulk sulphur, baled paper or cotton are stored. Bulk sulphur is excluded from this prohibition if suitable precautions are followed, the person in charge is knowledgeable and the person performing the work has been instructed in preventing and extinguishing sulphur fires.

(h)(i) Drums, containers or hollow structures that have contained flammable or combustible substances shall either be filled with water or cleaned, and shall then be ventilated. A designated person shall test the atmosphere and determine that it is not hazardous before hot work is performed on or in such structures.

(ii) Before heat is applied to a drum, container or hollow structure, an opening to release built-up pressure during heat application shall be provided.

(4) Gas welding and cutting.

(a) Compressed gas cylinders:

(i) Shall have valve protection caps in place except when in use, hooked up or secured for movement. Oil shall not be used to lubricate caps;

(ii) Shall be hoisted only while secured, as on a cradle or pallet, and shall not be hoisted by magnet, choker sling or cylinder caps;

(iii) Shall be moved only by tilting or rolling on their bottom edges;

(iv) Shall be secured when moved by vehicle;

(v) Shall be secured while in use;

(vi) Shall have valves closed when cylinders are empty, being moved or stored;

(vii) Shall be secured upright except when hoisted or carried;

(viii) Shall not be freed when frozen by prying the valves or caps with bars or by hitting the valve with a tool;

(ix) Shall not be thawed by boiling water;

(x) Shall not be exposed to sparks, hot slag, or flame;

(xi) Shall not be permitted to become part of electrical circuits or have electrodes struck against them to strike arcs;

(xii) Shall not be used as rollers or supports;

(xiii) Shall not have contents used for purposes not authorized by the supplier;

(xiv) Shall not be used if damaged or defective;

(xv) Shall not have gases mixed within, except by gas suppliers;

(xvi) Shall be stored so that oxygen cylinders are separated from fuel gas cylinders and combustible materials by either a minimum distance of twenty feet (6.1 m) or a barrier having a fire-resistance rating of thirty minutes; and

(xvii) Shall not have objects that might either damage the safety device or obstruct the valve placed on top of the cylinder when in use.

(b) Use of fuel gas. Fuel gas shall be used only as follows:

(i) Before regulators are connected to cylinder valves, the valves shall be opened slightly (cracked) and closed immediately to clear away dust or dirt. Valves shall not be cracked if gas could reach possible sources of ignition;

(ii) Cylinder valves shall be opened slowly to prevent regulator damage and shall not be opened more than one and one-half turns. Any special wrench required for emergency closing shall be positioned on the valve stem during cylinder

use. For manifolded or coupled cylinders, at least one wrench shall be immediately available. Nothing shall be placed on top of a cylinder or associated parts when the cylinder is in use;

(iii) Pressure-reducing regulators shall be attached to cylinder valves when cylinders are supplying torches or devices equipped with shut-off valves;

(iv) Cylinder valves shall be closed and gas released from the regulator or manifold before regulators are removed;

(v) Leaking fuel gas cylinder valves shall be closed and the gland nut tightened. If the leak continues, the cylinder shall be tagged, removed from service, and moved to a location where the leak will not be hazardous. If a regulator attached to a valve stops a leak, the cylinder need not be removed from the workplace but shall be tagged and may not be used again before it is repaired; and

(vi) If a plug or safety device leaks, the cylinder shall be tagged, removed from service, and moved to a location where the leak will not be hazardous.

(c) Hose.

(i) Fuel gas and oxygen hoses shall be easily distinguishable from each other by color or sense of touch. Oxygen and fuel hoses shall not be interchangeable. Hoses having more than one gas passage shall not be used.

(ii) When oxygen and fuel gas hoses are taped together, not more than four of each twelve inches (10.16 cm of each 30.48 cm) shall be taped.

(iii) Hose shall be inspected before use. Hose subjected to flashback or showing evidence of severe wear or damage shall be tested to twice the normal working pressure but not less than two hundred p.s.i. (1378.96 kPa) before reuse. Defective hose shall not be used.

(iv) Hose couplings shall not unlock or disconnect without rotary motion.

(v) Hose connections shall be clamped or securely fastened to withstand twice the normal working pressure but not less than three hundred p.s.i. (2068.44 kPa) without leaking.

(vi) Gas hose storage boxes shall be ventilated.

(d) Torches.

(i) Torch tip openings shall only be cleaned with devices designed for that purpose.

(ii) Torches shall be inspected before each use for leaking shut-off valves, hose couplings and tip connections. Torches shall be inspected before each use for leaking shut-off valves, hose couplings and tip connections. Torches with such defects shall not be used.

(iii) Torches shall not be lighted from matches, cigarette lighters, other flames or hot work.

(e) Pressure regulators. Pressure regulators, including associated gauges, shall be maintained in safe working order.

(f) Operational precaution. Gas welding equipment shall be maintained free of oil and grease.

(5) Arc welding and cutting.

(a) Manual electrode holders.

(i) The employer shall ensure that only manual electrode holders intended for arc welding and cutting and capable of handling the maximum current required for such welding or cutting shall be used.

(ii) Current-carrying parts passing through those portions of the holder gripped by the user and through the outer surfaces of the jaws of the holder shall be insulated against the maximum voltage to ground.

(b) Welding cables and connectors.

(i) Arc welding and cutting cables shall be insulated, flexible and capable of handling the maximum current required by the operation, taking into account the duty cycles.

(ii) Only cable free from repair or splice for ten feet (3 m) from the electrode holder shall be used unless insulated connectors or splices with insulating quality equal to that of the cable are provided.

(iii) When a cable other than the lead mentioned in (b)(ii) of this subsection wears and exposes bare conductors, the portion exposed shall not be used until it is protected by insulation equivalent in performance capacity to the original.

(iv) Insulated connectors of equivalent capacity shall be used for connecting or splicing cable. Cable lugs, where used as connectors, shall provide electrical contact. Exposed metal parts shall be insulated.

(c) Ground returns and machine grounding.

(i) Ground return cables shall have current-carrying capacity equal to or exceeding the total maximum output capacities of the welding or cutting units served.

(ii) Structures or pipelines, other than those containing gases or flammable liquids or conduits containing electrical circuits, may be used in the ground return circuit if their current-carrying capacity equals or exceeds the total maximum output capacities of the welding or cutting units served.

(iii) Structures or pipelines forming a temporary ground return circuit shall have electrical contact at all joints. Arcs, sparks or heat at any point in the circuit shall cause rejection as a ground circuit.

(iv) Structures or pipelines acting continuously as ground return circuits shall have joints bonded and maintained to ensure that no electrolysis or fire hazard exists.

(v) Arc welding and cutting machine frames shall be grounded, either through a third wire in the cable containing the circuit conductor or through a separate wire at the source of the current. Grounding circuits shall have resistance low enough to permit sufficient current to flow to cause the fuse or circuit breaker to interrupt the current.

(vi) Ground connections shall be mechanically and electrically adequate to carry the current.

(d) When electrode holders are left unattended, electrodes shall be removed and holders placed to prevent employee injury.

(e) Hot electrode holders shall not be dipped in water.

(f) The employer shall ensure that when arc welders or cutters leave or stop work or when machines are moved, the power supply switch is kept in the off position.

(g) Arc welding or cutting equipment having a functional defect shall not be used.

(h)(i) Arc welding and cutting operations shall be separated from other operations by shields, screens, or curtains to protect employees in the vicinity from the direct rays and sparks of the arc.

(ii) Employees in areas not protected from the arc by screening shall be protected by appropriate filter lenses in accordance with subsection (8) of this section. When welders

are exposed to their own arc or to each other's arc, they shall wear filter lenses complying with the requirements of subsection (8) of this section.

(i) The control apparatus of arc welding machines shall be enclosed, except for operating wheels, levers, and handles.

(j) Input power terminals, top change devices and live metal parts connected to input circuits shall be enclosed and accessible only by means of insulated tools.

(k) When arc welding is performed in wet or high-humidity conditions, employees shall use additional protection, such as rubber pads or boots, against electric shock.

(6) Ventilation and employee protection in welding, cutting and heating.

(a) Mechanical ventilation requirements. The employer shall ensure that general mechanical ventilation or local exhaust systems shall meet the following requirements:

(i) General mechanical ventilation shall maintain vapors, fumes and smoke below a hazardous level;

(ii) Local exhaust ventilation shall consist of movable hoods positioned close to the work and shall be of such capacity and arrangement as to keep breathing zone concentrations below hazardous levels;

(iii) Exhausts from working spaces shall be discharged into the open air, clear of intake air sources;

(iv) Replacement air shall be clean and respirable; and

(v) Oxygen shall not be used for ventilation, cooling or cleaning clothing or work areas.

(b) Hot work in confined spaces. Except as specified in (c)(ii) and (iii) of this subsection, when hot work is performed in a confined space the employer shall, in addition to the requirements of chapter 296-62 WAC, Part M, ensure that:

(i) General mechanical or local exhaust ventilations shall be provided; or

(ii) Employees in the space shall wear respirators in accordance with chapter ((296-62)) 296-842 WAC((, Part E)).

(c) Welding, cutting or heating of toxic metals.

(i) In confined or enclosed spaces, hot work involving the following metals shall only be performed with general mechanical or local exhaust ventilation that ensures that employees are not exposed to hazardous levels of fumes:

(A) Lead base metals;

(B) Cadmium-bearing filler materials; and

(C) Chromium-bearing metals or metals coated with chromium-bearing materials.

(ii) In confined or enclosed spaces, hot work involving the following metals shall only be performed with local exhaust ventilation meeting the requirements of this subsection or by employees wearing supplied air respirators in accordance with chapter ((296-62)) 296-842 WAC((, Part E));

(A) Zinc-bearing base or filler metals or metals coated with zinc-bearing materials;

(B) Metals containing lead other than as an impurity, or coated with lead-bearing materials;

(C) Cadmium-bearing or cadmium-coated base metals; and

(D) Metals coated with mercury-bearing materials.



(iii) Employees performing hot work in confined or enclosed spaces involving beryllium-containing base or filler metals shall be protected by local exhaust ventilation and wear supplied air respirators or self-contained breathing apparatus, in accordance with the requirements of chapter ((296-62)) 296-842 WAC((,-Part E)).

(iv) The employer shall ensure that employees performing hot work in the open air that involves any of the metals listed in (c)(i) and (ii) of this subsection shall be protected by respirators in accordance with the requirements of chapter ((296-62)) 296-842 WAC((,-Part E)) and those working on beryllium-containing base or filler metals shall be protected by supplied air respirators, in accordance with the requirements of chapter ((296-62)) 296-842 WAC((,-Part E)).

(v) Any employee exposed to the same atmosphere as the welder or burner shall be protected by the same type of respiratory and other protective equipment as that worn by the welder or burner.

(d) Inert-gas metal-arc welding. Employees shall not engage in and shall not be exposed to the inert-gas metal-arc welding process unless the following precautions are taken:

(i) Chlorinated solvents shall not be used within two hundred feet (61 m) of the exposed arc. Surfaces prepared with chlorinated solvents shall be thoroughly dry before welding is performed on them.

(ii) Employees in areas not protected from the arc by screening shall be protected by appropriate filter lenses in accordance with the requirements of subsection (8) of this section. When welders are exposed to their own arc or to each other's arc, filter lenses complying with the requirements of subsection (8) of this section shall be worn to protect against flashes and radiant energy.

(iii) Employees exposed to radiation shall have their skin covered completely to prevent ultraviolet burns and damage. Helmets and hand shields shall not have leaks, openings or highly reflective surfaces.

(iv) Inert-gas metal-arc welding on stainless steel shall not be performed unless exposed employees are protected either by local exhaust ventilation or by wearing supplied air respirators in accordance with the requirements of chapter ((296-62)) 296-842 WAC((,-Part E)).

(7) Welding, cutting and heating on preservative coatings.

(a) Before hot work is commenced on surfaces covered by a preservative coating of unknown flammability, a test shall be made by a designated person to determine the coating's flammability. Preservative coatings shall be considered highly flammable when scrapings burn with extreme rapidity.

(b) Appropriate precaution shall be taken to prevent ignition of highly flammable hardened preservative coatings. Highly flammable coatings shall be stripped from the area to be heated. An uncoiled fire hose with fog nozzle, under pressure, shall be immediately available in the hot work area.

(c) Surfaces covered with preservative coatings shall be stripped for at least four inches (10.16 cm) from the area of heat application or employees shall be protected by supplied air respirators in accordance with the requirements of chapter 296-62 WAC.

(8) Protection against radiant energy.

(a) Employees shall be protected from radiant energy eye hazards by spectacles, cup goggles, helmets, hand shields or face shields with filter lenses complying with the requirements of this subsection.

(b) Filter lenses shall have an appropriate shade number, as indicated in Table G-1, for the work performed. Variations of one or two shade numbers are permissible to suit individual preferences.

(c) If filter lenses are used in goggles worn under the helmet, the shade numbers of both lenses equals the value shown in Table G-1 for the operation.

Table G-1.—Filter Lenses for Protection Against Radiant Energy

Operation	Shade No.
Soldering . . . . .	2
Torch Brazing . . . . .	3 or 4
Light cutting, up to 1 inch . . . . .	3 or 4
Medium cutting, 1-6 inches . . . . .	4 or 5
Heavy cutting, over 6 inches . . . . .	5 or 6
Light gas welding, up to 1/8 inch . . . . .	4 or 5
Medium gas welding, 1/8-1/2 inch . . . . .	5 or 6
Heavy gas welding, over 1/2 inch . . . . .	6 or 8
Shielded Metal-Arc Welding 1/16 to 5/32-inch electrodes . . . . .	10
Inert gas Metal-Arc Welding (nonferrous) 1/16 to 5/32-inch electrodes . . . . .	11
Shielded Metal-Arc Welding: 3/16 to 1/4-inch electrodes . . . . .	12
5/16 and 3/8-inch electrodes . . . . .	14

**AMENDATORY SECTION** (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

**WAC 296-62-07306 Requirements for areas containing carcinogens listed in WAC 296-62-07302.** (1) A regulated area shall be established by an employer where listed carcinogens are manufactured, processed, used, repackaged, released, handled or stored.

(2) All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved:

(a) Isolated systems. Employees working with carcinogens within an isolated system such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(b) Closed system operation. Within regulated areas where carcinogens are stored in sealed containers, or contained in a closed system including piping systems with any sample ports or openings closed while carcinogens are contained within:

(i) Access shall be restricted to authorized employees only;

(ii) Employees shall be required to wash hands, forearms, face and neck upon each exit from the regulated areas,

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close to the point of exit and before engaging in other activities.

(c) Open vessel system operations. Open vessel system operations as defined in WAC 296-62-07304(12) are prohibited.

(d) Transfer from a closed system. Charging or discharging point operations, or otherwise opening a closed system. In operations involving "laboratory-type hoods," or in locations where a carcinogen is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this section shall apply.

(i) Access shall be restricted to authorized employees only;

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers and gloves prior to entering the regulated area.

(iv) Employees engaged in handling operations involving the following carcinogens must be provided with and required to wear and use a full-face, supplied-air respirator, of the continuous flow or pressure-demand type as required in chapter ((296-62)) 296-842 WAC((, Part E)):

- Methyl Chloromethyl Ether;
- bis-Chloromethyl Ether;
- Ethylenimine;
- beta-Propiolactone;
- 4-Amino Diphenyl.

(v) Employees engaged in handling operations involving:

- 4-nitrobiphenyl;
- alpha-naphthylamine;
- 4-4'methylene bis(2-chloroaniline);
- 3-3'dichlorobenzidine (and its salts);
- beta-naphthylamine;
- benzidine;
- 2-acetyl amino fluorene;
- 4-dimethylaminobenzene;
- n-nitrosodimethylamine

must be provided with, and required to wear and use, a half-face, filter-type respirator certified for solid or liquid particulates with minimum efficiency rating of 95% as required in chapter ((296-62)) 296-842 WAC((, Part E)). A respirator affording higher levels of protection than this respirator may be substituted.

(vi) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to

place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under WAC 296-62-07310 (2), (3) and (4).

(vii) Employees shall be required to wash hands, forearms, face and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

(viii) Employees shall be required to shower after the last exit of the day.

(ix) Drinking fountains are prohibited in the regulated area.

(e) Maintenance and decontamination activities. In clean up of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with carcinogens could result, each authorized employee entering the area shall:

(i) Be provided with and required to wear, clean, impervious garments, including gloves, boots and continuous-air supplied hood in accordance with WAC 296-800-160, and respiratory protective equipment required by this chapter ((296-62)) 296-842 WAC;

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(f) Laboratory activities. The requirements of this subdivision shall apply to research and quality control activities involving the use of carcinogens listed in WAC 296-62-07302.

(i) Mechanical pipetting aids shall be used for all pipetting procedures.

(ii) Experiments, procedures and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(iii) Surfaces on which carcinogens are handled shall be protected from contamination.

(iv) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. Such wastes and carcasses shall be incinerated in such a manner that no carcinogenic products are released.

(v) All other forms of listed carcinogens shall be inactivated prior to disposal.

(vi) Laboratory vacuum systems shall be protected with high efficiency scrubbers or with disposable absolute filters.

(vii) Employees engaged in animal support activities shall be:

(A) Provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; and

(B) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be

identified as required under WAC 296-62-07310 (2), (3) and (4).

(C) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and

(D) Required to shower after the last exit of the day.

(viii) Employees, other than those engaged only in animal support activities, each day shall be:

(A) Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat.

(B) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified as required under WAC 296-62-07310 (2), (3) and (4).

(C) Required to wash hands, forearms, face and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities.

(ix) Air pressure in laboratory areas and animal rooms where carcinogens are handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated.

(x) There shall be no connection between regulated areas and any other areas through the ventilation system.

(xi) A current inventory of the carcinogens shall be maintained.

(xii) Ventilated apparatus such as laboratory-type hoods, shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

**AMENDATORY SECTION** (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

**WAC 296-62-07329 Vinyl chloride.** (1) Scope and application.

(a) This section includes requirements for the control of employee exposure to vinyl chloride (chloroethene), Chemical Abstracts Service Registry No. 75014.

(b) This section applies to the manufacture, reaction, packaging, repackaging, storage, handling or use of vinyl chloride or polyvinyl chloride, but does not apply to the handling or use of fabricated products made of polyvinyl chloride.

(c) This section applies to the transportation of vinyl chloride or polyvinyl chloride except to the extent that the department of transportation may regulate the hazards covered by this section.

(2) Definitions.

(a) "Action level" means a concentration of vinyl chloride of 0.5 ppm averaged over an 8-hour work day.

(b) "Authorized person" means any person specifically authorized by the employer whose duties require him/her to

enter a regulated area or any person entering such an area as a designated representative of employees for the purpose of exercising an opportunity to observe monitoring and measuring procedures.

(c) "Director" means the director of department of labor and industries or his/her designated representative.

(d) "Emergency" means any occurrence such as, but not limited to, equipment failure, or operation of a relief device which is likely to, or does, result in massive release of vinyl chloride.

(e) "Fabricated product" means a product made wholly or partly from polyvinyl chloride, and which does not require further processing at temperatures, and for times, sufficient to cause mass melting of the polyvinyl chloride resulting in the release of vinyl chloride.

(f) "Hazardous operation" means any operation, procedure, or activity where a release of either vinyl chloride liquid or gas might be expected as a consequence of the operation or because of an accident in the operation, which would result in an employee exposure in excess of the permissible exposure limit.

(g) "Polyvinyl chloride" means polyvinyl chloride homopolymer or copolymer before such is converted to a fabricated product.

(h) "Vinyl chloride" means vinyl chloride monomer.

(3) Permissible exposure limit.

(a) No employee may be exposed to vinyl chloride at concentrations greater than 1 ppm averaged over any 8-hour period, and

(b) No employee may be exposed to vinyl chloride at concentrations greater than 5 ppm averaged over any period not exceeding 15 minutes.

(c) No employee may be exposed to vinyl chloride by direct contact with liquid vinyl chloride.

(4) Monitoring.

(a) A program of initial monitoring and measurement shall be undertaken in each establishment to determine if there is any employee exposed, without regard to the use of respirators, in excess of the action level.

(b) Where a determination conducted under subdivision (a) of this subsection shows any employee exposures without regard to the use of respirators, in excess of the action level, a program for determining exposures for each such employee shall be established. Such a program:

(i) Shall be repeated at least monthly where any employee is exposed, without regard to the use of respirators, in excess of the permissible exposure limit.

(ii) Shall be repeated not less than quarterly where any employee is exposed, without regard to the use of respirators, in excess of the action level.

(iii) May be discontinued for any employee only when at least two consecutive monitoring determinations, made not less than 5 working days apart, show exposures for that employee at or below the action level.

(c) Whenever there has been a production, process or control change which may result in an increase in the release of vinyl chloride, or the employer has any other reason to suspect that any employee may be exposed in excess of the action level, a determination of employee exposure under subdivision (a) of this subsection shall be performed.

(d) The method of monitoring and measurement shall have an accuracy (with a confidence level of 95 percent) of not less than plus or minus 50 percent from 0.25 through 0.5 ppm, plus or minus 35 percent from over 0.5 ppm through 1.0 ppm, plus or minus 25 percent over 1.0 ppm, (methods meeting these accuracy requirements are available from the director).

(e) Employees or their designated representatives shall be afforded reasonable opportunity to observe the monitoring and measuring required by this subsection.

(5) Regulated area.

(a) A regulated area shall be established where:

(i) Vinyl chloride or polyvinyl chloride is manufactured, reacted, repackaged, stored, handled or used; and

(ii) Vinyl chloride concentrations are in excess of the permissible exposure limit.

(b) Access to regulated areas shall be limited to authorized persons.

(6) Methods of compliance. Employee exposures to vinyl chloride shall be controlled to at or below the permissible exposure limit provided in subsection (3) of this section by engineering, work practice, and personal protective controls as follows:

(a) Feasible engineering and work practice controls shall immediately be used to reduce exposures to at or below the permissible exposure limit.

(b) Wherever feasible engineering and work practice controls which can be instituted immediately are not sufficient to reduce exposures to at or below the permissible exposure limit, they shall nonetheless be used to reduce exposures to the lowest practicable level, and shall be supplemented by respiratory protection in accordance with subsection (7) of this section. A program shall be established and implemented to reduce exposures to at or below the permissible exposure limit, or to the greatest extent feasible, solely by means of engineering and work practice controls, as soon as feasible.

(c) Written plans for such a program shall be developed and furnished upon request for examination and copying to the director. Such plans shall be updated at least every six months.

(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 section.

(b) Respirator program. The employer must establish, implement, and maintain a respiratory protection program as required in 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 296-62-17156)))~~ 296-842 WAC, except WAC 296-842-13005 and 296-842-14005.

(c) Respirator selection. Respirators must be selected from the following table.

**Atmospheric concentration of Vinyl Chloride**

(i) Not over 10 ppm

(ii) Not over 25 ppm

(iii) Not over 100 ppm

(iv) Not over 250 ppm

(v) Not over 3,600 ppm

(vi) Unknown, or above 3,600 ppm

**Apparatus**

Any chemical cartridge respirator with a vinyl chloride cartridge which provides a service life of at least 1 hour for concentrations of vinyl chloride up to 10 ppm.

(A) A powered air-purifying respirator with hood, helmet, full or half facepiece, and a canister which provides a service life of at least 4 hours for concentrations of vinyl chloride up to 25 ppm, or

(B) Gas mask, front or back-mounted canister which provides a service life of at least 4 hours for concentrations of vinyl chloride up to 25 ppm.

Supplied air respirator demand type, with full facepiece.

Type C, supplied air respirator, continuous flow type, with full or half facepiece, helmet or hood.

Combination Type C supplied air respirator, pressure demand type, with full or half facepiece and auxiliary self-contained air supply.

Open-circuit, self-contained breathing apparatus, pressure demand type, with full facepiece.

(d) Where air-purifying respirators are used:

(i) Air-purifying canisters or cartridges must be replaced prior to the expiration of their service life or the end of the shift in which they are first used, whichever occurs first, and

(ii) A continuous monitoring and alarm system must be provided when concentrations of vinyl chloride could reasonably exceed the allowable concentrations for the devices in use. Such system shall be used to alert employees when vinyl chloride concentrations exceed the allowable concentrations for the devices in use, and

(iii) Respirators specified for higher concentrations may be used for lower concentration.

(8) Hazardous operations.

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(a) Employees engaged in hazardous operations, including entry of vessels to clean polyvinyl chloride residue from vessel walls, shall be provided and required to wear and use:

(i) Respiratory protection in accordance with subsections (3) and (7) of this section; and

(ii) Protective garments to prevent skin contact with liquid vinyl chloride or with polyvinyl chloride residue from vessel walls. The protective garments shall be selected for the operation and its possible exposure conditions.

(b) Protective garments shall be provided clean and dry for each use.

(c) Emergency situations. A written operational plan for emergency situations shall be developed for each facility storing, handling, or otherwise using vinyl chloride as a liquid or compressed gas. Appropriate portions of the plan shall be implemented in the event of an emergency. The plan shall specifically provide that:

(i) Employees engaged in hazardous operations or correcting situations of existing hazardous releases shall be equipped as required in subdivisions (a) and (b) of this subsection;

(ii) Other employees not so equipped shall evacuate the area and not return until conditions are controlled by the methods required in subsection (6) of this section and the emergency is abated.

(9) Training. Each employee engaged in vinyl chloride or polyvinyl chloride operations shall be provided training in a program relating to the hazards of vinyl chloride and precautions for its safe use.

(a) The program shall include:

(i) The nature of the health hazard from chronic exposure to vinyl chloride including specifically the carcinogenic hazard;

(ii) The specific nature of operations which could result in exposure to vinyl chloride in excess of the permissible limit and necessary protective steps;

(iii) The purpose for, proper use, and limitations of respiratory protective devices;

(iv) The fire hazard and acute toxicity of vinyl chloride, and the necessary protective steps;

(v) The purpose for and a description of the monitoring program;

(vi) The purpose for and a description of, the medical surveillance program;

(vii) Emergency procedures:

(A) Specific information to aid the employee in recognition of conditions which may result in the release of vinyl chloride; and

(B) A review of this standard at the employee's first training and indoctrination program, and annually thereafter.

(b) All materials relating to the program shall be provided upon request to the director.

(10) Medical surveillance. A program of medical surveillance shall be instituted for each employee exposed, without regard to the use of respirators, to vinyl chloride in excess of the action level. The program shall provide each such employee with an opportunity for examinations and tests in accordance with this subsection. All medical examinations and procedures shall be performed by or under the supervi-

sion of a licensed physician and shall be provided without cost to the employee.

(a) At the time of initial assignment, or upon institution of medical surveillance;

(i) A general physical examination shall be performed with specific attention to detecting enlargement of liver, spleen or kidneys, or dysfunction in these organs, and for abnormalities in skin, connective tissues and the pulmonary system (see Appendix A).

(ii) A medical history shall be taken, including the following topics:

(A) Alcohol intake,

(B) Past history of hepatitis,

(C) Work history and past exposure to potential hepatotoxic agents, including drugs and chemicals,

(D) Past history of blood transfusions, and

(E) Past history of hospitalizations.

(iii) A serum specimen shall be obtained and determinations made of:

(A) Total bilirubin,

(B) Alkaline phosphatase,

(C) Serum glutamic oxalacetic transaminase (SGOT),

(D) Serum glutamic pyruvic transaminase (SGPT), and

(E) Gamma glutamyl transpeptidase.

(b) Examinations provided in accordance with this subdivision shall be performed at least:

(i) Every 6 months for each employee who has been employed in vinyl chloride or polyvinyl chloride manufacturing for 10 years or longer; and

(ii) Annually for all other employees.

(c) Each employee exposed to an emergency shall be afforded appropriate medical surveillance.

(d) A statement of each employee's suitability for continued exposure to vinyl chloride including use of protective equipment and respirators, shall be obtained from the examining physician promptly after any examination. A copy of the physician's statement shall be provided each employee.

(e) If any employee's health would be materially impaired by continued exposure, such employee shall be withdrawn from possible contact with vinyl chloride.

(f) Laboratory analyses for all biological specimens included in medical examinations shall be performed in laboratories licensed under 42 CFR Part 74.

(g) If the examining physician determines that alternative medical examinations to those required by subdivision (a) of this subsection will provide at least equal assurance of detecting medical conditions pertinent to the exposure to vinyl chloride, the employer may accept such alternative examinations as meeting the requirements of subdivision (a) of this subsection, if the employer obtains a statement from the examining physician setting forth the alternative examinations and the rationale for substitution. This statement shall be available upon request for examination and copying to authorized representatives of the director.

(11) Signs and labels.

(a) Entrances to regulated areas shall be posted with legible signs bearing the legend:

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CANCER-SUSPECT AGENT AREA  
AUTHORIZED PERSONNEL ONLY

(b) Areas containing hazardous operations or where an emergency currently exists shall be posted with legible signs bearing the legend:

CANCER-SUSPECT AGENT IN THIS AREA  
PROTECTIVE EQUIPMENT REQUIRED  
AUTHORIZED PERSONNEL ONLY

(c) Containers of polyvinyl chloride resin waste from reactors or other waste contaminated with vinyl chloride shall be legibly labeled:

CONTAMINATED WITH VINYL  
CHLORIDE CANCER-SUSPECT AGENT

(d) Containers of polyvinyl chloride shall be legibly labeled:

POLYVINYL CHLORIDE (OR TRADE NAME) CONTAINS VINYL  
CHLORIDE VINYL CHLORIDE IS A CANCER-SUSPECT AGENT

(e) Containers of vinyl chloride shall be legibly labeled either:

VINYL CHLORIDE EXTREMELY FLAMMABLE  
GAS UNDER PRESSURE CANCER-SUSPECT AGENT

(or)

(f) In accordance with 49 CFR Part 173, Subpart H, with the additional legends:

CANCER-SUSPECT AGENT

Applied near the label or placard.

(g) No statement shall appear on or near any required sign, label or instruction which contradicts or detracts from the effect of any required warning, information or instruction.

(12) Records.

(a) All records maintained in accordance with this section shall include the name and social security number of each employee where relevant.

(b) Records of required monitoring and measuring and medical records shall be provided upon request to employees, designated representatives, and the director in accordance with chapter 296-802 WAC. These records shall be provided upon request to the director. Authorized personnel rosters shall also be provided upon request to the director.

(i) Monitoring and measuring records shall:

(A) State the date of such monitoring and measuring and the concentrations determined and identify the instruments and methods used;

(B) Include any additional information necessary to determine individual employee exposures where such exposures are determined by means other than individual monitoring of employees; and

(C) Be maintained for not less than 30 years.

(ii) Medical records shall be maintained for the duration of the employment of each employee plus 20 years, or 30 years, whichever is longer.

(c) In the event that the employer ceases to do business and there is no successor to receive and retain his/her records for the prescribed period, these records shall be transmitted by registered mail to the director, and each employee individually notified in writing of this transfer. The employer shall also comply with any additional requirements set forth in chapter 296-802 WAC.

(d) Employees or their designated representatives shall be provided access to examine and copy records of required monitoring and measuring.

(e) Former employees shall be provided access to examine and copy required monitoring and measuring records reflecting their own exposures.

(f) Upon written request of any employee, a copy of the medical record of that employee shall be furnished to any physician designated by the employee.

(13) Reports.

(a) Not later than 1 month after the establishment of a regulated area, the following information shall be reported to the director. Any changes to such information shall be reported within 15 days.

(i) The address and location of each establishment which has one or more regulated areas; and

(ii) The number of employees in each regulated area during normal operations, including maintenance.

(b) Emergencies and the facts obtainable at that time, shall be reported within 24 hours to the director. Upon request of the director, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of similar nature.

(c) Within 10 working days following any monitoring and measuring which discloses that any employee has been exposed, without regard to the use of respirators, in excess of the permissible exposure limit, each such employee shall be notified in writing of the results of the exposure measurement and the steps being taken to reduce the exposure to within the permissible exposure limit.

(14) Appendix A supplementary medical information.

When required tests under subsection (10)(a) of this section show abnormalities, the tests should be repeated as soon as practicable, preferably within 3 to 4 weeks. If tests remain abnormal, consideration should be given to withdrawal of the employee from contact with vinyl chloride, while a more comprehensive examination is made.

Additional tests which may be useful:

(A) For kidney dysfunction: Urine examination for albumin, red blood cells, and exfoliative abnormal cells.

(B) Pulmonary system: Forced vital capacity, forced expiratory volume at 1 second, and chest roentgenogram (posterior-anterior, 14 x 17 inches).

(C) Additional serum tests: Lactic acid dehydrogenase, lactic acid dehydrogenase isoenzyme, protein determination, and protein electrophoresis.

(D) For a more comprehensive examination on repeated abnormal serum tests: Hepatitis B antigen, and liver scanning.

**AMENDATORY SECTION** (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

**WAC 296-62-07336 Acrylonitrile.** (1) Scope and application.

(a) This section applies to all occupational exposure to acrylonitrile (AN), Chemical Abstracts Service Registry No. 000107131, except as provided in (b) and (c) of this subsection.

(b) This section does not apply to exposures which result solely from the processing, use, and handling of the following materials:

(i) ABS resins, SAN resins, nitrile barrier resins, solid nitrile elastomers, and acrylic and modacrylic fibers, when these listed materials are in the form of finished polymers, and products fabricated from such finished polymers;

(ii) Materials made from and/or containing AN for which objective data is reasonably relied upon to demonstrate that the material is not capable of releasing AN in airborne concentrations in excess of 1 ppm as an eight-hour time-weighted average, under the expected conditions of processing, use, and handling which will cause the greatest possible release; and

(iii) Solid materials made from and/or containing AN which will not be heated above 170°F during handling, use, or processing.

(c) An employer relying upon exemption under (1)(b)(ii) shall maintain records of the objective data supporting that exemption, and of the basis of the employer's reliance on the data as provided in subsection (17) of this section.

(2) Definitions, as applicable to this section:

(a) "Acrylonitrile" or "AN" - acrylonitrile monomer, chemical formula  $\text{CH}_2=\text{CHCN}$ .

(b) "Action level" - a concentration of AN of 1 ppm as an eight-hour time-weighted average.

(c) "Authorized person" - any person specifically authorized by the employer whose duties require the person to enter a regulated area, or any person entering such an area as a designated representative of employees for the purpose of exercising the opportunity to observe monitoring procedures under subsection (18) of this section.

(d) "Decontamination" means treatment of materials and surfaces by water washdown, ventilation, or other means, to assure that the materials will not expose employees to airborne concentrations of AN above 1 ppm as an eight-hour time-weighted average.

(e) "Director" - the director of labor and industries, or his authorized representative.

(f) "Emergency" - any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment, which is likely to, or does, result in unexpected exposure to AN in excess of the ceiling limit.

(g) "Liquid AN" means AN monomer in liquid form, and liquid or semiliquid polymer intermediates, including slurries, suspensions, emulsions, and solutions, produced during the polymerization of AN.

(h) "Polyacrylonitrile" or "PAN" - polyacrylonitrile homopolymers or copolymers, except for materials as exempted under subsection (1)(b) of this section.

(3) Permissible exposure limits.

(a) Inhalation.

(i) Time-weighted average limit (TWA). The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of two parts acrylonitrile per million parts of air (2 ppm), as an eight-hour time-weighted average.

(ii) Ceiling limit. The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of 10 ppm as averaged over any fifteen-minute period during the working day.

(b) Dermal and eye exposure. The employer shall assure that no employee is exposed to skin contact or eye contact with liquid AN or PAN.

(4) Notification of use and emergencies.

(a) Use. Within ten days of the effective date of this standard, or within fifteen days following the introduction of AN into the workplace, every employer shall report, unless he has done so pursuant to the emergency temporary standard, the following information to the director for each such workplace:

(i) The address and location of each workplace in which AN is present;

(ii) A brief description of each process of operation which may result in employee exposure to AN;

(iii) The number of employees engaged in each process or operation who may be exposed to AN and an estimate of the frequency and degree of exposure that occurs; and

(iv) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to AN. Whenever there has been a significant change in the information required by this subsection, the employer shall promptly amend such information previously provided to the director.

(b) Emergencies and remedial action. Emergencies, and the facts obtainable at that time, shall be reported within 24 hours of the initial occurrence to the director. Upon request of the director, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of a similar nature.

(5) Exposure monitoring.

(a) General.

(i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to AN over an eight-hour period.

(ii) For the purposes of this section, employee exposure is that which would occur if the employee were not using a respirator.

(b) Initial monitoring. Each employer who has a place of employment in which AN is present shall monitor each such workplace and work operation to accurately determine the airborne concentrations of AN to which employees may be exposed. Such monitoring may be done on a representative basis, provided that the employer can demonstrate that the determinations are representative of employee exposures.

(c) Frequency.

(i) If the monitoring required by this section reveals employee exposure to be below the action level, the employer may discontinue monitoring for that employee. The employer shall continue these quarterly measurements until at least two consecutive measurements taken at least seven days apart, are

below the action level, and thereafter the employer may discontinue monitoring for that employee.

(ii) If the monitoring required by this section reveals employee exposure to be at or above the action level but below the permissible exposure limits, the employer shall repeat such monitoring for each such employee at least quarterly.

(iii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven days apart, are below the permissible exposure limits, and thereafter the employer shall monitor at least quarterly.

(d) Additional monitoring. Whenever there has been a production, process, control or personnel change which may result in new or additional exposure to AN, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to AN, additional monitoring which complies with this subsection shall be conducted.

(e) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that the permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(f) Accuracy of measurement. The method of measurement of employee exposures shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of AN at or above the permissible exposure limits, and plus or minus 35 percent for concentrations of AN between the action level and the permissible exposure limits.

(g) Weekly survey of operations involving liquid AN. In addition to monitoring of employee exposures to AN as otherwise required by this subsection, the employer shall survey areas of operations involving liquid AN at least weekly to detect points where AN liquid or vapor are being released into the workplace. The survey shall employ an infra-red gas analyzer calibrated for AN, a multipoint gas chromatographic monitor, or comparable system for detection of AN. A listing of levels detected and areas of AN release, as determined from the survey, shall be posted prominently in the workplace, and shall remain posted until the next survey is completed.

(6) Regulated areas.

(a) The employer shall establish regulated areas where AN concentrations are in excess of the permissible exposure limits.

(b) Regulated areas shall be demarcated and segregated from the rest of the workplace, in any manner that minimizes the number of persons who will be exposed to AN.

(c) Access to regulated areas shall be limited to authorized persons or to persons otherwise authorized by the act or regulations issued pursuant thereto.

(d) The employer shall assure that in the regulated area, food or beverages are not present or consumed, smoking products are not present or used, and cosmetics are not applied, (except that these activities may be conducted in the lunchrooms, change rooms and showers required under subsections (13)(a)-(13)(c) of this section.

(7) Methods of compliance.

(a) Engineering and work practice controls.

(i) The employer shall institute engineering or work practice controls to reduce and maintain employee exposures to AN, to or below the permissible exposure limits, except to the extent that the employer establishes that such controls are not feasible.

(ii) Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposures to or below the permissible exposure limits, the employer shall nonetheless use them to reduce exposures to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection which complies with the requirements of subsection (8) of this section.

(b) Compliance program.

(i) The employer shall establish and implement a written program to reduce employee exposures to or below the permissible exposure limits solely by means of engineering and work practice controls, as required by subsection (7)(a) of this section.

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to AN above the permissible exposure limits;

(B) Engineering plans and other studies used to determine the controls for each process;

(C) A report of the technology considered in meeting the permissible exposure limits;

(D) A detailed schedule for the implementation of engineering or work practice controls; and

(E) Other relevant information.

(iii) The employer shall complete the steps set forth in the compliance program by the dates in the schedule.

(iv) Written plans for such a program shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, or any affected employee or representative.

(v) The plans required by this subsection shall be revised and updated at least every six months to reflect the current status of the program.

(8) 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 reactor cleaning, for which the employer estab-

lishes 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 employee exposure to or below the permissible exposure limits;

(iv) In emergencies.

(b) Respirator program.

The employer must implement a respiratory protection program in accordance with chapter ((296-62-WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156))) 296-842 WAC, except WAC 296-842-13005 and 296-842-14005.

(c) Respirator selection. The employer must select the appropriate respirator from Table I of this subsection.

TABLE I

RESPIRATORY PROTECTION FOR ACRYLONITRILE (AN)

Concentration of AN or Condition of Use	Respirator Type
(a) Less than or equal to 25 x permissible exposure limits.	(i) Any Type C supplied air respirator.
(b) Less than or equal to 100 x permissible exposure limits.	(i) Any supplied air respirator with full facepiece; or
	(ii) Any self-contained breathing apparatus with full facepiece.
(c) Less than or equal to 250 x permissible exposure limits	(i) Supplied air respirator in positive pressure mode with full facepiece, helmet, hood, or suit.
(d) Greater than 250 x permissible exposure limits.	(i) Supplied air respirator with full facepiece and an auxiliary self-contained air supply, operated in pressure demand mode; or
	(ii) Open circuit self-contained breathing apparatus with full facepiece in positive pressure mode.
(e) Emergency entry into unknown concentration or firefighting	(i) Any self-contained breathing apparatus with full facepiece in positive pressure mode.
(f) Escape.	(i) Any organic vapor gas mask; or
	(ii) Any self-contained breathing.

(9) Emergency situations.

(a) Written plans.

(i) A written plan for emergency situations shall be developed for each workplace where AN is present. Appropriate portions of the plan shall be implemented in the event of an emergency.

(ii) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped as required in subsection (8) of this section until the emergency is abated.

(b) Alerting employees.

(i) Where there is the possibility of employee exposure to AN in excess of the ceiling limit due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

(ii) Employees not engaged in correcting the emergency shall be evacuated from the area and shall not be permitted to return until the emergency is abated.

(10) Protective clothing and equipment.

(a) Provision and use. Where eye or skin contact with liquid AN or PAN may occur, the employer shall provide at no cost to the employee, and assure that employees wear, appropriate protective clothing or other equipment in accordance with WAC 296-800-160 to protect any area of the body which may come in contact with liquid AN or PAN.

(b) Cleaning and replacement.

(i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this subsection, as needed to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least weekly to each affected employee.

(ii) The employer shall assure that impermeable protective clothing which contacts or is likely to have contacted liquid AN shall be decontaminated before being removed by the employee.

(iii) The employer shall assure that AN- or PAN-contaminated protective clothing and equipment is placed and stored in closable containers which prevent dispersion of the AN or PAN outside the container.

(iv) The employer shall assure that an employee whose nonimpermeable clothing becomes wetted with liquid AN shall immediately remove that clothing and proceed to shower. The clothing shall be decontaminated before it is removed from the regulated area.

(v) The employer shall assure that no employee removes AN- or PAN-contaminated protective equipment or clothing from the change room, except for those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(vi) The employer shall inform any person who launders or cleans AN- or PAN-contaminated protective clothing or equipment of the potentially harmful effects of exposure to AN.

(vii) The employer shall assure that containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with subsection (16)(c)(ii) of this section, and that such labels remain affixed when such containers leave the employer's workplace.

(11) Housekeeping.

EXPEDITED



(a) All surfaces shall be maintained free of accumulations of liquid AN and of PAN.

(b) For operations involving liquid AN, the employer shall institute a program for detecting leaks and spills of liquid AN, including regular visual inspections.

(c) Where spills of liquid AN are detected, the employer shall assure that surfaces contacted by the liquid AN are decontaminated. Employees not engaged in decontamination activities shall leave the area of the spill, and shall not be permitted in the area until decontamination is completed.

(d) Liquids. Where AN is present in a liquid form, or as a resultant vapor, all containers or vessels containing AN shall be enclosed to the maximum extent feasible and tightly covered when not in use, with adequate provision made to avoid any resulting potential explosion hazard.

(e) Surfaces.

(i) Dry sweeping and the use of compressed air for the cleaning of floors and other surfaces where AN and PAN are found is prohibited.

(ii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that AN is not reintroduced into the workplace air; and

(B) Portable vacuum units used to collect AN may not be used for other cleaning purposes and shall be labeled as prescribed by subsection (16)(c)(ii) of this section.

(iii) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(12) Waste disposal. AN and PAN waste, scrap, debris, bags, containers or equipment, shall be disposed of in sealed bags or other closed containers which prevent dispersion of AN outside the container, and labeled as prescribed in subsection (16)(c)(ii) of this section.

(13) Hygiene facilities and practices. Where employees are exposed to airborne concentrations of AN above the permissible exposure limits, or where employees are required to wear protective clothing or equipment pursuant to subsection (11) of this section, or where otherwise found to be appropriate, the facilities required by WAC 296-800-230 shall be provided by the employer for the use of those employees, and the employer shall assure that the employees use the facilities provided. In addition, the following facilities or requirements are mandated.

(a) Change rooms. The employer shall provide clean change rooms in accordance with WAC 296-800-230.

(b) Showers.

(i) The employer shall provide shower facilities in accordance with WAC 296-800-230.

(ii) In addition, the employer shall also assure that employees exposed to liquid AN and PAN shower at the end of the work shift.

(iii) The employer shall assure that, in the event of skin or eye exposure to liquid AN, the affected employee shall shower immediately to minimize the danger of skin absorption.

(c) Lunchrooms.

(i) Whenever food or beverages are consumed in the workplace, the employer shall provide lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to employees exposed to AN above the permissible exposure limits.

(ii) In addition, the employer shall also assure that employees exposed to AN above the permissible exposure limits wash their hands and face prior to eating.

(14) Medical surveillance.

(a) General.

(i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to AN above the action level. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this subsection.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(b) Initial examinations. At the time of initial assignment, or upon institution of the medical surveillance program, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history and medical history with special attention to skin, respiratory, and gastrointestinal systems, and those nonspecific symptoms, such as headache, nausea, vomiting, dizziness, weakness, or other central nervous system dysfunctions that may be associated with acute or chronic exposure to AN.

(ii) A physical examination giving particular attention to central nervous system, gastrointestinal system, respiratory system, skin and thyroid.

(iii) A 14" x 17" posteroanterior chest X ray.

(iv) Further tests of the intestinal tract, including fecal occult blood screening, and proctosigmoidoscopy, for all workers 40 years of age or older, and for any other affected employees for whom, in the opinion of the physician, such testing is appropriate.

(c) Periodic examinations.

(i) The employer shall provide examinations specified in this subsection at least annually for all employees specified in subsection (14)(a) of this section.

(ii) If an employee has not had the examinations prescribed in subsection (14)(b) of this section within six months of termination of employment, the employer shall make such examination available to the employee upon such termination.

(d) Additional examinations. If the employee for any reason develops signs or symptoms commonly associated with exposure to AN, the employer shall provide appropriate examination and emergency medical treatment.

(e) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level;

(iv) The employee's anticipated or estimated exposure level (for preplacement examinations or in cases of exposure due to an emergency);

(v) A description of any personal protective equipment used or to be used; and

(vi) Information from previous medical examinations of the affected employee, which is not otherwise available to the examining physician.

(f) Physician's written opinion.

(i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical examination and test performed;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health from exposure to AN;

(C) Any recommended limitations upon the employee's exposure to AN or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to AN.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(15) Employee information and training.

(a) Training program.

(i) The employer shall institute a training program for all employees where there is occupational exposure to AN and shall assure their participation in the training program.

(ii) The training program shall be provided at the time of initial assignment, or upon institution of the training program, and at least annually thereafter, and the employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B and C;

(B) The quantity, location, manner of use, release or storage of AN and the specific nature of operations which could result in exposure to AN, as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators and protective clothing;

(D) The purpose and a description of the medical surveillance program required by subsection (14) of this section;

(E) The emergency procedures developed, as required by subsection (9) of this section; and

(F) The engineering and work practice controls, their function and the employee's relationship thereto; and

(G) A review of this standard.

(b) Access to training materials.

(i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(16) Signs and labels.

(a) General.

(i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign or label, required by this subsection, which contradicts or detracts from such effects of the required sign or label.

(b) Signs.

(i) The employer shall post signs to clearly indicate all workplaces where AN concentrations exceed the permissible exposure limits. The signs shall bear the following legend:

DANGER  
ACRYLONITRILE (AN)  
CANCER HAZARD  
AUTHORIZED PERSONNEL ONLY  
RESPIRATORS REQUIRED

(ii) The employer shall assure that signs required by this subsection are illuminated and cleaned as necessary so that the legend is readily visible.

(c) Labels.

(i) The employer shall assure that precautionary labels are affixed to all containers of AN, and to containers of PAN and products fabricated from PAN, except for those materials for which objective data is provided as to the conditions specified in subsection (1)(b) of this section. The employer shall assure that the labels remain affixed when the AN or PAN are sold, distributed or otherwise leave the employer's workplace.

(ii) The employer shall assure that the precautionary labels required by this subsection are readily visible and legible. The labels shall bear the following legend:

DANGER  
CONTAINS ACRYLONITRILE (AN)  
CANCER HAZARD

(17) Recordkeeping.

(a) Objective data for exempted operations.

(i) Where the processing, use, and handling of products fabricated from PAN are exempted pursuant to subsection (1)(b) of this section, the employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

(ii) This record shall include the following information:

(A) The relevant condition in subsection (1)(b) upon which exemption is based;

(B) The source of the objective data;

(C) The testing protocol, results of testing, and/or analysis of the material for the release of AN;

(D) A description of the operation exempted and how the data supports the exemption; and

(E) Other data relevant to the operations, materials, and processing covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(b) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required by subsection (5) of this section.

(ii) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used and the data relied upon to establish that the methods used meet the accuracy and precision requirements of subsection (5)(f) of this section;

(C) Type of respiratory protective devices worn, if any; and

(D) Name, social security number and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least 40 years or the duration of employment plus 20 years, whichever is longer.

(c) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by subsection (14) of this section.

(ii) This record shall include:

(A) A copy of the physicians' written opinions;

(B) Any employee medical complaints related to exposure to AN;

(C) A copy of the information provided to the physician as required by subsection (14)(f) of this section; and

(D) A copy of the employee's medical and work history.

(iii) The employer shall assure that this record be maintained for at least forty years or for the duration of employment plus twenty years, whichever is longer.

(d) Availability.

(i) The employer shall assure that all records required to be maintained by this section be made available upon request to the director for examination and copying.

(ii) Records required by subdivisions (a) through (c) of this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with chapter 296-802 WAC. Records required by subdivision (a) of this section shall be provided in the same manner as exposure monitoring records.

(iii) The employer shall assure that employee medical records required to be maintained by this section, be made available, upon request, for examination and copying, to the affected employee or former employee, or to a physician designated by the affected employee, former employee, or designated representative.

(e) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the director.

(iii) At the expiration of the retention period for the records required to be maintained pursuant to this section, the employer shall transmit these records to the director.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in chapter 296-802 WAC.

(18) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to AN conducted pursuant to subsection (5) of this section.

(b) Observation procedures.

(i) Whenever observation of the monitoring of employee exposure to AN requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled:

(A) To receive an explanation of the measurement procedures;

(B) To observe all steps related to the measurement of airborne concentrations of AN performed at the place of exposure; and

(C) To record the results obtained.

(19) Appendices. The information contained in the appendices is not intended, by itself, to create any additional obligation not otherwise imposed, or to detract from any obligation.

**AMENDATORY SECTION** (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

**WAC 296-62-07342 1,2-Dibromo-3-chloropropane.**

(1) Scope and application.

(a) This section applies to occupational exposure to 1,2-dibromo-3-chloropropane (DBCP).

(b) This section does not apply to:

(i) Exposure to DBCP which results solely from the application and use of DBCP as a pesticide; or

(ii) The storage, transportation, distribution or sale of DBCP in intact containers sealed in such a manner as to prevent exposure to DBCP vapors or liquids, except for the requirements of subsections (11), (16) and (17) of this section.

(2) Definitions applicable to this section:

(a) "Authorized person" - any person specifically authorized by the employer and whose duties require the person to be present in areas where DBCP is present; and any person entering this area as a designated representative of employees exercising an opportunity to observe employee exposure monitoring.

(b) "DBCP" - 1,2-dibromo-3-chloropropane, Chemical Abstracts Service Registry Number 96-12-8, and includes all forms of DBCP.

(c) "Director" - the director of labor and industries, or his authorized representative.

(d) "Emergency" - any occurrence such as, but not limited to equipment failure, rupture of containers, or failure of control equipment which may, or does, result in unexpected release of DBCP.

(3) Permissible exposure limits.

(a) Inhalation.

(i) Time-weighted average limit (TWA). The employer shall assure that no employee is exposed to an airborne concentration in excess of 1 part DBCP per billion part of air (ppb) as an eight-hour time-weighted average.

(ii) Ceiling limit. The employer shall assure that no employee is exposed to an airborne concentration in excess of 5 parts DBCP per billion parts of air (ppb) as averaged over any 15 minutes during the working day.

(b) Dermal and eye exposure. The employer shall assure that no employee is exposed to eye or skin contact with DBCP.

(4) Notification of use. Within ten days of the effective date of this section or within ten days following the introduction of DBCP into the workplace, every employer who has a workplace where DBCP is present shall report the following information to the director for each such workplace:

(a) The address and location of each workplace in which DBCP is present;

(b) A brief description of each process or operation which may result in employee exposure to DBCP;

(c) The number of employees engaged in each process or operation who may be exposed to DBCP and an estimate of the frequency and degree of exposure that occurs;

(d) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to DBCP.

(5) Regulated areas. The employer shall establish, within each place of employment, regulated areas wherever DBCP concentrations are in excess of the permissible exposure limit.

(a) The employer shall limit access to regulated areas to authorized persons.

(b) All employees entering or working in a regulated area shall wear respiratory protection in accordance with Table I.

(6) Exposure monitoring.

(a) General. Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to DBCP over an eight-hour period. (For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.)

(b) Initial. Each employer who has a place of employment in which DBCP is present shall monitor each workplace and work operation to accurately determine the airborne concentrations of DBCP to which employees may be exposed.

(c) Frequency.

(i) If the monitoring required by this section reveals employee exposures to be below the permissible exposure limits, the employer shall repeat these determinations at least quarterly.

(ii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for

each such employee at least monthly. The employer shall continue these monthly determinations until at least two consecutive measurements, taken at least seven days apart, are below the permissible exposure limit, thereafter the employer shall monitor at least quarterly.

(d) Additional. Whenever there has been a production process, control or personnel change which may result in any new or additional exposure to DBCP, or whenever the employer has any other reason to suspect a change which may result in new or additional exposure to DBCP, additional monitoring which complies with subsection (6) shall be conducted.

(e) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of results which represent the employee's exposure.

(ii) Whenever the results indicate that employee exposure exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(f) Accuracy of measurement. The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of DBCP at or above the permissible exposure limits.

(7) Methods of compliance.

(a) Priority of compliance methods. The employer shall institute engineering and work practice controls to reduce and maintain employee exposures to DBCP at or below the permissible exposure limit, except to the extent that the employer establishes that such controls are not feasible. Where feasible engineering and work practice controls are not sufficient to reduce employee exposures to within the permissible exposure limit, the employer shall nonetheless use them to reduce exposures to the lowest level achievable by these controls, and shall supplement them by use of respiratory protection.

(b) Compliance program.

(i) The employer shall establish and implement a written program to reduce employee exposure to DBCP to or below the permissible exposure limit solely by means of engineering and work practice controls as required by this section.

(ii) The written program shall include a detailed schedule for development and implementation of the engineering and work practice controls. These plans shall be revised at least every six months to reflect the current status of the program.

(iii) Written plans for these compliance programs shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, and any affected employee or designated representative of employees.

(iv) The employer shall institute and maintain at least the controls described in his most recent written compliance program.

(8) Respiratory protection.

(a) General. For employees who are required to use respirators under this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

(i) Period necessary to install or implement feasible engineering and work-practice controls;

(ii) Maintenance and repair activities for which 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 employee exposure to or below the permissible exposure limit;

(iv) Emergencies.

(b) The employer must establish, implement, and maintain a respiratory protection program as required by chapter ((296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156))) 296-842 WAC, except WAC 296-842-13005 and 296-842-14005.

(c) Respirator selection. The employer must select the appropriate respirator from Table I of this subsection.

**TABLE I**  
RESPIRATORY PROTECTION FOR DBCP

Concentration Not Greater Than	Respirator Type
(a) 10 ppb:	(i) Any supplied-air respirator. (ii) Any self-contained breathing apparatus.
(b) 50 ppb:	(i) Any supplied-air respirator with full facepiece, helmet or hood. (ii) Any self-contained breathing apparatus with full facepiece.
(c) 250 ppb:	(i) A Type C supplied-air respirator operated in pressure-demand or other positive pressure or continuous flow mode.
(d) 500 ppb:	(i) A Type C supplied-air respirator with full facepiece operated in pressure-demand mode with full facepiece.
(e) Greater than 500 ppb or entry into unknown concentrations:	(i) A combination respirator which includes a Type C supplied-air respirator with full facepiece operated in pressure-demand mode and an auxiliary self-contained breathing apparatus. (ii) A self-contained breathing apparatus with full facepiece operated in pressure-demand mode.

**TABLE I**  
RESPIRATORY PROTECTION FOR DBCP

Concentration Not Greater Than	Respirator Type
(f) Fire fighting:	(i) A self-contained breathing apparatus with full facepiece operated in pressure-demand mode.
	(9) Reserved.
	(10) Emergency situations.
	(a) Written plans.
	(i) A written plan for emergency situations shall be developed for each workplace in which DBCP is present.
	(ii) Appropriate portions of the plan shall be implemented in the event of an emergency.
	(b) Employees engaged in correcting conditions shall be equipped as required in subsection (11) of this section until the emergency is abated.
	(c) Evacuation. Employees not engaged in correcting the emergency shall be removed and restricted from the area and normal operations in the affected area shall not be resumed until the emergency is abated.
	(d) Alerting employees. Where there is a possibility of employee exposure to DBCP due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.
	(e) Medical surveillance. For any employee exposed to DBCP in an emergency situation, the employer shall provide medical surveillance in accordance with subsection (14) of this section.
	(f) Exposure monitoring.
	(i) Following an emergency, the employer shall conduct monitoring which complies with subsection (6) of this section.
	(ii) In workplaces not normally subject to periodic monitoring, the employer may terminate monitoring when two consecutive measurements indicate exposures below the permissible exposure limit.
	(11) Protective clothing and equipment.
	(a) Provision and use. Where eye or skin contact with liquid or solid DBCP may occur, employers shall provide at no cost to the employee, and assure that employees wear impermeable protective clothing and equipment in accordance with WAC 296-800-160 to protect the area of the body which may come in contact with DBCP.
	(b) Cleaning and replacement.
	(i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this subsection to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least daily to each affected employee.
	(ii) Removal and storage.
	(A) The employer shall assure that employees remove DBCP contaminated work clothing only in change rooms provided in accordance with subsection (13) of this section.
	(B) The employer shall assure that employees promptly remove any protective clothing and equipment which becomes contaminated with DBCP-containing liquids and

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solids. This clothing shall not be reworn until the DBCP has been removed from the clothing or equipment.

(C) The employer shall assure that no employee takes DBCP contaminated protective devices and work clothing out of the change room, except those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(iii) The employer shall assure that DBCP-contaminated protective work clothing and equipment is placed and stored in closed containers which prevent dispersion of DBCP outside the container.

(iv) The employer shall inform any person who launders or cleans DBCP-contaminated protective clothing or equipment of the potentially harmful effects of exposure to DBCP.

(v) The employer shall assure that the containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with subsection (16)(c) of this section.

(vi) The employer shall prohibit the removal of DBCP from protective clothing and equipment by blowing or shaking.

#### (12) Housekeeping.

##### (a) Surfaces.

(i) All surfaces shall be maintained free of accumulations of DBCP.

(ii) Dry sweeping and the use of air for the cleaning of floors and other surfaces where DBCP dust or liquids are found is prohibited.

(iii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that DBCP is not reintroduced into the workplace air; and

(B) Portable vacuum units used to collect DBCP may not be used for other cleaning purposes and shall be labeled as prescribed by subsection (16)(c) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(b) Liquids. Where DBCP is present in a liquid form, or as a resultant vapor, all containers or vessels containing DBCP shall be enclosed to the maximum extent feasible and tightly covered when not in use.

(c) Waste disposal. DBCP waste, scrap, debris, bags, containers or equipment, shall be disposed in sealed bags or other closed containers which prevent dispersion of DBCP outside the container.

#### (13) Hygiene facilities and practices.

(a) Change rooms. The employer shall provide clean change rooms equipped with storage facilities for street clothes and separate storage facilities for protective clothing and equipment whenever employees are required to wear protective clothing and equipment in accordance with subsections (8), (9) and (11) of this section.

##### (b) Showers.

(i) The employer shall assure that employees working in the regulated area shower at the end of the work shift.

(ii) The employer shall assure that employees whose skin becomes contaminated with DBCP-containing liquids or solids immediately wash or shower to remove any DBCP from the skin.

(iii) The employer shall provide shower facilities in accordance with WAC 296-800-230.

(c) Lunchrooms. The employer shall provide lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to employees working in regulated areas.

##### (d) Lavatories.

(i) The employer shall assure that employees working in the regulated area remove protective clothing and wash their hands and face prior to eating.

(ii) The employer shall provide a sufficient number of lavatory facilities which comply with WAC 296-800-230.

(e) Prohibition of activities in regulated areas. The employer shall assure that, in regulated areas, food or beverages are not present or consumed, smoking products and implements are not present or used, and cosmetics are not present or applied.

#### (14) Medical surveillance.

(a) General. The employer shall institute a program of medical surveillance for each employee who is or will be exposed, without regard to the use of respirators, to DBCP. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this subsection. All medical examinations and procedures shall be performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(b) Frequency and content. At the time of initial assignment, annually thereafter, and whenever exposure to DBCP occurs, the employer shall provide a medical examination for employees who work in regulated areas, which includes at least the following:

(i) A complete medical and occupational history with emphasis on reproductive history.

(ii) A complete physical examination with emphasis on the genito-urinary tract, testicle size, and body habitus including the following tests:

(A) Sperm count;

(B) Complete urinalysis (U/A);

(C) Complete blood count; and

(D) Thyroid profile.

(iii) A serum specimen shall be obtained and the following determinations made by radioimmunoassay techniques utilizing National Institutes of Health (NIH) specific antigen or one of equivalent sensitivity:

(A) Serum multiphasic analysis (SMA 12);

(B) Serum follicle stimulating hormone (FSH);

(C) Serum luteinizing hormone (LH); and

(D) Serum estrogen (females).

(iv) Any other tests deemed appropriate by the examining physician.

(c) Additional examinations. If the employee for any reason develops signs or symptoms commonly associated with exposure to DBCP, the employer shall provide the employee with a medical examination which shall include those elements considered appropriate by the examining physician.

(d) Information provided to the physician. The employer shall provide the following information to the examining physician:

- (i) A copy of this standard and its appendices;
- (ii) A description of the affected employee's duties as they relate to the employee's exposure;
- (iii) The level of DBCP to which the employee is exposed; and
- (iv) A description of any personal protective equipment used or to be used.

(e) Physician's written opinion.  
 (i) For each examination under this section, the employer shall obtain and provide the employee with a written opinion from the examining physician which shall include:

- (A) The results of the medical tests performed;
- (B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of health from exposure to DBCP;

(C) Any recommended limitations upon the employee's exposure to DBCP or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee was informed by the physician of the results of the medical examination, and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to DBCP.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(f) Emergency situations. If the employee is exposed to DBCP in an emergency situation, the employer shall provide the employee with a sperm count test as soon as practicable, or, if the employee is unable to produce a semen specimen, the hormone tests contained in subsection (14)(b) of this section. The employer shall provide these same tests three months later.

(15) Employee information and training.

(a) Training program.

(i) Within thirty days of the effective date of this standard, the employer shall institute a training program for all employees who may be exposed to DBCP and shall assure their participation in such training program.

(ii) The employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B and C;

(B) The quantity, location, manner of use, release or storage of DBCP and the specific nature of operations which could result in exposure to DBCP as well as any necessary protective steps;

(C) The purpose, proper use, limitations, and other training requirements covering respiratory protection as required in chapter 296-62 WAC, Part E;

(D) The purpose and description of the medical surveillance program required by subsection (14) of this section; and

(E) A review of this standard.

(b) Access to training materials.

(i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(16) Signs and labels.

(a) General.

(i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to or in combination with, signs and labels required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign or label required by this subsection which contradicts or detracts from the required sign or label.

(b) Signs.

(i) The employer shall post signs to clearly indicate all work areas where DBCP may be present. These signs shall bear the legend:

DANGER

1,2-Dibromo-3-chloropropane

(Insert appropriate trade or common names)

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

(ii) Where airborne concentrations of DBCP exceed the permissible exposure limits, the signs shall bear the additional legend:

RESPIRATOR REQUIRED

(c) Labels.

(i) The employer shall assure that precautionary labels are affixed to all containers of DBCP and of products containing DBCP, and that the labels remain affixed when the DBCP or products containing DBCP are sold, distributed, or otherwise leave the employer's workplace. Where DBCP or products containing DBCP are sold, distributed or otherwise leave the employer's workplace bearing appropriate labels required by EPA under the regulations in 40 CFR Part 162, the labels required by this subsection need not be affixed.

(ii) The employer shall assure that the precautionary labels required by this subsection are readily visible and legible. The labels shall bear the following legend:

DANGER

1,2-Dibromo-3-chloropropane

CANCER HAZARD

(17) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required by subsection (6) of this section.

(ii) This record shall include:

(A) The dates, number, duration and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used;

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- (C) Type of respiratory worn, if any; and
- (D) Name, Social Security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least forty years or the duration of employment plus twenty years, whichever is longer.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance required by subsection (14) of this section.

(ii) This record shall include:

- (A) The name and Social Security number of the employee;
- (B) A copy of the physician's written opinion;
- (C) Any employee medical complaints related to exposure to DBCP;
- (D) A copy of the information provided the physician as required by subsection (14)(c) of this section; and
- (E) A copy of the employee's medical and work history.

(iii) The employer shall maintain this record for at least forty years or the duration of employment plus twenty years, whichever is longer.

(c) Availability.

(i) The employer shall assure that all records required to be maintained by this section be made available upon request to the director for examination and copying.

(ii) Employee exposure monitoring records and employee medical records required by this subsection shall be provided upon request to employees' designated representatives and the assistant director in accordance with chapter 296-802 WAC.

(d) Transfer of records.

(i) If the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section for the prescribed period.

(ii) If the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall transmit these records by mail to the director.

(iii) At the expiration of the retention period for the records required to be maintained under this section, the employer shall transmit these records by mail to the director.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in chapter 296-802 WAC.

(18) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to DBCP conducted under subsection (6) of this section.

(b) Observation procedures.

(i) Whenever observation of the measuring or monitoring of employee exposure to DBCP requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring or measurement, observers shall be entitled to:

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the measurement of airborne concentrations of DBCP performed at the place of exposure; and

(C) Record the results obtained.

(19) Appendices. The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

**WAC 296-62-07367 Respiratory protection and personal protective equipment.** (1) General. For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of WAC 296-62-07355 through 296-62-07389. Respirators must be used during:

- (a) Periods necessary to install or implement feasible engineering and work-practice controls;
- (b) Work operations, such as maintenance and repair activities, vessel cleaning, or other activities, for which engineering and work-practice controls are not feasible;
- (c) Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce employee exposure to or below the TWA or excursion limit;
- (d) Emergencies.

(2) Respirator program. The employer must establish, implement, and maintain a respiratory protection program as required in chapter ~~((296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156)))~~ 296-842 WAC, except WAC 296-842-13005 and 296-842-14005.

(3) Respirator selection. The employer must select the appropriate respirator from Table 1 of this section.

**Table 1.—Minimum Requirements for Respiratory Protection for Airborne EtO**

Condition of use or concentration of airborne EtO (ppm)	Minimum required respirator
Equal to or less than 50	(a) Full facepiece respirator with EtO approved canister, front- or back-mounted.
Equal to or less than 2,000	(a) Positive-pressure supplied air respirator, equipped with full facepiece, hood or helmet, or
	(b) Continuous-flow supplied air respirator (positive pressure) equipped with hood, helmet or suit.



Condition of use or concentration of airborne EtO (ppm)	Minimum required respirator
Concentration above 2,000 or unknown concentration (such as in emergencies)	(a) Positive-pressure self-contained breathing apparatus (SCBA), equipped with full facepiece, or (b) Positive-pressure full facepiece supplied air respirator equipped with an auxiliary positive-pressure self-contained breathing apparatus.
Fire fighting	(a) Positive pressure self-contained breathing apparatus equipped with full facepiece.
Escape	(a) Any respirator described above.

Note: Respirators approved for use in higher concentrations are permitted to be used in lower concentrations.

(4) Protective clothing and equipment. Where employees could have eye or skin contact with EtO or EtO solutions, the employer must select and provide, at no cost to the employee, appropriate protective clothing or other equipment in accordance with WAC 296-800-160, and to protect any area of the body that may come in contact with liquid EtO or EtO in solution, and must ensure that the employee wears the protective clothing and equipment provided.

**AMENDATORY SECTION** (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-62-07413 Respirator protection.** (1) 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:

- (a) Periods necessary to install or implement feasible engineering and work-practice controls when employee exposure levels exceed the PEL;
- (b) Maintenance and repair activities, and brief or intermittent operations, where employee exposures exceed the PEL and engineering and work-practice controls are not feasible or are not required;
- (c) Activities in regulated areas as specified in WAC 296-62-07409;
- (d) Work operations for which the employer has implemented all feasible engineering and work-practice controls and such controls are not sufficient to reduce employee exposures to or below the PEL;
- (e) Work operations for which an employee who is exposed to cadmium at or above the action level, and the employee requests a respirator;
- (f) Work operations for which an employee is exposed above the PEL and engineering controls are not required by WAC 296-62-07411 (1)(b); and
- (g) Emergencies.

(2) Respirator program.

(a) The employer must implement a respiratory protection program as required by chapter ((296-62-WAC, Part E

(except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156)) 296-842 WAC, except WAC 296-842-13005 and 296-842-14005.

(b) No employees must use a respirator if, based on their recent medical examination, the examining physician determines that they will be unable to continue to function normally while using a respirator. If the physician determines that the employee must be limited in, or removed from, their current job because of their inability to use a respirator, the limitation or removal must be in accordance with WAC 296-62-07423 (11) and (12).

(c) If an employee has breathing difficulty during fit testing or respirator use, the employer must provide the employee with a medical examination as required by WAC 296-62-07423 (6)(b) to determine if the employee can use a respirator while performing the required duties.

(3) Respirator selection.

(a) The employer must select the appropriate respirator from Table 2 of this section.

Table 2.—Respiratory Protection for Cadmium

Airborne concentration or condition of use <sup>a</sup>	Required respirator type <sup>b</sup>
10 x or less	A half mask, air-purifying respirator equipped with a HEPA <sup>c</sup> filter <sup>d</sup> .
25 x or less	A powered air-purifying respirator ("PAPR") with a loose-fitting hood or helmet equipped with a HEPA filter, or a supplied-air respirator with a loose-fitting hood or helmet facepiece operated in the continuous flow mode.
50 x or less	A full facepiece air-purifying respirator equipped with a HEPA filter, or a powered air-purifying respirator with a tight-fitting half mask equipped with a HEPA filter, or a supplied air respirator with a tight-fitting half mask operated in the continuous flow mode.
250 x or less	A powered air-purifying respirator with a tight-fitting full facepiece equipped with a HEPA filter, or a supplied-air respirator with a tight-fitting full facepiece operated in the continuous flow mode.

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Table 2.—Respiratory Protection for Cadmium

1000 x or less	A supplied-air respirator with half mask or full facepiece operated in the pressure demand or other positive pressure mode.
>1000 x or unknown concentrations	A self-contained breathing apparatus with a full facepiece operated in the pressure demand or other positive pressure mode, or a supplied-air respirator with a full facepiece operated in the pressure demand or other positive pressure mode and equipped with an auxiliary escape type self-contained breathing apparatus operated in the pressure demand mode.
Fire fighting	A self-contained breathing apparatus with full facepiece operated in the pressure demand or other positive pressure mode.

<sup>a</sup> Concentrations expressed as multiple of the PEL.

<sup>b</sup> Respirators assigned for higher environmental concentrations may be used at lower exposure levels. Quantitative fit testing is required for all tight-fitting air purifying respirators where airborne concentration of cadmium exceeds 10 times the TWA PEL ( $10 \times 5 \mu\text{g}/\text{m}^3 = 50 \mu\text{g}/\text{m}^3$ ). A full facepiece respirator is required when eye irritation is experienced.

<sup>c</sup> HEPA means High Efficiency Particulate Air.

<sup>d</sup> Fit testing, qualitative or quantitative, is required.

SOURCE: Respiratory Decision Logic, NIOSH, 1987

(b) The employer must provide an employee with a powered, air-purifying respirator (PAPR) instead of a negative-pressure respirator when an employee who is entitled to a respirator chooses to use this type of respirator and such a respirator provides adequate protection to the employee.

**AMENDATORY SECTION** (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

**WAC 296-62-07460 Butadiene.** (1) Scope and application.

(a) This section applies to all occupational exposures to 1,3-Butadiene (BD), Chemical Abstracts Service Registry No. 106-99-0, except as provided in (b) of this subsection.

(b)(i) Except for the recordkeeping provisions in subsection (13)(a) of this section, this section does not apply to the processing, use, or handling of products containing BD or to other work operations and streams in which BD is present where objective data are reasonably relied upon that demonstrate the work operation or the product or the group of products or operations to which it belongs may not reasonably be foreseen to release BD in airborne concentrations at or above

the action level or in excess of the STEL under the expected conditions of processing, use, or handling that will cause the greatest possible release or in any plausible accident.

(ii) This section also does not apply to work operations, products or streams where the only exposure to BD is from liquid mixtures containing 0.1% or less of BD by volume or the vapors released from such liquids, unless objective data become available that show that airborne concentrations generated by such mixtures can exceed the action level or STEL under reasonably predictable conditions of processing, use or handling that will cause the greatest possible release.

(iii) Except for labeling requirements and requirements for emergency response, this section does not apply to the storage, transportation, distribution or sale of BD or liquid mixtures in intact containers or in transportation pipelines sealed in such a manner as to fully contain BD vapors or liquids.

(c) Where products or processes containing BD are exempted under (b) of this subsection, the employer shall maintain records of the objective data supporting that exemption and the basis for the employer's reliance on the data, as provided in subsection (13)(a) of this section.

(2) Definitions: For the purpose of this section, the following definitions shall apply:

"Action level" means a concentration of airborne BD of 0.5 ppm calculated as an 8-hour time-weighted average.

"Director" means the director of the department of labor and industries, or authorized representatives.

"Authorized person" means any person specifically designated by the employer, whose duties require entrance into a regulated area, or a person entering such an area as a designated representative of employees to exercise the right to observe monitoring and measuring procedures under subsection (4)(h) of this section, or a person designated under the WISH Act or regulations issued under the WISH Act to enter a regulated area.

"1,3-Butadiene" means an organic compound with chemical formula  $\text{CH}_2=\text{CH}-\text{CH}=\text{CH}_2$  that has a molecular weight of approximately 54.15 gm/mole.

"Business day" means any Monday through Friday, except those days designated as federal, state, local or company specific holidays.

"Complete blood count (CBC)" means laboratory tests performed on whole blood specimens and includes the following: White blood cell count (WBC), hematocrit (Hct), red blood cell count (RBC), hemoglobin (Hgb), differential count of white blood cells, red blood cell morphology, red blood cell indices, and platelet count.

"Day" means any part of a calendar day.

"Emergency situation" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment that may or does result in an uncontrolled significant release of BD.

"Employee exposure" means exposure of a worker to airborne concentrations of BD which would occur if the employee were not using respiratory protective equipment.

"Objective data" means monitoring data, or mathematical modelling or calculations based on composition, chemical and physical properties of a material, stream or product.

"Permissible exposure limits (PELs)" means either the 8-hour time-weighted average (8-hour TWA) exposure or the short-term exposure limit (STEL).

"Physician or other licensed health care professional" is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently provide or be delegated the responsibility to provide one or more of the specific health care services required by (k) of this subsection.

"Regulated area" means any area where airborne concentrations of BD exceed or can reasonably be expected to exceed the 8-hour time-weighted average (8-hour TWA) exposure of 1 ppm or the short-term exposure limit (STEL) of 5 ppm for 15 minutes.

"This section" means this 1,3-butadiene standard.

(3) Permissible exposure limits (PELs).

(a) Time-weighted average (TWA) limit. The employer shall ensure that no employee is exposed to an airborne concentration of BD in excess of one part BD per million parts of air (ppm) measured as an eight (8)-hour time-weighted average.

(b) Short-term exposure limit (STEL). The employer shall ensure that no employee is exposed to an airborne concentration of BD in excess of five parts of BD per million parts of air (5 ppm) as determined over a sampling period of fifteen minutes.

(4) Exposure monitoring.

(a) General.

(i) Determinations of employee exposure shall be made from breathing zone air samples that are representative of the 8-hour TWA and 15-minute short-term exposures of each employee.

(ii) Representative 8-hour TWA employee exposure shall be determined on the basis of one or more samples representing full-shift exposure for each shift and for each job classification in each work area.

(iii) Representative 15-minute short-term employee exposures shall be determined on the basis of one or more samples representing 15-minute exposures associated with operations that are most likely to produce exposures above the STEL for each shift and for each job classification in each work area.

(iv) Except for the initial monitoring required under (b) of this subsection, where the employer can document that exposure levels are equivalent for similar operations on different work shifts, the employer need only determine representative employee exposure for that operation from the shift during which the highest exposure is expected.

(b) Initial monitoring.

(i) Each employer who has a workplace or work operation covered by this section, shall perform initial monitoring to determine accurately the airborne concentrations of BD to which employees may be exposed, or shall rely on objective data pursuant to subsection (1)(b)(i) of this section to fulfill this requirement.

(ii) Where the employer has monitored within two years prior to the effective date of this section and the monitoring satisfies all other requirements of this section, the employer may rely on such earlier monitoring results to satisfy the requirements of (b)(i) of this subsection, provided that the

conditions under which the initial monitoring was conducted have not changed in a manner that may result in new or additional exposures.

(c) Periodic monitoring and its frequency.

(i) If the initial monitoring required by (b) of this subsection reveals employee exposure to be at or above the action level but at or below both the 8-hour TWA limit and the STEL, the employer shall repeat the representative monitoring required by (a) of this subsection every twelve months.

(ii) If the initial monitoring required by (b) of this subsection reveals employee exposure to be above the 8-hour TWA limit, the employer shall repeat the representative monitoring required by (a)(ii) of this subsection at least every three months until the employer has collected two samples per quarter (each at least 7 days apart) within a two-year period, after which such monitoring must occur at least every six months.

(iii) If the initial monitoring required by (b) of this subsection reveals employee exposure to be above the STEL, the employer shall repeat the representative monitoring required by (a)(iii) of this subsection at least every three months until the employer has collected two samples per quarter (each at least 7 days apart) within a two-year period, after which such monitoring must occur at least every six months.

(iv) The employer may alter the monitoring schedule from every six months to annually for any required representative monitoring for which two consecutive measurements taken at least 7 days apart indicate that employee exposure has decreased to or below the 8-hour TWA, but is at or above the action level.

(d) Termination of monitoring.

(i) If the initial monitoring required by (b) of this subsection reveals employee exposure to be below the action level and at or below the STEL, the employer may discontinue the monitoring for employees whose exposures are represented by the initial monitoring.

(ii) If the periodic monitoring required by (c) of this subsection reveals that employee exposures, as indicated by at least two consecutive measurements taken at least 7 days apart, are below the action level and at or below the STEL, the employer may discontinue the monitoring for those employees who are represented by such monitoring.

(e) Additional monitoring.

(i) The employer shall institute the exposure monitoring required under subsection (4) of this section whenever there has been a change in the production, process, control equipment, personnel or work practices that may result in new or additional exposures to BD or when the employer has any reason to suspect that a change may result in new or additional exposures.

(ii) Whenever spills, leaks, ruptures or other breakdowns occur that may lead to employee exposure above the 8-hour TWA limit or above the STEL, the employer shall monitor (using leak source, such as direct reading instruments, area or personal monitoring), after the cleanup of the spill or repair of the leak, rupture or other breakdown, to ensure that exposures have returned to the level that existed prior to the incident.

(f) Accuracy of monitoring.

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Monitoring shall be accurate, at a confidence level of 95 percent, to within plus or minus 25 percent for airborne concentrations of BD at or above the 1 ppm TWA limit and to within plus or minus 35 percent for airborne concentrations of BD at or above the action level of 0.5 ppm and below the 1 ppm TWA limit.

(g) Employee notification of monitoring results.

(i) The employer shall, within 5 business days after the receipt of the results of any monitoring performed under this section, notify the affected employees of these results in writing either individually or by posting of results in an appropriate location that is accessible to affected employees.

(ii) The employer shall, within 15 business days after receipt of any monitoring performed under this section indicating the 8-hour TWA or STEL has been exceeded, provide the affected employees, in writing, with information on the corrective action being taken by the employer to reduce employee exposure to or below the 8-hour TWA or STEL and the schedule for completion of this action.

(h) Observation of monitoring.

(i) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to BD conducted in accordance with this section.

(ii) Observation procedures. When observation of the monitoring of employee exposure to BD requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer at no cost with protective clothing and equipment, and shall ensure that the observer uses this equipment and complies with all other applicable safety and health procedures.

(5) Regulated areas.

(a) The employer shall establish a regulated area wherever occupational exposures to airborne concentrations of BD exceed or can reasonably be expected to exceed the permissible exposure limits, either the 8-hour TWA or the STEL.

(b) Access to regulated areas shall be limited to authorized persons.

(c) Regulated areas shall be demarcated from the rest of the workplace in any manner that minimizes the number of employees exposed to BD within the regulated area.

(d) An employer at a multiemployer 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 whose employees may have access to these areas.

(6) Methods of compliance.

(a) Engineering controls and work practices.

(i) The employer shall institute engineering controls and work practices to reduce and maintain employee exposure to or below the PELs, except to the extent that the employer can establish that these controls are not feasible or where subsection (8)(a)(i) of this section applies.

(ii) Wherever the feasible engineering controls and work practices which can be instituted are not sufficient to reduce employee exposure to or below the 8-hour TWA or STEL, the employer shall use them to reduce employee exposure to the lowest levels achievable by these controls and shall sup-

plement them by the use of respiratory protection that complies with the requirements of subsection (8) of this section.

(b) Compliance plan.

(i) Where any exposures are over the PELs, the employer shall establish and implement a written plan to reduce employee exposure to or below the PELs primarily by means of engineering and work practice controls, as required by (a) of this subsection, and by the use of respiratory protection where required or permitted under this section. No compliance plan is required if all exposures are under the PELs.

(ii) The written compliance plan shall include a schedule for the development and implementation of the engineering controls and work practice controls including periodic leak detection surveys.

(iii) Copies of the compliance plan required in (b) of this subsection shall be furnished upon request for examination and copying to the director, affected employees and designated employee representatives. Such plans shall be reviewed at least every 12 months, and shall be updated as necessary to reflect significant changes in the status of the employer's compliance program.

(iv) The employer shall not implement a schedule of employee rotation as a means of compliance with the PELs.

(7) Exposure goal program.

(a) For those operations and job classifications where employee exposures are greater than the action level, in addition to compliance with the PELs, the employer shall have an exposure goal program that is intended to limit employee exposures to below the action level during normal operations.

(b) Written plans for the exposure goal program shall be furnished upon request for examination and copying to the director, affected employees and designated employee representatives.

(c) Such plans shall be updated as necessary to reflect significant changes in the status of the exposure goal program.

(d) Respirator use is not required in the exposure goal program.

(e) The exposure goal program shall include the following items unless the employer can demonstrate that the item is not feasible, will have no significant effect in reducing employee exposures, or is not necessary to achieve exposures below the action level:

(i) A leak prevention, detection, and repair program.

(ii) A program for maintaining the effectiveness of local exhaust ventilation systems.

(iii) The use of pump exposure control technology such as, but not limited to, mechanical double-sealed or seal-less pumps.

(iv) Gauging devices designed to limit employee exposure, such as magnetic gauges on rail cars.

(v) Unloading devices designed to limit employee exposure, such as a vapor return system.

(vi) A program to maintain BD concentration below the action level in control rooms by use of engineering controls.

(8) 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) Nonroutine work operations that are performed infrequently and for which exposures are limited in duration;

(iii) Work operations for which feasible engineering controls and work-practice controls are not yet sufficient to reduce employee exposures 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))) 296-842 WAC, except WAC 296-842-13005 and 296-842-14005.

(ii) If air-purifying respirators are used, the employer must replace the air-purifying filter elements according to the replacement schedule set for the class of respirators listed in Table 1 of this section, and at the beginning of each work shift.

(iii) Instead of using the replacement schedule listed in Table 1 of this section, the employer may replace cartridges or canisters at 90% of their expiration service life, provided the employer:

(A) Demonstrates that employees will be adequately protected by this procedure;

(B) Uses BD breakthrough data for this purpose that have been derived from tests conducted under worst-case conditions of humidity, temperature, and air-flow rate through the filter element, and the employer also describes the data supporting the cartridge- or canister-change schedule, as well as the basis for using the data in the employer's respirator program.

(iv) A label must be attached to each filter element to indicate the date and time it is first installed on the respirator.

(v) If NIOSH approves an end-of-service-life indicator (ESLI) for an air-purifying filter element, the element may be used until the ESLI shows no further useful service life or until the element is replaced at the beginning of the next work shift, whichever occurs first.

(vi) Regardless of the air-purifying element used, if an employee detects the odor of BD, the employer must replace the air-purifying element immediately.

(c) Respirator selection.

(i) The employer must select appropriate respirators from Table 1 of this section.

**Table 1. - Minimum Requirements for Respiratory Protection for Airborne BD**

Concentration of Airborne BD (ppm) or condition of use	Minimum required respirator
Less than or equal to 10 ppm (10 times PEL)	(a) Air-purifying half mask or full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 3 hours.
Less than or equal to 25 ppm (25 times PEL)	(a) Air-purifying full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 2 hours. (b) Any powered air-purifying respirator equipped with approved BD or organic vapor cartridges. PAPR cartridges shall be replaced every 2 hours. (c) Continuous flow supplied air respirator equipped with a hood or helmet.
Less than or equal to 50 ppm (50 times PEL)	(a) Air-purifying full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 1 hour. (b) Powered air purifying respirator equipped with a tight-fitting facepiece and an approved BD or organic vapor cartridges. PAPR cartridges shall be replaced every 1 hour.
Less than or equal to 1,000 ppm (1,000 times PEL)	(a) Supplied air respirator equipped with a half mask or full facepiece and operated in a pressure demand or other positive pressure mode.

**Table 1. - Minimum Requirements for Respiratory Protection for Airborne BD**

Concentration of Airborne BD (ppm) or condition of use	Minimum required respirator
Less than or equal to 5 ppm (5 times PEL)	(a) Air-purifying half mask or full facepiece respirator equipped with approved BD or organic vapor cartridges or canisters. Cartridges or canisters shall be replaced every 4 hours.

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**Table 1. - Minimum Requirements for Respiratory Protection for Airborne BD**

Concentration of Airborne BD (ppm) or condition of use	Minimum required respirator
Greater than 1,000 ppm	<p>(a) Self-contained breathing unknown concentration, or apparatus equipped with a fire fighting full facepiece and operated in a pressure demand or other positive pressure mode.</p> <p>(b) Any supplied air respirator equipped with a full facepiece and operated in a pressure demand or other positive pressure mode in combination with an auxiliary self-contained breathing apparatus operated in a pressure demand or other positive pressure mode.</p>
Escape from IDLH Conditions	<p>(a) Any positive pressure self-contained breathing apparatus with an appropriate service life.</p> <p>(b) Any air-purifying full facepiece respirator equipped with a front or back mounted BD or organic vapor canister.</p>

Notes: Respirators approved for use in higher concentrations are permitted to be used in lower concentrations. Full facepiece is required when eye irritation is anticipated.

(ii) Air-purifying respirators must have filter elements certified by NIOSH for organic vapor or BD.

(iii) When an employee whose job requires the use of a respirator cannot use a negative-pressure respirator, the employer must provide the employee with a respirator that has less breathing resistance than the negative-pressure respirator, such as a powered air-purifying respirator or supplied-air respirator, when the employee is able to use it and if it provides the employee adequate protection.

(9) Protective clothing and equipment. Where appropriate to prevent eye contact and limit dermal exposure to BD, the employer shall provide protective clothing and equipment at no cost to the employee and shall ensure its use. Eye and face protection shall meet the requirements of WAC 296-800-160.

(10) Emergency situations. Written plan. A written plan for emergency situations shall be developed, or an existing plan shall be modified, to contain the applicable elements specified in WAC 296-24-567, Employee emergency plans and fire prevention plans, and in WAC 296-62-3112, hazardous waste operations and emergency responses, for each workplace where there is a possibility of an emergency.

(11) Medical screening and surveillance.

(a) Employees covered. The employer shall institute a medical screening and surveillance program as specified in this subsection for:

(i) Each employee with exposure to BD at concentrations at or above the action level on 30 or more days or for employees who have or may have exposure to BD at or above the PELs on 10 or more days a year;

(ii) Employers (including successor owners) shall continue to provide medical screening and surveillance for employees, even after transfer to a non-BD exposed job and regardless of when the employee is transferred, whose work histories suggest exposure to BD:

(A) At or above the PELs on 30 or more days a year for 10 or more years;

(B) At or above the action level on 60 or more days a year for 10 or more years; or

(C) Above 10 ppm on 30 or more days in any past year; and

(iii) Each employee exposed to BD following an emergency situation.

(b) Program administration.

(i) The employer shall ensure that the health questionnaire, physical examination and medical procedures are provided without cost to the employee, without loss of pay, and at a reasonable time and place.

(ii) Physical examinations, health questionnaires, and medical procedures shall be performed or administered by a physician or other licensed health care professional.

(iii) Laboratory tests shall be conducted by an accredited laboratory.

(c) Frequency of medical screening activities. The employer shall make medical screening available on the following schedule:

(i) For each employee covered under (a)(i) and (ii) of this subsection, a health questionnaire and complete blood count (CBC) with differential and platelet count every year, and a physical examination as specified below:

(A) An initial physical examination that meets the requirements of this rule, if twelve months or more have elapsed since the last physical examination conducted as part of a medical screening program for BD exposure;

(B) Before assumption of duties by the employee in a job with BD exposure;

(C) Every 3 years after the initial physical examination;

(D) At the discretion of the physician or other licensed health care professional reviewing the annual health questionnaire and CBC;

(E) At the time of employee reassignment to an area where exposure to BD is below the action level, if the employee's past exposure history does not meet the criteria of (a)(ii) of this subsection for continued coverage in the screening and surveillance program, and if twelve months or more have elapsed since the last physical examination; and

(F) At termination of employment if twelve months or more have elapsed since the last physical examination.

(ii) Following an emergency situation, medical screening shall be conducted as quickly as possible, but not later than 48 hours after the exposure.

(iii) For each employee who must wear a respirator, physical ability to perform the work and use the respirator

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must be determined as required by chapter 296-842 WAC ((296-62-074)).

(d) Content of medical screening.

(i) Medical screening for employees covered by (a)(i) and (ii) of this subsection shall include:

(A) A baseline health questionnaire that includes a comprehensive occupational and health history and is updated annually. Particular emphasis shall be placed on the hematopoietic and reticuloendothelial systems, including exposure to chemicals, in addition to BD, that may have an adverse effect on these systems, the presence of signs and symptoms that might be related to disorders of these systems, and any other information determined by the examining physician or other licensed health care professional to be necessary to evaluate whether the employee is at increased risk of material impairment of health from BD exposure. Health questionnaires shall consist of the sample forms in Appendix C to this section, or be equivalent to those samples;

(B) A complete physical examination, with special emphasis on the liver, spleen, lymph nodes, and skin;

(C) A CBC; and

(D) Any other test which the examining physician or other licensed health care professional deems necessary to evaluate whether the employee may be at increased risk from exposure to BD.

(ii) Medical screening for employees exposed to BD in an emergency situation shall focus on the acute effects of BD exposure and at a minimum include: A CBC within 48 hours of the exposure and then monthly for three months; and a physical examination if the employee reports irritation of the eyes, nose, throat, lungs, or skin, blurred vision, coughing, drowsiness, nausea, or headache. Continued employee participation in the medical screening and surveillance program, beyond these minimum requirements, shall be at the discretion of the physician or other licensed health care professional.

(e) Additional medical evaluations and referrals.

(i) Where the results of medical screening indicate abnormalities of the hematopoietic or reticuloendothelial systems, for which a nonoccupational cause is not readily apparent, the examining physician or other licensed health care professional shall refer the employee to an appropriate specialist for further evaluation and shall make available to the specialist the results of the medical screening.

(ii) The specialist to whom the employee is referred under this subsection shall determine the appropriate content for the medical evaluation, e.g., examinations, diagnostic tests and procedures, etc.

(f) Information provided to the physician or other licensed health care professional. The employer shall provide the following information to the examining physician or other licensed health care professional involved in the evaluation:

(i) A copy of this section including its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's BD exposure;

(iii) The employee's actual or representative BD exposure level during employment tenure, including exposure incurred in an emergency situation;

(iv) A description of pertinent personal protective equipment used or to be used; and

(v) Information, when available, from previous employment-related medical evaluations of the affected employee which is not otherwise available to the physician or other licensed health care professional or the specialist.

(g) The written medical opinion.

(i) For each medical evaluation required by this section, the employer shall ensure that the physician or other licensed health care professional produces a written opinion and provides a copy to the employer and the employee within 15 business days of the evaluation. The written opinion shall be limited to the following information:

(A) The occupationally pertinent results of the medical evaluation;

(B) A medical opinion concerning whether the employee has any detected medical conditions which would place the employee's health at increased risk of material impairment from exposure to BD;

(C) Any recommended limitations upon the employee's exposure to BD; and

(D) A statement that the employee has been informed of the results of the medical evaluation and any medical conditions resulting from BD exposure that require further explanation or treatment.

(ii) The written medical opinion provided to the employer shall not reveal specific records, findings, and diagnoses that have no bearing on the employee's ability to work with BD.

Note: This provision does not negate the ethical obligation of the physician or other licensed health care professional to transmit any other adverse findings directly to the employee.

(h) Medical surveillance.

(i) The employer shall ensure that information obtained from the medical screening program activities is aggregated (with all personal identifiers removed) and periodically reviewed, to ascertain whether the health of the employee population of that employer is adversely affected by exposure to BD.

(ii) Information learned from medical surveillance activities must be disseminated to covered employees, as defined in (a) of this subsection, in a manner that ensures the confidentiality of individual medical information.

(12) Communication of BD hazards to employees.

(a) Hazard communication. The employer shall communicate the hazards associated with BD exposure in accordance with the requirements of the chemical hazard communication standard, WAC 296-800-170.

(b) Employee information and training.

(i) The employer shall provide all employees exposed to BD with information and training in accordance with the requirements of the chemical hazard communication standard, WAC 296-800-170.

(ii) The employer shall institute a training program for all employees who are potentially exposed to BD at or above the action level or the STEL, ensure employee participation in the program and maintain a record of the contents of such program.

(iii) Training shall be provided prior to or at the time of initial assignment to a job potentially involving exposure to

BD at or above the action level or STEL and at least annually thereafter.

(iv) The training program shall be conducted in a manner that the employee is able to understand. The employer shall ensure that each employee exposed to BD over the action level or STEL is informed of the following:

(A) The health hazards associated with BD exposure, and the purpose and a description of the medical screening and surveillance program required by this section;

(B) The quantity, location, manner of use, release, and storage of BD and the specific operations that could result in exposure to BD, especially exposures above the PEL or STEL;

(C) The engineering controls and work practices associated with the employee's job assignment, and emergency procedures and personal protective equipment;

(D) The measures employees can take to protect themselves from exposure to BD;

(E) The contents of this standard and its appendices; and

(F) The right of each employee exposed to BD at or above the action level or STEL to obtain:

(I) Medical examinations as required by subsection (10) of this section at no cost to the employee;

(II) The employee's medical records required to be maintained by subsection (13)(c) of this section; and

(III) All air monitoring results representing the employee's exposure to BD and required to be kept by subsection (13)(b) of this section.

(c) Access to information and training materials.

(i) The employer shall make a copy of this standard and its appendices readily available without cost to all affected employees and their designated representatives and shall provide a copy if requested.

(ii) The employer shall provide to the director, or the designated employee representatives, upon request, all materials relating to the employee information and the training program.

(13) Recordkeeping.

(a) Objective data for exemption from initial monitoring.

(i) Where the processing, use, or handling of products or streams made from or containing BD are exempted from other requirements of this section under subsection (1)(b) of this section, or where objective data have been relied on in lieu of initial monitoring under subsection (4)(b)(ii) of this section, the employer shall establish and maintain a record of the objective data reasonably relied upon in support of the exemption.

(ii) This record shall include at least the following information:

(A) The product or activity qualifying for exemption;

(B) The source of the objective data;

(C) The testing protocol, results of testing, and analysis of the material for the release of BD;

(D) A description of the operation exempted and how the data support the exemption; and

(E) Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(b) Exposure measurements.

(i) The employer shall establish and maintain an accurate record of all measurements taken to monitor employee exposure to BD as prescribed in subsection (4) of this section.

(ii) The record shall include at least the following information:

(A) The date of measurement;

(B) The operation involving exposure to BD which is being monitored;

(C) Sampling and analytical methods used and evidence of their accuracy;

(D) Number, duration, and results of samples taken;

(E) Type of protective devices worn, if any;

(F) Name, Social Security number and exposure of the employees whose exposures are represented; and

(G) The written corrective action and the schedule for completion of this action required by subsection (4)(g)(ii) of this section.

(iii) The employer shall maintain this record for at least 30 years in accordance with chapter 296-802 WAC.

(c) Medical screening and surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical screening and surveillance under this section.

(ii) The record shall include at least the following information:

(A) The name and Social Security number of the employee;

(B) Physician's or other licensed health care professional's written opinions as described in subsection (11)(e) of this section;

(C) A copy of the information provided to the physician or other licensed health care professional as required by subsection (11)(e) of this section.

(iii) Medical screening and surveillance records shall be maintained for each employee for the duration of employment plus 30 years, in accordance with chapter 296-802 WAC.

(d) Availability.

(i) The employer, upon written request, shall make all records required to be maintained by this section available for examination and copying to the director.

(ii) Access to records required to be maintained by (a) and (b) of this subsection shall be granted in accordance with chapter 296-802 WAC.

(e) Transfer of records.

(i) Whenever the employer ceases to do business, the employer shall transfer records required by this section to the successor employer. The successor employer shall receive and maintain these records. If there is no successor employer, the employer shall notify the director, at least three months prior to disposal, and transmit them to the director if requested by the director within that period.

(ii) The employer shall transfer medical and exposure records as set forth in chapter 296-802 WAC.

(14) Dates.

(a) Effective date. This section shall become effective (day, month), 1997.

(b) Start-up dates.

(i) The initial monitoring required under subsection (4)(b) of this section shall be completed immediately or



within sixty days of the introduction of BD into the workplace.

(ii) The requirements of subsections (3) through (13) of this section, including feasible work practice controls but not including engineering controls specified in subsection (6)(a) of this section, shall be complied with immediately.

(iii) Engineering controls specified by subsection (6)(a) of this section shall be implemented by February 4, 1999, and the exposure goal program specified in subsection (7) of this section shall be implemented by February 4, 2000.

#### (15) Appendices.

Appendices A, B, C, D, and F to this section are informational and are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

#### Appendix A. Substance Safety Data Sheet For 1,3-Butadiene (Non-Mandatory)

##### (1) Substance Identification.

(a) Substance: 1,3-Butadiene ( $\text{CH}_2=\text{CH}-\text{CH}=\text{CH}_2$ ).

(b) Synonyms: 1,3-Butadiene (BD); butadiene; biethylene; bi-vinyl; divinyl; butadiene-1,3; buta-1,3-diene; erythrene; NCI-C50602; CAS-106-99-0.

(c) BD can be found as a gas or liquid.

(d) BD is used in production of styrene-butadiene rubber and polybutadiene rubber for the tire industry. Other uses include copolymer latexes for carpet backing and paper coating, as well as resins and polymers for pipes and automobile and appliance parts. It is also used as an intermediate in the production of such chemicals as fungicides.

(e) Appearance and odor: BD is a colorless, noncorrosive, flammable gas with a mild aromatic odor at standard ambient temperature and pressure.

(f) Permissible exposure: Exposure may not exceed 1 part BD per million parts of air averaged over the 8-hour workday, nor may short-term exposure exceed 5 parts of BD per million parts of air averaged over any 15-minute period in the 8-hour workday.

##### (2) Health Hazard Data.

(a) BD can affect the body if the gas is inhaled or if the liquid form, which is very cold (cryogenic), comes in contact with the eyes or skin.

(b) Effects of overexposure: Breathing very high levels of BD for a short time can cause central nervous system effects, blurred vision, nausea, fatigue, headache, decreased blood pressure and pulse rate, and unconsciousness. There are no recorded cases of accidental exposures at high levels that have caused death in humans, but this could occur. Breathing lower levels of BD may cause irritation of the eyes, nose, and throat. Skin contact with liquefied BD can cause irritation and frostbite.

(c) Long-term (chronic) exposure: BD has been found to be a potent carcinogen in rodents, inducing neoplastic lesions at multiple target sites in mice and rats. A recent study of BD-exposed workers showed that exposed workers have an increased risk of developing leukemia. The risk of leukemia increases with increased exposure to BD. OSHA has concluded that there is strong evidence that workplace exposure to BD poses an increased risk of death from cancers of the lymphohematopoietic system.

(d) Reporting signs and symptoms: You should inform your supervisor if you develop any of these signs or symptoms and suspect that they are caused by exposure to BD.

##### (3) Emergency First-Aid Procedures.

In the event of an emergency, follow the emergency plan and procedures designated for your work area. If you have been trained in first-aid procedures, provide the necessary first aid measures. If necessary, call for additional assistance from co-workers and emergency medical personnel.

(a) Eye and Skin Exposures: If there is a potential that liquefied BD can come in contact with eye or skin, face shields and skin protective equipment must be provided and used. If liquefied BD comes in contact with the eye, immediately flush the eyes with large amounts of water, occasionally lifting the lower and the upper lids. Flush repeatedly. Get medical attention immediately. Contact lenses should not be worn when working with this chemical. In the event of skin contact, which can cause frostbite, remove any contaminated clothing and flush the affected area repeatedly with large amounts of tepid water.

(b) Breathing: If a person breathes in large amounts of BD, move the exposed person to fresh air at once. If breathing has stopped, begin cardiopulmonary resuscitation (CPR) if you have been trained in this procedure. Keep the affected person warm and at rest. Get medical attention immediately.

(c) Rescue: Move the affected person from the hazardous exposure. If the exposed person has been overcome, call for help and begin emergency rescue procedures. Use extreme caution so that you do not become a casualty. Understand the plant's emergency rescue procedures and know the locations of rescue equipment before the need arises.

##### (4) Respirators and Protective Clothing.

(a) Respirators: Good industrial hygiene practices recommend that engineering and work practice controls be used to reduce environmental concentrations to the permissible exposure level. However, there are some exceptions where respirators may be used to control exposure. Respirators may be used when engineering and work practice controls are not technically feasible, when such controls are in the process of being installed, or when these controls fail and need to be supplemented or during brief, nonroutine, intermittent exposure. Respirators may also be used in situations involving nonroutine work operations which are performed infrequently and in which exposures are limited in duration, and in emergency situations. In some instances cartridge respirator use is allowed, but only with strict time constraints. For example, at exposure below 5 ppm BD, a cartridge (or canister) respirator, either full or half face, may be used, but the cartridge must be replaced at least every 4 hours, and it must be replaced every 3 hours when the exposure is between 5 and 10 ppm.

If the use of respirators is necessary, the only respirators permitted are those that have been approved by the National Institute for Occupational Safety and Health (NIOSH). In addition to respirator selection, a complete respiratory protection program must be instituted which includes regular training, maintenance, fit testing, inspection, cleaning, and evaluation of respirators. If you can smell BD while wearing a respirator, proceed immediately to fresh air, and change cartridge (or canister) before re-entering an area where there

is BD exposure. If you experience difficulty in breathing while wearing a respirator, tell your supervisor.

(b) **Protective Clothing:** Employees should be provided with and required to use impervious clothing, gloves, face shields (eight-inch minimum), and other appropriate protective clothing necessary to prevent the skin from becoming frozen by contact with liquefied BD (or a vessel containing liquid BD).

Employees should be provided with and required to use splash-proof safety goggles where liquefied BD may contact the eyes.

(5) **Precautions for Safe Use, Handling, and Storage.**

(a) **Fire and Explosion Hazards:** BD is a flammable gas and can easily form explosive mixtures in air. It has a lower explosive limit of 2%, and an upper explosive limit of 11.5%. It has an autoignition temperature of 420 deg. C (788 deg. F). Its vapor is heavier than air (vapor density, 1.9) and may travel a considerable distance to a source of ignition and flash back. Usually it contains inhibitors to prevent self-polymerization (which is accompanied by evolution of heat) and to prevent formation of explosive peroxides. At elevated temperatures, such as in fire conditions, polymerization may take place. If the polymerization takes place in a container, there is a possibility of violent rupture of the container.

(b) **Hazard:** Slightly toxic. Slight respiratory irritant. Direct contact of liquefied BD on skin may cause freeze burns and frostbite.

(c) **Storage:** Protect against physical damage to BD containers. Outside or detached storage of BD containers is preferred. Inside storage should be in a cool, dry, well-ventilated, noncombustible location, away from all possible sources of ignition. Store cylinders vertically and do not stack. Do not store with oxidizing material.

(d) **Usual Shipping Containers:** Liquefied BD is contained in steel pressure apparatus.

(e) **Electrical Equipment:** Electrical installations in Class I hazardous locations, as defined in Article 500 of the National Electrical Code, should be in accordance with Article 501 of the Code. If explosion-proof electrical equipment is necessary, it shall be suitable for use in Group B. Group D equipment may be used if such equipment is isolated in accordance with Section 501-5(a) by sealing all conduit 1/2-inch size or larger. See Venting of Deflagrations (NFPA No. 68, 1994), National Electrical Code (NFPA No. 70, 1996), Static Electricity (NFPA No. 77, 1993), Lightning Protection Systems (NFPA No. 780, 1995), and Fire Hazard Properties of Flammable Liquids, Gases and Volatile Solids (NFPA No. 325, 1994).

(f) **Fire Fighting:** Stop flow of gas. Use water to keep fire-exposed containers cool. Fire extinguishers and quick drenching facilities must be readily available, and you should know where they are and how to operate them.

(g) **Spill and Leak:** Persons not wearing protective equipment and clothing should be restricted from areas of spills or leaks until clean-up has been completed. If BD is spilled or leaked, the following steps should be taken:

(i) Eliminate all ignition sources.

(ii) Ventilate area of spill or leak.

(iii) If in liquid form, for small quantities, allow to evaporate in a safe manner.

(iv) Stop or control the leak if this can be done without risk. If source of leak is a cylinder and the leak cannot be stopped in place, remove the leaking cylinder to a safe place and repair the leak or allow the cylinder to empty.

(h) **Disposal:** This substance, when discarded or disposed of, is a hazardous waste according to Federal regulations (40 CFR part 261). It is listed as hazardous waste number D001 due to its ignitability. The transportation, storage, treatment, and disposal of this waste material must be conducted in compliance with 40 CFR parts 262, 263, 264, 268 and 270. Disposal can occur only in properly permitted facilities. Check state and local regulation of any additional requirements as these may be more restrictive than federal laws and regulation.

(i) You should not keep food, beverages, or smoking materials in areas where there is BD exposure, nor should you eat or drink in such areas.

(j) Ask your supervisor where BD is used in your work area and ask for any additional plant safety and health rules.

(6) **Medical Requirements.**

Your employer is required to offer you the opportunity to participate in a medical screening and surveillance program if you are exposed to BD at concentrations exceeding the action level (0.5 ppm BD as an 8-hour TWA) on 30 days or more a year, or at or above the 8-hr TWA (1 ppm) or STEL (5 ppm for 15 minutes) on 10 days or more a year. Exposure for any part of a day counts. If you have had exposure to BD in the past, but have been transferred to another job, you may still be eligible to participate in the medical screening and surveillance program.

The WISHA rule specifies the past exposures that would qualify you for participation in the program. These past exposure are work histories that suggest the following:

(a) That you have been exposed at or above the PELs on 30 days a year for 10 or more years;

(b) That you have been exposed at or above the action level on 60 days a year for 10 or more years; or

(c) That you have been exposed above 10 ppm on 30 days in any past year.

Additionally, if you are exposed to BD in an emergency situation, you are eligible for a medical examination within 48 hours. The basic medical screening program includes a health questionnaire, physical examination, and blood test. These medical evaluations must be offered to you at a reasonable time and place, and without cost or loss of pay.

(7) **Observation of Monitoring.**

Your employer is required to perform measurements that are representative of your exposure to BD and you or your designated representative are entitled to observe the monitoring procedure. You are entitled to observe the steps taken in the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you or your representative must also be provided with, and must wear, the protective clothing and equipment.

(8) **Access to Information.**

(a) Each year, your employer is required to inform you of the information contained in this appendix. In addition, your employer must instruct you in the proper work practices for

using BD, emergency procedures, and the correct use of protective equipment.

(b) Your employer is required to determine whether you are being exposed to BD. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he or she is required to inform you of the actions which are being taken to reduce your exposure to within permissible exposure limits and of the schedule to implement these actions.

(c) Your employer is required to keep records of your exposures and medical examinations. These records must be kept by the employer for at least thirty (30) years.

(d) Your employer is required to release your exposure and medical records to you or your representative upon your request.

#### Appendix B. Substance Technical Guidelines for 1,3-Butadiene (Non-Mandatory)

##### (1) Physical and Chemical Data.

###### (a) Substance identification:

(i) Synonyms: 1,3-Butadiene (BD); butadiene; biethylene; bivinyl; divinyl; butadiene-1,3; buta-1,3-diene; erythrene; NCI-C50620; CAS-106-99-0.

(ii) Formula:  $(CH_2)=CH-CH=CH_2$ .

(iii) Molecular weight: 54.1.

###### (b) Physical data:

(i) Boiling point (760 mm Hg): -4.7 deg. C (23.5 deg. F).

(ii) Specific gravity (water = 1): 0.62 at 20 deg. C (68 deg. F).

(iii) Vapor density (air = 1 at boiling point of BD): 1.87.

(iv) Vapor pressure at 20 deg. C (68 deg. F): 910 mm Hg.

(v) Solubility in water, g/100 g water at 20 deg. C (68 deg. F): 0.05.

(vi) Appearance and odor: Colorless, flammable gas with a mildly aromatic odor. Liquefied BD is a colorless liquid with a mildly aromatic odor.

##### (2) Fire, Explosion, and Reactivity Hazard Data.

###### (a) Fire:

(i) Flash point: -76 deg. C (-105 deg. F) for take out; liquefied BD; Not applicable to BD gas.

(ii) Stability: A stabilizer is added to the monomer to inhibit formation of polymer during storage. Forms explosive peroxides in air in absence of inhibitor.

(iii) Flammable limits in air, percent by volume: Lower: 2.0; Upper: 11.5.

(iv) Extinguishing media: Carbon dioxide for small fires, polymer or alcohol foams for large fires.

(v) Special fire fighting procedures: Fight fire from protected location or maximum possible distance. Stop flow of gas before extinguishing fire. Use water spray to keep fire-exposed cylinders cool.

(vi) Unusual fire and explosion hazards: BD vapors are heavier than air and may travel to a source of ignition and flash back. Closed containers may rupture violently when heated.

(vii) For purposes of compliance with the requirements of WAC 296-24-330, BD is classified as a flammable gas. For example, 7,500 ppm, approximately one-fourth of the

lower flammable limit, would be considered to pose a potential fire and explosion hazard.

(viii) For purposes of compliance with WAC 296-24-585, BD is classified as a Class B fire hazard.

(ix) For purposes of compliance with WAC 296-24-956 and 296-800-280, locations classified as hazardous due to the presence of BD shall be Class I.

###### (b) Reactivity:

(i) Conditions contributing to instability: Heat. Peroxides are formed when inhibitor concentration is not maintained at proper level. At elevated temperatures, such as in fire conditions, polymerization may take place.

(ii) Incompatibilities: Contact with strong oxidizing agents may cause fires and explosions. The contacting of crude BD (not BD monomer) with copper and copper alloys may cause formations of explosive copper compounds.

(iii) Hazardous decomposition products: Toxic gases (such as carbon monoxide) may be released in a fire involving BD.

(iv) Special precautions: BD will attack some forms of plastics, rubber, and coatings. BD in storage should be checked for proper inhibitor content, for self-polymerization, and for formation of peroxides when in contact with air and iron. Piping carrying BD may become plugged by formation of rubbery polymer.

###### (c) Warning Properties:

(i) Odor Threshold: An odor threshold of 0.45 ppm has been reported in The American Industrial Hygiene Association (AIHA) Report, Odor Thresholds for Chemicals with Established Occupational Health Standards. (Ex. 32-28C).

(ii) Eye Irritation Level: Workers exposed to vapors of BD (concentration or purity unspecified) have complained of irritation of eyes, nasal passages, throat, and lungs. Dogs and rabbits exposed experimentally to as much as 6700 ppm for 7 1/2 hours a day for 8 months have developed no histologically demonstrable abnormality of the eyes.

(iii) Evaluation of Warning Properties: Since the mean odor threshold is about half of the 1 ppm PEL, and more than 10-fold below the 5 ppm STEL, most wearers of air purifying respirators should still be able to detect breakthrough before a significant overexposure to BD occurs.

##### (3) Spill, Leak, and Disposal Procedures.

(a) Persons not wearing protective equipment and clothing should be restricted from areas of spills or leaks until cleanup has been completed. If BD is spilled or leaked, the following steps should be taken:

(i) Eliminate all ignition sources.

(ii) Ventilate areas of spill or leak.

(iii) If in liquid form, for small quantities, allow to evaporate in a safe manner.

(iv) Stop or control the leak if this can be done without risk. If source of leak is a cylinder and the leak cannot be stopped in place, remove the leaking cylinder to a safe place and repair the leak or allow the cylinder to empty.

(b) Disposal: This substance, when discarded or disposed of, is a hazardous waste according to Federal regulations (40 CFR part 261). It is listed by the EPA as hazardous waste number D001 due to its ignitability. The transportation, storage, treatment, and disposal of this waste material must be conducted in compliance with 40 CFR parts 262, 263, 264,

268 and 270. Disposal can occur only in properly permitted facilities. Check state and local regulations for any additional requirements because these may be more restrictive than federal laws and regulations.

(4) Monitoring and Measurement Procedures.

(a) Exposure above the Permissible Exposure Limit (8-hr TWA) or Short-Term Exposure Limit (STEL):

(i) 8-hr TWA exposure evaluation: Measurements taken for the purpose of determining employee exposure under this standard are best taken with consecutive samples covering the full shift. Air samples must be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee).

(ii) STEL exposure evaluation: Measurements must represent 15 minute exposures associated with operations most likely to exceed the STEL in each job and on each shift.

(iii) Monitoring frequencies: Table 1 gives various exposure scenarios and their required monitoring frequencies, as required by the final standard for occupational exposure to butadiene.

Table 1. — Five Exposure Scenarios and Their Associated Monitoring Frequencies

Action Level	8-hr TWA	STEL	Required Monitoring Activity
—*	—	—	No 8-hour TWA or STEL monitoring required.
+*	—	—	No STEL monitoring required. Monitor 8-hr TWA annually.
+	—	—	No STEL monitoring required. Periodic monitoring 8-hour TWA, in accordance with (4)(c)(iii).**
+	+	+	Periodic monitoring 8-hour TWA, in accordance with (4)(c)(iii)**. Periodic monitoring STEL in accordance with (4)(c)(iii).
+	—	+	Periodic monitoring STEL, in accordance with (4)(c)(iii). Monitor 8-hour TWA annually.

Footnote (\*) Exposure Scenario, Limit Exceeded: + = Yes, - = No.

Footnote (\*\*) The employer may decrease the frequency of exposure monitoring to annually when at least 2 consecutive measurements taken at least 7 days apart show exposures to be below the 8-hour TWA, but at or above the action level.

(iv) Monitoring techniques: Appendix D describes the validated method of sampling and analysis which has been tested by OSHA for use with BD. The employer has the obligation of selecting a monitoring method which meets the accuracy and precision requirements of the standard under his or her unique field conditions. The standard requires that the method of monitoring must be accurate, to a 95 percent confidence level, to plus or minus 25 percent for concentra-

tions of BD at or above 1 ppm, and to plus or minus 35 percent for concentrations below 1 ppm.

(5) Personal Protective Equipment.

(a) Employees should be provided with and required to use impervious clothing, gloves, face shields (eight-inch minimum), and other appropriate protective clothing necessary to prevent the skin from becoming frozen from contact with liquid BD.

(b) Any clothing which becomes wet with liquid BD should be removed immediately and not reworn until the butadiene has evaporated.

(c) Employees should be provided with and required to use splash proof safety goggles where liquid BD may contact the eyes.

(6) Housekeeping and Hygiene Facilities.

For purposes of complying with WAC 296-800-220 and 296-800-230, the following items should be emphasized:

(a) The workplace should be kept clean, orderly, and in a sanitary condition.

(b) Adequate washing facilities with hot and cold water are to be provided and maintained in a sanitary condition.

(7) Additional Precautions.

(a) Store BD in tightly closed containers in a cool, well-ventilated area and take all necessary precautions to avoid any explosion hazard.

(b) Nonsparking tools must be used to open and close metal containers. These containers must be effectively grounded.

(c) Do not incinerate BD cartridges, tanks or other containers.

(d) Employers must advise employees of all areas and operations where exposure to BD might occur.

Appendix C. Medical Screening and Surveillance for 1,3-Butadiene (Nonmandatory)

(1) Basis for Medical Screening and Surveillance Requirements.

(a) Route of Entry Inhalation.

(b) Toxicology.

Inhalation of BD has been linked to an increased risk of cancer, damage to the reproductive organs, and fetotoxicity. Butadiene can be converted via oxidation to epoxybutene and diepoxybutane, two genotoxic metabolites that may play a role in the expression of BD's toxic effects. BD has been tested for carcinogenicity in mice and rats. Both species responded to BD exposure by developing cancer at multiple primary organ sites. Early deaths in mice were caused by malignant lymphomas, primarily lymphocytic type, originating in the thymus.

Mice exposed to BD have developed ovarian or testicular atrophy. Sperm head morphology tests also revealed abnormal sperm in mice exposed to BD; lethal mutations were found in a dominant lethal test. In light of these results in animals, the possibility that BD may adversely affect the reproductive systems of male and female workers must be considered.

Additionally, anemia has been observed in animals exposed to butadiene. In some cases, this anemia appeared to be a primary response to exposure; in other cases, it may have been secondary to a neoplastic response.

(c) Epidemiology.

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Epidemiologic evidence demonstrates that BD exposure poses an increased risk of leukemia. Mild alterations of hematologic parameters have also been observed in synthetic rubber workers exposed to BD.

(2) Potential Adverse Health Effects.

(a) Acute.

Skin contact with liquid BD causes characteristic burns or frostbite. BD in gaseous form can irritate the eyes, nasal passages, throat, and lungs. Blurred vision, coughing, and drowsiness may also occur. Effects are mild at 2,000 ppm and pronounced at 8,000 ppm for exposures occurring over the full workshift.

At very high concentrations in air, BD is an anesthetic, causing narcosis, respiratory paralysis, unconsciousness, and death. Such concentrations are unlikely, however, except in an extreme emergency because BD poses an explosion hazard at these levels.

(b) Chronic.

The principal adverse health effects of concern are BD-induced lymphoma, leukemia and potential reproductive toxicity. Anemia and other changes in the peripheral blood cells may be indicators of excessive exposure to BD.

(c) Reproductive.

Workers may be concerned about the possibility that their BD exposure may be affecting their ability to procreate a healthy child. For workers with high exposures to BD, especially those who have experienced difficulties in conceiving, miscarriages, or stillbirths, appropriate medical and laboratory evaluation of fertility may be necessary to determine if BD is having any adverse effect on the reproductive system or on the health of the fetus.

(3) Medical Screening Components At-A-Glance.

(a) Health Questionnaire.

The most important goal of the health questionnaire is to elicit information from the worker regarding potential signs or symptoms generally related to leukemia or other blood abnormalities. Therefore, physicians or other licensed health care professionals should be aware of the presenting symptoms and signs of lymphohematopoietic disorders and cancers, as well as the procedures necessary to confirm or exclude such diagnoses. Additionally, the health questionnaire will assist with the identification of workers at greatest risk of developing leukemia or adverse reproductive effects from their exposures to BD.

Workers with a history of reproductive difficulties or a personal or family history of immune deficiency syndromes, blood dyscrasias, lymphoma, or leukemia, and those who are or have been exposed to medicinal drugs or chemicals known to affect the hematopoietic or lymphatic systems may be at higher risk from their exposure to BD. After the initial administration, the health questionnaire must be updated annually.

(b) Complete Blood Count (CBC).

The medical screening and surveillance program requires an annual CBC, with differential and platelet count, to be provided for each employee with BD exposure. This test is to be performed on a blood sample obtained by phlebotomy of the venous system or, if technically feasible, from a fingerstick sample of capillary blood. The sample is to be analyzed by an accredited laboratory.

Abnormalities in a CBC may be due to a number of different etiologies. The concern for workers exposed to BD includes, but is not limited to, timely identification of lymphohematopoietic cancers, such as leukemia and non-Hodgkin's lymphoma. Abnormalities of portions of the CBC are identified by comparing an individual's results to those of an established range of normal values for males and females. A substantial change in any individual employee's CBC may also be viewed as "abnormal" for that individual even if all measurements fall within the population-based range of normal values. It is suggested that a flowsheet for laboratory values be included in each employee's medical record so that comparisons and trends in annual CBCs can be easily made.

A determination of the clinical significance of an abnormal CBC shall be the responsibility of the examining physician, other licensed health care professional, or medical specialist to whom the employee is referred. Ideally, an abnormal CBC should be compared to previous CBC measurements for the same employee, when available. Clinical common sense may dictate that a CBC value that is very slightly outside the normal range does not warrant medical concern. A CBC abnormality may also be the result of a temporary physical stressor, such as a transient viral illness, blood donation, or menorrhagia, or laboratory error. In these cases, the CBC should be repeated in a timely fashion, i.e., within 6 weeks, to verify that return to the normal range has occurred. A clinically significant abnormal CBC should result in removal of the employee from further exposure to BD. Transfer of the employee to other work duties in a BD-free environment would be the preferred recommendation.

(c) Physical Examination.

The medical screening and surveillance program requires an initial physical examination for workers exposed to BD; this examination is repeated once every three years. The initial physical examination should assess each worker's baseline general health and rule out clinical signs of medical conditions that may be caused by or aggravated by occupational BD exposure. The physical examination should be directed at identification of signs of lymphohematopoietic disorders, including lymph node enlargement, splenomegaly, and hepatomegaly.

Repeated physical examinations should update objective clinical findings that could be indicative of interim development of a lymphohematopoietic disorder, such as lymphoma, leukemia, or other blood abnormality. Physical examinations may also be provided on an as needed basis in order to follow up on a positive answer on the health questionnaire, or in response to an abnormal CBC. Physical examination of workers who will no longer be working in jobs with BD exposure are intended to rule out lymphohematopoietic disorders.

The need for physical examinations for workers concerned about adverse reproductive effects from their exposure to BD should be identified by the physician or other licensed health care professional and provided accordingly. For these workers, such consultations and examinations may relate to developmental toxicity and reproductive capacity.

Physical examination of workers acutely exposed to significant levels of BD should be especially directed at the respiratory system, eyes, sinuses, skin, nervous system, and any

region associated with particular complaints. If the worker has received a severe acute exposure, hospitalization may be required to assure proper medical management. Since this type of exposure may place workers at greater risk of blood abnormalities, a CBC must be obtained within 48 hours and repeated at one, two, and three months.

Appendix D: Sampling and Analytical Method for 1,3-Butadiene (Nonmandatory)

OSHA Method No.: 56.

Matrix: Air.

Target concentration: 1 ppm (2.21 mg/m(3)).

Procedure: Air samples are collected by drawing known volumes of air through sampling tubes containing charcoal adsorbent which has been coated with 4-tert-butylcatechol. The samples are desorbed with carbon disulfide and then analyzed by gas chromatography using a flame ionization detector.

Recommended sampling rate and air volume: 0.05 L/min and 3 L.

Detection limit of the overall procedure: 90 ppb (200 ug/m(3)) (based on 3 L air volume).

Reliable quantitation limit: 155 ppb (343 ug/m(3)) (based on 3 L air volume).

Standard error of estimate at the target concentration: 6.5%.

Special requirements: The sampling tubes must be coated with 4-tert-butylcatechol. Collected samples should be stored in a freezer.

Status of method: A sampling and analytical method has been subjected to the established evaluation procedures of the Organic Methods Evaluation Branch, OSHA Analytical Laboratory, Salt Lake City, Utah 84165.

#### (1) Background.

This work was undertaken to develop a sampling and analytical procedure for BD at 1 ppm. The current method recommended by OSHA for collecting BD uses activated coconut shell charcoal as the sampling medium (Ref. 5.2). This method was found to be inadequate for use at low BD levels because of sample instability.

The stability of samples has been significantly improved through the use of a specially cleaned charcoal which is coated with 4-tert-butylcatechol (TBC). TBC is a polymerization inhibitor for BD (Ref. 5.3).

#### (a) Toxic effects.

Symptoms of human exposure to BD include irritation of the eyes, nose and throat. It can also cause coughing, drowsiness and fatigue. Dermatitis and frostbite can result from skin exposure to liquid BD. (Ref. 5.1)

NIOSH recommends that BD be handled in the workplace as a potential occupational carcinogen. This recommendation is based on two inhalation studies that resulted in cancers at multiple sites in rats and in mice. BD has also demonstrated mutagenic activity in the presence of a liver microsomal activating system. It has also been reported to have adverse reproductive effects. (Ref. 5.1)

#### (b) Potential workplace exposure.

About 90% of the annual production of BD is used to manufacture styrene-butadiene rubber and Polybutadiene rubber. Other uses include: Polychloroprene rubber, acrylonitrile butadiene-styrene resins, nylon intermediates, sty-

rene-butadiene latexes, butadiene polymers, thermoplastic elastomers, nitrile resins, methyl methacrylate-butadiene styrene resins and chemical intermediates. (Ref. 5.1)

#### (c) Physical properties (Ref. 5.1).

CAS No.: 106-99-0

Molecular weight: 54.1

Appearance: Colorless gas

Boiling point: -4.41 deg. C (760 mm Hg)

Freezing point: -108.9 deg. C

Vapor pressure: 2 atm (a) 15.3 deg. C; 5 atm (a) 47 deg. C

Explosive limits: 2 to 11.5% (by volume in air)

Odor threshold: 0.45 ppm

Structural formula: H(2)C:CHCH:CH(2)

Synonyms: BD; biethylene; bivinyl; butadiene; divinyl; buta-1,3-diene; alpha-gamma-butadiene; erythrene; NCI-C50602; pyrrolylene; vinylethylene.

#### (d) Limit defining parameters.

The analyte air concentrations listed throughout this method are based on an air volume of 3 L and a desorption volume of 1 mL. Air concentrations listed in ppm are referred to 25 deg. C and 760 mm Hg.

#### (e) Detection limit of the analytical procedure.

The detection limit of the analytical procedure was 304 pg per injection. This was the amount of BD which gave a response relative to the interferences present in a standard.

#### (f) Detection limit of the overall procedure.

The detection limit of the overall procedure was 0.60 ug per sample (90 ppb or 200 ug/m(3)). This amount was determined graphically. It was the amount of analyte which, when spiked on the sampling device, would allow recovery approximately equal to the detection limit of the analytical procedure.

#### (g) Reliable quantitation limit.

The reliable quantitation limit was 1.03 ug per sample (155 ppb or 343 ug/m(3)). This was the smallest amount of analyte which could be quantitated within the limits of a recovery of at least 75% and a precision (+/- 1.96 SD) of +/- 25% or better.

#### (h) Sensitivity.(1)

Footnote (1) The reliable quantitation limit and detection limits reported in the method are based upon optimization of the instrument for the smallest possible amount of analyte. When the target concentration of an analyte is exceptionally higher than these limits, they may not be attainable at the routine operation parameters.

The sensitivity of the analytical procedure over a concentration range representing 0.6 to 2 times the target concentration, based on the recommended air volume, was 387 area units per ug/mL. This value was determined from the slope of the calibration curve. The sensitivity may vary with the particular instrument used in the analysis.

#### (i) Recovery.

The recovery of BD from samples used in storage tests remained above 77% when the samples were stored at ambient temperature and above 94% when the samples were stored at refrigerated temperature. These values were determined from regression lines which were calculated from the storage data. The recovery of the analyte from the collection device must be at least 75% following storage.

#### (j) Precision (analytical method only).

The pooled coefficient of variation obtained from replicate determinations of analytical standards over the range of 0.6 to 2 times the target concentration was 0.011.

(k) Precision (overall procedure).

The precision at the 95% confidence level for the refrigerated temperature storage test was +/- 12.7%. This value includes an additional +/- 5% for sampling error. The overall procedure must provide results at the target concentrations that are +/- 25% at the 95% confidence level.

(l) Reproducibility.

Samples collected from a controlled test atmosphere and a draft copy of this procedure were given to a chemist unassociated with this evaluation. The average recovery was 97.2% and the standard deviation was 6.2%.

(2) Sampling procedure.

(a) Apparatus. Samples are collected by use of a personal sampling pump that can be calibrated to within +/- 5% of the recommended 0.05 L/min sampling rate with the sampling tube in line.

(b) Samples are collected with laboratory prepared sampling tubes. The sampling tube is constructed of silane-treated glass and is about 5-cm long. The ID is 4 mm and the OD is 6 mm. One end of the tube is tapered so that a glass wool end plug will hold the contents of the tube in place during sampling. The opening in the tapered end of the sampling tube is at least one-half the ID of the tube (2 mm). The other end of the sampling tube is open to its full 4-mm ID to facilitate packing of the tube. Both ends of the tube are fire-polished for safety. The tube is packed with 2 sections of pretreated charcoal which has been coated with TBC. The tube is packed with a 50-mg backup section, located nearest the tapered end, and with a 100-mg sampling section of charcoal. The two sections of coated adsorbent are separated and retained with small plugs of silanized glass wool. Following packing, the sampling tubes are sealed with two 7/32 inch OD plastic end caps. Instructions for the pretreatment and coating of the charcoal are presented in Section 4.1 of this method.

(c) Reagents.

None required.

(d) Technique.

(i) Properly label the sampling tube before sampling and then remove the plastic end caps.

(ii) Attach the sampling tube to the pump using a section of flexible plastic tubing such that the larger front section of the sampling tube is exposed directly to the atmosphere. Do not place any tubing ahead of the sampling tube. The sampling tube should be attached in the worker's breathing zone in a vertical manner such that it does not impede work performance.

(iii) After sampling for the appropriate time, remove the sampling tube from the pump and then seal the tube with plastic end caps. Wrap the tube lengthwise.

(iv) Include at least one blank for each sampling set. The blank should be handled in the same manner as the samples with the exception that air is not drawn through it.

(v) List any potential interferences on the sample data sheet.

(vi) The samples require no special shipping precautions under normal conditions. The samples should be refrigerated

if they are to be exposed to higher than normal ambient temperatures. If the samples are to be stored before they are shipped to the laboratory, they should be kept in a freezer. The samples should be placed in a freezer upon receipt at the laboratory.

(e) Breakthrough.

(Breakthrough was defined as the relative amount of analyte found on the backup section of the tube in relation to the total amount of analyte collected on the sampling tube. Five-percent breakthrough occurred after sampling a test atmosphere containing 2.0 ppm BD for 90 min. at 0.05 L/min. At the end of this time 4.5 L of air had been sampled and 20.1 ug of the analyte was collected. The relative humidity of the sampled air was 80% at 23 deg. C.)

Breakthrough studies have shown that the recommended sampling procedure can be used at air concentrations higher than the target concentration. The sampling time, however, should be reduced to 45 min. if both the expected BD level and the relative humidity of the sampled air are high.

(f) Desorption efficiency.

The average desorption efficiency for BD from TBC coated charcoal over the range from 0.6 to 2 times the target concentration was 96.4%. The efficiency was essentially constant over the range studied.

(g) Recommended air volume and sampling rate.

(h) The recommended air volume is 3 L.

(i) The recommended sampling rate is 0.05 L/min. for 1 hour.

(j) Interferences.

There are no known interferences to the sampling method.

(k) Safety precautions.

(i) Attach the sampling equipment to the worker in such a manner that it will not interfere with work performance or safety.

(ii) Follow all safety practices that apply to the work area being sampled.

(3) Analytical procedure.

(a) Apparatus.

(i) A gas chromatograph (GC), equipped with a flame ionization detector (FID).(2)

Footnote (2) A Hewlett-Packard Model 5840A GC was used for this evaluation. Injections were performed using a Hewlett-Packard Model 7671A automatic sampler.

(ii) A GC column capable of resolving the analytes from any interference.(3)

Footnote (3) A 20-ft x 1/8-inch OD stainless steel GC column containing 20% FFAP on 80/100 mesh Chromabsorb W-AW-DMCS was used for this evaluation.

(iii) Vials, glass 2-mL with Teflon-lined caps.

(iv) Disposable Pasteur-type pipets, volumetric flasks, pipets and syringes for preparing samples and standards, making dilutions and performing injections.

(b) Reagents.

(i) Carbon disulfide.(4)

Footnote (4) Fisher Scientific Company A.C.S. Reagent Grade solvent was used in this evaluation.

The benzene contaminant that was present in the carbon disulfide was used as an internal standard (ISTD) in this evaluation.



- (ii) Nitrogen, hydrogen and air, GC grade.
- (iii) BD of known high purity.(5)

Footnote (5) Matheson Gas Products, CP Grade 1,3-butadiene was used in this study.

(c) Standard preparation.

(i) Prepare standards by diluting known volumes of BD gas with carbon disulfide. This can be accomplished by injecting the appropriate volume of BD into the headspace above the 1-mL of carbon disulfide contained in sealed 2-mL vial. Shake the vial after the needle is removed from the septum.(6)

Footnote (6) A standard containing 7.71 ug/mL (at ambient temperature and pressure) was prepared by diluting 4 uL of the gas with 1-mL of carbon disulfide.

(ii) The mass of BD gas used to prepare standards can be determined by use of the following equations:

$$MV = (760/BP)(273+t)/(273)(22.41)$$

Where:

MV = ambient molar volume

BP = ambient barometric pressure

T = ambient temperature

ug/uL = 54.09/MV

ug/standard = (ug/uL)(uL) BD used to prepare the standard

(d) Sample preparation.

(i) Transfer the 100-mg section of the sampling tube to a 2-mL vial. Place the 50-mg section in a separate vial. If the glass wool plugs contain a significant amount of charcoal, place them with the appropriate sampling tube section.

(ii) Add 1-mL of carbon disulfide to each vial.

(iii) Seal the vials with Teflon-lined caps and then allow them to desorb for one hour. Shake the vials by hand vigorously several times during the desorption period.

(iv) If it is not possible to analyze the samples within 4 hours, separate the carbon disulfide from the charcoal, using a disposable Pasteur-type pipet, following the one hour. This separation will improve the stability of desorbed samples.

(v) Save the used sampling tubes to be cleaned and repacked with fresh adsorbent.

(e) Analysis.

(i) GC Conditions.

Column temperature: 95 deg. C

Injector temperature: 180 deg. C

Detector temperature: 275 deg. C

Carrier gas flow rate: 30 mL/min.

Injection volume: 0.80 uL

GC column: 20-ft x 1/8-in OD stainless steel GC column containing 20%

FFAP on 80/100 Chromabsorb W-AW-DMCS.

(ii) Chromatogram. See Section 4.2.

(iii) Use a suitable method, such as electronic or peak heights, to measure detector response.

(iv) Prepare a calibration curve using several standard solutions of different concentrations. Prepare the calibration curve daily. Program the integrator to report the results in ug/mL.

(v) Bracket sample concentrations with standards.

(f) Interferences (analytical).

(i) Any compound with the same general retention time as the analyte and which also gives a detector response is a

potential interference. Possible interferences should be reported by the industrial hygienist to the laboratory with submitted samples.

(ii) GC parameters (temperature, column, etc.) may be changed to circumvent interferences.

(iii) A useful means of structure designation is GC/MS. It is recommended that this procedure be used to confirm samples whenever possible.

(g) Calculations.

(i) Results are obtained by use of calibration curves. Calibration curves are prepared by plotting detector response against concentration for each standard. The best line through the data points is determined by curve fitting.

(ii) The concentration, in ug/mL, for a particular sample is determined by comparing its detector response to the calibration curve. If any analyte is found on the backup section, this amount is added to the amount found on the front section. Blank corrections should be performed before adding the results together.

(iii) The BD air concentration can be expressed using the following equation:

$$\text{mg/m}(3) = (A)(B)/(C)(D)$$

Where:

A = ug/mL from Section 3.7.2

B = volume

C = L of air sampled

D = efficiency

(iv) The following equation can be used to convert results in mg/m(3) to ppm:

$$\text{ppm} = (\text{mg/m}(3))(24.46)/54.09$$

Where:

mg/m(3) = result from Section 3.7.3.

24.46 = molar volume of an ideal gas at 760 mm Hg and 25 deg. C.

(h) Safety precautions (analytical).

(i) Avoid skin contact and inhalation of all chemicals.

(ii) Restrict the use of all chemicals to a fume hood whenever possible.

(iii) Wear safety glasses and a lab coat in all laboratory areas.

(4) Additional Information.

(a) A procedure to prepare specially cleaned charcoal coated with TBC.

(i) Apparatus.

(A) Magnetic stirrer and stir bar.

(B) Tube furnace capable of maintaining a temperature of 700 deg. C and equipped with a quartz tube that can hold 30 g of charcoal.(8)

Footnote (8) A Lindberg Type 55035 Tube furnace was used in this evaluation.

(C) A means to purge nitrogen gas through the charcoal inside the quartz tube.

(D) Water bath capable of maintaining a temperature of 60 deg. C.

(E) Miscellaneous laboratory equipment: One-liter vacuum flask, 1-L Erlenmeyer flask, 350-Ml Buchner funnel with a coarse fitted disc, 4-oz brown bottle, rubber stopper, Teflon tape etc.

(ii) Reagents.

(A) Phosphoric acid, 10% by weight, in water.(9)



Footnote (9) Baker Analyzed Reagent grade was diluted with water for use in this evaluation.

(B) 4-tert-Butylcatechol (TBC).(10)

Footnote (10) The Aldrich Chemical Company 99% grade was used in this evaluation.

(C) Specially cleaned coconut shell charcoal, 20/40 mesh.(11)

Footnote (11) Specially cleaned charcoal was obtained from Supelco, Inc. for use in this evaluation. The cleaning process used by Supelco is proprietary.

(D) Nitrogen gas, GC grade.

(iii) Procedure.

Weigh 30g of charcoal into a 500-mL Erlenmeyer flask. Add about 250 mL of 10% phosphoric acid to the flask and then swirl the mixture. Stir the mixture for 1 hour using a magnetic stirrer. Filter the mixture using a fitted Buchner funnel. Wash the charcoal several times with 250-mL portions of deionized water to remove all traces of the acid. Transfer the washed charcoal to the tube furnace quartz tube. Place the quartz tube in the furnace and then connect the nitrogen gas purge to the tube. Fire the charcoal to 700 deg. C. Maintain that temperature for at least 1 hour. After the charcoal has cooled to room temperature, transfer it to a tared beaker. Determine the weight of the charcoal and then add an amount of TBC which is 10% of the charcoal, by weight.

CAUTION-TBC is toxic and should only be handled in a fume hood while wearing gloves.

Carefully mix the contents of the beaker and then transfer the mixture to a 4-oz bottle. Stopper the bottle with a clean rubber stopper which has been wrapped with Teflon tape. Clamp the bottle in a water bath so that the water level is above the charcoal level. Gently heat the bath to 60 deg. C and then maintain that temperature for 1 hour. Cool the charcoal to room temperature and then transfer the coated charcoal to a suitable container.

The coated charcoal is now ready to be packed into sampling tubes. The sampling tubes should be stored in a sealed container to prevent contamination. Sampling tubes should be stored in the dark at room temperature. The sampling tubes should be segregated by coated adsorbent lot number.

(b) Chromatograms.

The chromatograms were obtained using the recommended analytical method. The chart speed was set at 1 cm/min. for the first three min. and then at 0.2 cm/min. for the time remaining in the analysis.

The peak which elutes just before BD is a reaction product between an impurity on the charcoal and TBC. This peak is always present, but it is easily resolved from the analyte. The peak which elutes immediately before benzene is an oxidation product of TBC.

(5) References.

(a) "Current Intelligence Bulletin 41, 1,3-Butadiene", U.S. Dept. of Health and Human Services, Public Health Service, Center for Disease Control, NIOSH.

(b) "NIOSH Manual of Analytical Methods", 2nd ed.; U.S. Dept. of Health Education and Welfare, National Institute for Occupational Safety and Health: Cincinnati, OH. 1977, Vol. 2, Method No. S91 DHEW (NIOSH) Publ. (U.S.), No. 77-157-B.

(c) Hawley, G.C., Ed. "The Condensed Chemical Dictionary", 8th ed.; Van Nostrand Rienhold Company: New York,

1971; 139.5.4. Chem. Eng. News (June 10, 1985), (63), 22-66.

Appendix E: Reserved.

APPENDIX F, MEDICAL QUESTIONNAIRES, (Non-mandatory)

1,3-Butadiene (BD) Initial Health Questionnaire

DIRECTIONS:

You have been asked to answer the questions on this form because you work with BD (butadiene). These questions are about your work, medical history, and health concerns. Please do your best to answer all of the questions. If you need help, please tell the doctor or health care professional who reviews this form.

This form is a confidential medical record. Only information directly related to your health and safety on the job may be given to your employer. Personal health information will not be given to anyone without your consent.

Date: \_\_\_\_\_  
 Name: \_\_\_\_\_ SSN \_\_\_\_/\_\_\_\_/\_\_\_\_  
                         Last       First       MI

Job Title: \_\_\_\_\_

Company's Name: \_\_\_\_\_

Supervisor's Name: \_\_\_\_\_

Supervisor's Phone No.: ( ) \_\_\_\_-\_\_\_\_

Work History

1. Please list all jobs you have had in the past, starting with the job you have now and moving back in time to your first job. (For more space, write on the back of this page.)

Main Job Duty

Year

Company Name

City, State

Chemicals

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

2. Please describe what you do during a typical work day. Be sure to tell about your work with BD.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

3. Please check any of these chemicals that you work with now or have worked with in the past:

benzene \_\_\_\_\_  
 glues \_\_\_\_\_

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- toluene \_\_\_\_\_
- inks, dyes \_\_\_\_\_
- other solvents, grease cutters \_\_\_\_\_
- insecticides (like DDT, lindane, etc.) \_\_\_\_\_
- paints, varnishes, thinners, strippers \_\_\_\_\_
- dusts \_\_\_\_\_
- carbon tetrachloride ("carbon tet") \_\_\_\_\_
- arsine \_\_\_\_\_
- carbon disulfide \_\_\_\_\_
- lead \_\_\_\_\_
- cement \_\_\_\_\_
- petroleum products \_\_\_\_\_
- nitrites \_\_\_\_\_

4. Please check the protective clothing or equipment you use at the job you have now:

- gloves \_\_\_\_\_
- coveralls \_\_\_\_\_
- respirator \_\_\_\_\_
- dust mask \_\_\_\_\_
- safety glasses, goggles \_\_\_\_\_

Please circle your answer.

5. Does your protective clothing or equipment fit you properly? yes no

6. Have you ever made changes in your protective clothing or equipment to make it fit better? yes no

7. Have you been exposed to BD when you were not wearing protective clothing or equipment? yes no

8. Where do you eat, drink and/or smoke when you are at work? (Please check all that apply.)

- Cafeteria/restaurant/snack bar \_\_\_\_\_
- Break room/employee lounge \_\_\_\_\_
- Smoking lounge \_\_\_\_\_
- At my work station \_\_\_\_\_

Please circle your answer.

9. Have you been exposed to radiation (like x-rays or nuclear material) at the job you have now or at past jobs? yes no

10. Do you have any hobbies that expose you to dusts or chemicals (including paints, glues, etc.)? yes no

11. Do you have any second or side jobs? yes no  
If yes, what are your duties there?  
\_\_\_\_\_  
\_\_\_\_\_

12. Were you in the military? yes no  
If yes, what did you do in the military? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Family Health History

1. In the FAMILY MEMBER column, across from the disease name, write which family member, if any, had the disease.

DISEASE	FAMILY MEMBER
Cancer	
Lymphoma	
Sickle Cell Disease or Trait	
Immune Disease	
Leukemia	
Anemia	

2. Please fill in the following information about family health

- Relative \_\_\_\_\_
- Alive? \_\_\_\_\_
- Age at Death? \_\_\_\_\_
- Cause of Death? \_\_\_\_\_
- Father \_\_\_\_\_
- Mother \_\_\_\_\_
- Brother/Sister \_\_\_\_\_
- Brother/Sister \_\_\_\_\_
- Brother/Sister \_\_\_\_\_

Personal Health History

Birth Date \_\_\_/\_\_\_/\_\_\_ Age \_\_\_ Sex \_\_\_ Height \_\_\_ Weight \_\_\_

Please circle your answer.

1. Do you smoke any tobacco products? yes no  
2. Have you ever had any kind of surgery or operation? yes no

If yes, what type of surgery:  
\_\_\_\_\_  
\_\_\_\_\_

3. Have you ever been in the hospital for any other reasons? yes no

If yes, please describe the reason \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Do you have any on-going or current medical problems or conditions? yes no

If yes, please describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Do you now have or have you ever had any of the following? Please check all that apply to you.

- unexplained fever \_\_\_\_\_
- anemia ("low blood") \_\_\_\_\_
- HIV/AIDS \_\_\_\_\_
- weakness \_\_\_\_\_
- sickle cell \_\_\_\_\_
- miscarriage \_\_\_\_\_
- skin rash \_\_\_\_\_
- bloody stools \_\_\_\_\_
- leukemia/lymphoma \_\_\_\_\_
- neck mass/swelling \_\_\_\_\_
- wheezing \_\_\_\_\_
- yellowing of skin \_\_\_\_\_
- bruising easily \_\_\_\_\_
- lupus \_\_\_\_\_
- weight loss \_\_\_\_\_
- kidney problems \_\_\_\_\_
- enlarged lymph nodes \_\_\_\_\_
- liver disease \_\_\_\_\_
- cancer \_\_\_\_\_
- infertility \_\_\_\_\_
- drinking problems \_\_\_\_\_
- thyroid problems \_\_\_\_\_
- night sweats \_\_\_\_\_
- chest pain \_\_\_\_\_
- still birth \_\_\_\_\_
- eye redness \_\_\_\_\_
- lumps you can feel \_\_\_\_\_
- child with birth defect \_\_\_\_\_
- autoimmune disease \_\_\_\_\_
- overly tired \_\_\_\_\_
- lung problems \_\_\_\_\_
- rheumatoid arthritis \_\_\_\_\_
- mononucleosis ("mono") \_\_\_\_\_
- nagging cough \_\_\_\_\_

Please circle your answer.

6. Do you have any symptoms or health problems that you think may be related to your work with BD? yes no

If yes, please describe: \_\_\_\_\_

7. Have any of your co-workers had similar symptoms or problems? yes no don't know

If yes, please describe: \_\_\_\_\_

8. Do you notice any irritation of your eyes, nose, throat, lungs, or skin when working with BD? yes no

9. Do you notice any blurred vision, coughing, drowsiness, nausea, or headache when working with BD? yes no

10. Do you take any medications (including birth control or over-the-counter)? yes no

If yes, please list: \_\_\_\_\_

11. Are you allergic to any medication, food, or chemicals? yes no

If yes, please list: \_\_\_\_\_

12. Do you have any health conditions not covered by this questionnaire that you think are affected by your work with BD? yes no

If yes, please explain: \_\_\_\_\_

13. Did you understand all the questions? yes no

Signature \_\_\_\_\_

1,3-Butadiene (BD) Health Update Questionnaire

DIRECTIONS:

You have been asked to answer the questions on this form because you work with BD (butadiene). These questions are about your work, medical history, and health concerns. Please do your best to answer all of the questions. If you need help, please tell the doctor or health care professional who reviews this form.

This form is a confidential medical record. Only information directly related to your health and safety on the job may be given to your employer. Personal health information will not be given to anyone without your consent.

Date: \_\_\_\_\_  
Name: \_\_\_\_\_ SSN \_\_\_/\_\_\_/\_\_\_  
Last First MI

Job Title: \_\_\_\_\_  
Company's Name: \_\_\_\_\_  
Supervisor's Name: \_\_\_\_\_  
Supervisor's Phone No.: ( ) \_\_\_-\_\_\_\_\_

1. Please describe any NEW duties that you have at your job. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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2. Please describe any additional job duties you have:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please circle your answer.

3. Are you exposed to any other chemicals in your work since the last time you were evaluated for exposure to BD? yes no

If yes, please list what they are: \_\_\_\_\_

4. Does your personal protective equipment and clothing fit you properly? yes no

5. Have you made changes in this equipment or clothing to make it fit better? yes no

6. Have you been exposed to BD when you were not wearing protective clothing or equipment? yes no

7. Are you exposed to any NEW chemicals at home or while working on hobbies? yes no

If yes, please list what they are: \_\_\_\_\_

8. Since your last BD health evaluation, have you started working any new second or side jobs? yes no

If yes, what are your duties there? \_\_\_\_\_

Personal Health History

1. What is your current weight? pounds

2. Have you been diagnosed with any new medical conditions or illness since your last evaluation?  
yes no

If yes, please tell what they are: \_\_\_\_\_

3. Since your last evaluation, have you been in the hospital for any illnesses, injuries, or surgery? yes no

If yes, please describe: \_\_\_\_\_

4. Do you have any of the following? Please place a check for all that apply to you.

- unexplained fever \_\_\_\_\_
- anemia ("low blood") \_\_\_\_\_
- HIV/AIDS \_\_\_\_\_
- weakness \_\_\_\_\_
- sickle cell \_\_\_\_\_

- miscarriage \_\_\_\_\_
- skin rash \_\_\_\_\_
- bloody stools \_\_\_\_\_
- leukemia/lymphoma \_\_\_\_\_
- neck mass/swelling \_\_\_\_\_
- wheezing \_\_\_\_\_
- yellowing of skin \_\_\_\_\_
- bruising easily \_\_\_\_\_
- lupus \_\_\_\_\_
- weight loss \_\_\_\_\_
- kidney problems \_\_\_\_\_
- enlarged lymph nodes \_\_\_\_\_
- liver disease \_\_\_\_\_
- cancer \_\_\_\_\_
- infertility \_\_\_\_\_
- drinking problems \_\_\_\_\_
- thyroid problems \_\_\_\_\_
- night sweats \_\_\_\_\_
- chest pain \_\_\_\_\_
- still birth \_\_\_\_\_
- eye redness \_\_\_\_\_
- lumps you can feel \_\_\_\_\_
- child with birth defect \_\_\_\_\_
- autoimmune disease \_\_\_\_\_
- overly tired \_\_\_\_\_
- lung problems \_\_\_\_\_
- rheumatoid arthritis \_\_\_\_\_
- mononucleosis ("mono") \_\_\_\_\_
- nagging cough \_\_\_\_\_

Please circle your answer.

5. Do you have any symptoms or health problems that you think may be related to your work with BD? yes no

If yes, please describe: \_\_\_\_\_

6. Have any of your co-workers had similar symptoms or problems? yes no don't know

If yes, please describe: \_\_\_\_\_

7. Do you notice any irritation of your eyes, nose, throat, lungs, or skin when working with BD? yes no

8. Do you notice any blurred vision, coughing, drowsiness, nausea, or headache when working with BD? yes no

9. Have you been taking any NEW medications (including birth control or over-the-counter)? yes no

If yes, please list:

\_\_\_\_\_  
\_\_\_\_\_

10. Have you developed any new allergies to medications, foods, or chemicals? yes no

If yes, please list:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Do you have any health conditions not covered by this questionnaire that you think are affected by your work with BD? yes no

If yes, please explain: \_\_\_\_\_

12. Do you understand all the questions? yes no

\_\_\_\_\_  
Signature

**AMENDATORY SECTION** (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

**WAC 296-62-07521 Lead.** (1) Scope and application.

(a) This section applies to all occupational exposure to lead, except as provided in subdivision (1)(b).

(b) This section does not apply to the construction industry or to agricultural operations covered by chapter 296-307 WAC.

(2) Definitions as applicable to this part.

(a) "Action level" - employee exposure, without regard to the use of respirators, to an airborne concentration of lead of thirty micrograms per cubic meter of air (30 µg/m³) averaged over an eight-hour period.

(b) "Director" - the director of the department of labor and industries.

(c) "Lead" - metallic lead, all inorganic lead compounds, and organic lead soaps. Excluded from this definition are all other organic lead compounds.

(3) General requirements.

(a) Employers will assess the hazards of lead in the work place and provide information to the employees about the hazards of the lead exposures to which they may be exposed.

(b) Information provided shall include:

(i) Exposure monitoring (including employee notification);

(ii) Written compliance programs;

(iii) Respiratory protection programs;

(iv) Personnel protective equipment and housekeeping;

(v) Medical surveillance and examinations;

(vi) Training requirements;

(vii) Recordkeeping requirements.

(4) Permissible exposure limit (PEL).

(a) The employer shall assure that no employee is exposed to lead at concentrations greater than fifty micrograms per cubic meter of air (50 µg/m³) averaged over an eight-hour period.

(b) If an employee is exposed to lead for more than eight hours in any work day, the permissible exposure limit, as a time weighted average (TWA) for that day, shall be reduced according to the following formula:

Maximum permissible limit (in µg/m³) = 400 ÷ hours worked in the day.

(c) When respirators are used to supplement engineering and work practice controls to comply with the PEL and all the requirements of subsection (7) have been met, employee exposure, for the purpose of determining whether the employer has complied with the PEL, may be considered to be at the level provided by the protection factor of the respirator for those periods the respirator is worn. Those periods may be averaged with exposure levels during periods when respirators are not worn to determine the employee's daily TWA exposure.

(5) Exposure monitoring.

(a) General.

(i) For the purposes of subsection (5), employee exposure is that exposure which would occur if the employee were not using a respirator.

(ii) With the exception of monitoring under subdivision (5)(c), the employer shall collect full shift (for at least seven continuous hours) personal samples including at least one sample for each shift for each job classification in each work area.

(iii) Full shift personal samples shall be representative of the monitored employee's regular, daily exposure to lead.

(b) Initial determination. Each employer who has a workplace or work operation covered by this standard shall determine if any employee may be exposed to lead at or above the action level.

(c) Basis of initial determination.

(i) The employer shall monitor employee exposures and shall base initial determinations on the employee exposure monitoring results and any of the following, relevant considerations:

(A) Any information, observations, or calculations which would indicate employee exposure to lead;

(B) Any previous measurements of airborne lead; and

(C) Any employee complaints of symptoms which may be attributable to exposure to lead.

(ii) Monitoring for the initial determination may be limited to a representative sample of the exposed employees who the employer reasonably believes are exposed to the greatest airborne concentrations of lead in the workplace.

(iii) Measurements of airborne lead made in the preceding twelve months may be used to satisfy the requirement to monitor under item (5)(c)(i) if the sampling and analytical methods used meet the accuracy and confidence levels of subdivision (5)(i) of this section.

(d) Positive initial determination and initial monitoring.

(i) Where a determination conducted under subdivision (5)(b) and (5)(c) of this section shows the possibility of any employee exposure at or above the action level, the employer shall conduct monitoring which is representative of the exposure for each employee in the workplace who is exposed to lead.

(ii) Measurements of airborne lead made in the preceding twelve months may be used to satisfy this requirement if the sampling and analytical methods used meet the accuracy and confidence levels of subdivision (5)(i) of this section.

(e) Negative initial determination. Where a determination, conducted under subdivisions (5)(b) and (5)(c) of this

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section is made that no employee is exposed to airborne concentrations of lead at or above the action level, the employer shall make a written record of such determination. The record shall include at least the information specified in subdivision (5)(c) of this section and shall also include the date of determination, location within the worksite, and the name and social security number of each employee monitored.

(f) Frequency.

(i) If the initial monitoring reveals employee exposure to be below the action level the measurements need not be repeated except as otherwise provided in subdivision (5)(g) of this section.

(ii) If the initial determination or subsequent monitoring reveals employee exposure to be at or above the action level but below the permissible exposure limit the employer shall repeat monitoring in accordance with this subsection at least every six months. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least seven days apart, are below the action level at which time the employer may discontinue monitoring for that employee except as otherwise provided in subdivision (5)(g) of this section.

(iii) If the initial monitoring reveals that employee exposure is above the permissible exposure limit the employer shall repeat monitoring quarterly. The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least seven days apart, are below the PEL but at or above the action level at which time the employer shall repeat monitoring for that employee at the frequency specified in item (5)(f)(ii), except as otherwise provided in subdivision (5)(g) of this section.

(g) Additional monitoring. Whenever there has been a production, process, control or personnel change which may result in new or additional exposure to lead, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to lead, additional monitoring in accordance with this subsection shall be conducted.

(h) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure, without regard to respirators, exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action taken or to be taken to reduce exposure to or below the permissible exposure limit.

(i) Accuracy of measurement. The employer shall use a method of monitoring and analysis which has an accuracy (to a confidence level of ninety-five percent) of not less than plus or minus twenty percent for airborne concentrations of lead equal to or greater than 30 µg/m<sup>3</sup>.

(6) Methods of compliance.

(a) Engineering and work practice controls.

(i) Where any employee is exposed to lead above the permissible exposure limit for more than thirty days per year, the employer shall implement engineering and work practice controls (including administrative controls) to reduce and

maintain employee exposure to lead in accordance with the implementation schedule in Table I below, except to the extent that the employer can demonstrate that such controls are not feasible. Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposure to or below the permissible exposure limit, the employer shall nonetheless use them to reduce exposures to the lowest feasible level and shall supplement them by the use of respiratory protection which complies with the requirements of subsection (7) of this section.

(ii) Where any employee is exposed to lead above the permissible exposure limit, but for thirty days or less per year, the employer shall implement engineering controls to reduce exposures to 200 µg/m<sup>3</sup>, but thereafter may implement any combination of engineering, work practice (including administrative controls), and respiratory controls to reduce and maintain employee exposure to lead to or below 50 µg/m<sup>3</sup>.

TABLE I

Industry	Compliance dates: <sup>1</sup> (50 µg/m <sup>3</sup> )
Lead chemicals, secondary copper smelting.	July 19, 1996
Nonferrous foundries . . . . .	July 19, 1996. <sup>2</sup>
Brass and bronze ingot manufacture.	6 years. <sup>3</sup>

<sup>1</sup> Calculated by counting from the date the stay on implementation of subsection (6)(a) was lifted by the U.S. Court of Appeals for the District of Columbia, the number of years specified in the 1978 lead standard and subsequent amendments for compliance with the PEL of 50 µg/m<sup>3</sup> for exposure to airborne concentrations of lead levels for the particular industry.

<sup>2</sup> Large nonferrous foundries (20 or more employees) are required to achieve the PEL of 50 µg/m<sup>3</sup> by means of engineering and work practice controls. Small nonferrous foundries (fewer than 20 employees) are required to achieve an 8-hour TWA of 75 µg/m<sup>3</sup> by such controls.

<sup>3</sup> Expressed as the number of years from the date on which the Court lifts the stay on the implementation of subsection (6)(a) for this industry for employers to achieve a lead in air concentration of 75 µg/m<sup>3</sup>. Compliance with subsection (6) in this industry is determined by a compliance directive that incorporates elements from the settlement agreement between OSHA and representatives of the industry.

(b) Respiratory protection. Where engineering and work practice controls do not reduce employee exposure to or below the 50 µg/m<sup>3</sup> permissible exposure limit, the employer shall supplement these controls with respirators in accordance with subsection (7).

(c) Compliance program.

(i) Each employer shall establish and implement a written compliance program to reduce exposures to or below the permissible exposure limit, and interim levels if applicable, solely by means of engineering and work practice controls in accordance with the implementation schedule in subdivision (6)(a).

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation in which lead is emitted; e.g., machinery used, material processed, controls in

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place, crew size, employee job responsibilities, operating procedures and maintenance practices;

(B) A description of the specific means that will be employed to achieve compliance, including engineering plans and studies used to determine methods selected for controlling exposure to lead;

(C) A report of the technology considered in meeting the permissible exposure limit;

(D) Air monitoring data which documents the source of lead emissions;

(E) A detailed schedule for implementation of the program, including documentation such as copies of purchase orders for equipment, construction contracts, etc.;

(F) A work practice program which includes items required under subsections (8), (9) and (10) of this regulation;

(G) An administrative control schedule required by subdivision (6)(f), if applicable; and

(H) Other relevant information.

(iii) Written programs shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, any affected employee or authorized employee representatives.

(iv) Written programs shall be revised and updated at least every six months to reflect the current status of the program.

(d) Mechanical ventilation.

(i) When ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system in controlling exposure, such as capture velocity, duct velocity, or static pressure shall be made at least every three months. Measurements of the system's effectiveness in controlling exposure shall be made within five days of any change in production, process, or control which might result in a change in employee exposure to lead.

(ii) Recirculation of air. If air from exhaust ventilation is recirculated into the workplace, the employer shall assure that (A) the system has a high efficiency filter with reliable back-up filter; and (B) controls to monitor the concentration of lead in the return air and to bypass the recirculation system automatically if it fails are installed, operating, and maintained.

(e) Administrative controls. If administrative controls are used as a means of reducing employees TWA exposure to lead, the employer shall establish and implement a job rotation schedule which includes:

(i) Name or identification number of each affected employee;

(ii) Duration and exposure levels at each job or work station where each affected employee is located; and

(iii) Any other information which may be useful in assessing the reliability of administrative controls to reduce exposure to lead.

(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) Period necessary to install or implement engineering or work-practice controls;

(ii) Work operations for which engineering and work-practice controls are not sufficient to reduce exposures to or below the permissible exposure limit;

(iii) Periods when an employee requests a respirator.

(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) and 296-62-07150 through 296-62-07156)))~~ 296-842 WAC, except WAC 296-842-13005 and 296-842-14005.

(ii) If an employee has breathing difficulty during fit testing or respirator use, the employer must provide the employee with a medical examination as required by subsection (11)(c)(ii)(C) of this section to determine whether or not the employee can use a respirator while performing the required duty.

(c) Respirator selection.

(i) The employer must select the appropriate respirator or combination of respirators from Table II of this section.

(ii) The employer must provide a powered air-purifying respirator instead of the respirator specified in Table II of this section when an employee chooses to use this type of respirator and that such a respirator provides adequate protection to the employee.

TABLE II

RESPIRATORY PROTECTION FOR LEAD AEROSOLS

Airborne Concentration of Lead or Condition of Use	Required Respirator <sup>1</sup>
Not in excess of 0.5 mg/m <sup>3</sup> (10X PEL).	Half-mask, air-purifying respirator equipped with high efficiency filters. <sup>2,3</sup>
Not in excess of 2.5 mg/m <sup>3</sup> (50X PEL).	Full facepiece, air-purifying respirator with high efficiency filters. <sup>3</sup>
Not in excess of 50 mg/m <sup>3</sup> (1000X PEL).	(1) Any powered, air-purifying respirator with high efficiency filters <sup>3</sup> ; or (2) Half-mask supplied-air respirator operated in positive-pressure mode. <sup>2</sup>
Not in excess of 100 mg/m <sup>3</sup> (2000X PEL).	Supplied-air respirators with full facepiece, hood, helmet, or suit, operated in positive pressure mode.
Greater than 100 mg/m <sup>3</sup> , unknown concentration or fire fighting.	Full facepiece, self-contained breathing apparatus operated in positive-pressure mode.

Note: <sup>1</sup> Respirators specified for high concentrations can be used at lower concentrations of lead.

<sup>2</sup> Full facepiece is required if the lead aerosols cause eye or skin irritation at the use concentrations.

<sup>3</sup> A high efficiency particulate filter means 99.97 percent efficient against 0.3 micron size particles.

(8) Protective work clothing and equipment.

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(a) Provision and use. If an employee is exposed to lead above the PEL, without regard to the use of respirators or where the possibility of skin or eye irritation exists, the employer shall provide at no cost to the employee and assure that the employee uses appropriate protective work clothing and equipment such as, but not limited to:

- (i) Coveralls or similar full-body work clothing;
- (ii) Gloves, hats, and shoes or disposable shoe coverlets; and
- (iii) Face shields, vented goggles, or other appropriate protective equipment which complies with WAC 296-800-160.

(b) Cleaning and replacement.

(i) The employer shall provide the protective clothing required in subdivision (8)(a) of this section in a clean and dry condition at least weekly, and daily to employees whose exposure levels without regard to a respirator are over 200  $\mu\text{g}/\text{m}^3$  of lead as an eight-hour TWA.

(ii) The employer shall provide for the cleaning, laundering, or disposal of protective clothing and equipment required by subdivision (8)(a) of this section.

(iii) The employer shall repair or replace required protective clothing and equipment as needed to maintain their effectiveness.

(iv) The employer shall assure that all protective clothing is removed at the completion of a work shift only in change rooms provided for that purpose as prescribed in subdivision (10)(b) of this section.

(v) The employer shall assure that contaminated protective clothing which is to be cleaned, laundered, or disposed of, is placed in a closed container in the change-room which prevents dispersion of lead outside the container.

(vi) The employer shall inform in writing any person who cleans or launders protective clothing or equipment of the potentially harmful effects of exposure to lead.

(vii) The employer shall assure that the containers of contaminated protective clothing and equipment required by subdivision (8)(b)(v) are labeled as follows:

CAUTION: CLOTHING CONTAMINATED WITH LEAD.  
DO NOT REMOVE DUST BY BLOWING OR SHAKING.  
DISPOSE OF LEAD CONTAMINATED WASH WATER IN  
ACCORDANCE WITH APPLICABLE LOCAL, STATE, OR  
FEDERAL REGULATIONS.

(viii) The employer shall prohibit the removal of lead from protective clothing or equipment by blowing, shaking, or any other means which disperses lead into the air.

(9) Housekeeping.

(a) Surfaces. All surfaces shall be maintained as free as practicable of accumulations of lead.

(b) Cleaning floors.

(i) Floors and other surfaces where lead accumulates may not be cleaned by the use of compressed air.

(ii) Shoveling, dry or wet sweeping, and brushing may be used only where vacuuming or other equally effective methods have been tried and found not to be effective.

(c) Vacuuming. Where vacuuming methods are selected, the vacuums shall be used and emptied in a manner which minimizes the reentry of lead into the workplace.

(10) Hygiene facilities and practices.

(a) The employer shall assure that in areas where employees are exposed to lead above the PEL, without regard to the use of respirators, food or beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied, except in change rooms, lunchrooms, and showers required under subdivision (10)(b) through (10)(d) of this section.

(b) Change rooms.

(i) The employer shall provide clean change rooms for employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators.

(ii) The employer shall assure that change rooms are equipped with separate storage facilities for protective work clothing and equipment and for street clothes which prevent cross-contamination.

(c) Showers.

(i) The employer shall assure that employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators, shower at the end of the work shift.

(ii) The employer shall provide shower facilities in accordance with WAC 296-800-230.

(iii) The employer shall assure that employees who are required to shower pursuant to item (10)(c)(i) do not leave the workplace wearing any clothing or equipment worn during the work shift.

(d) Lunchrooms.

(i) The employer shall provide lunchroom facilities for employees who work in areas where their airborne exposure to lead is above the PEL, without regard to the use of respirators.

(ii) The employer shall assure that lunchroom facilities have a temperature controlled, positive pressure, filtered air supply, and are readily accessible to employees.

(iii) The employer shall assure that employees who work in areas where their airborne exposure to lead is above the PEL without regard to the use of a respirator wash their hands and face prior to eating, drinking, smoking or applying cosmetics.

(iv) The employer shall assure that employees do not enter lunchroom facilities with protective work clothing or equipment unless surface lead dust has been removed by vacuuming, downdraft booth, or other cleaning method.

(e) Lavatories. The employer shall provide an adequate number of lavatory facilities which comply with WAC 296-800-230.

(11) Medical surveillance.

(a) General.

(i) The employer shall institute a medical surveillance program for all employees who are or may be exposed above the action level for more than thirty days per year.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician.

(iii) The employer shall provide the required medical surveillance including multiple physician review under item (11)(c)(iii) without cost to employees and at a reasonable time and place.

(b) Biological monitoring.



(i) Blood lead and ZPP level sampling and analysis. The employer shall make available biological monitoring in the form of blood sampling and analysis for lead and zinc protoporphyrin levels to each employee covered under item (11)(a)(i) of this section on the following schedule:

(A) At least every six months to each employee covered under item (11)(a)(i) of this section;

(B) At least every two months for each employee whose last blood sampling and analysis indicated a blood lead level at or above 40 µg/100 g of whole blood. This frequency shall continue until two consecutive blood samples and analyses indicate a blood lead level below 40 µg/100 g of whole blood; and

(C) At least monthly during the removal period of each employee removed from exposure to lead due to an elevated blood lead level.

(ii) Follow-up blood sampling tests. Whenever the results of a blood lead level test indicate that an employee's blood lead level exceeds the numerical criterion for medical removal under item (12)(a)(i)(A), the employer shall provide a second (follow-up) blood sampling test within two weeks after the employer receives the results of the first blood sampling test.

(iii) Accuracy of blood lead level sampling and analysis. Blood lead level sampling and analysis provided pursuant to this section shall have an accuracy (to a confidence level of ninety-five percent) within plus or minus fifteen percent or 6 µg/100 ml, whichever is greater, and shall be conducted by a laboratory licensed by the Center for Disease Control (CDC), United States Department of Health, Education and Welfare or which has received a satisfactory grade in blood lead proficiency testing from CDC in the prior twelve months.

(iv) Employee notification. Within five working days after the receipt of biological monitoring results, the employer shall notify in writing each employee whose blood lead level exceeds 40 µg/100 g: (A) of that employee's blood lead level and (B) that the standard requires temporary medical removal with medical removal protection benefits when an employee's blood lead level exceeds the numerical criterion for medical removal under item (12)(a)(i) of this section.

(c) Medical examinations and consultations.

(i) Frequency. The employer shall make available medical examinations and consultations to each employee covered under item (11)(a)(i) of this section on the following schedule:

(A) At least annually for each employee for whom a blood sampling test conducted at any time during the preceding twelve months indicated a blood lead level at or above 40 µg/100 g;

(B) Prior to assignment for each employee being assigned for the first time to an area in which airborne concentrations of lead are at or above the action level;

(C) As soon as possible, upon notification by an employee either that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice concerning the effects of current or past exposure to lead on the employee's ability to procreate a healthy child, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during use; and

(D) As medically appropriate for each employee either removed from exposure to lead due to a risk of sustaining material impairment to health, or otherwise limited pursuant to a final medical determination.

(ii) Content. Medical examinations made available pursuant to subitems (11)(c)(i)(A) through (B) of this section shall include the following elements:

(A) A detailed work history and a medical history, with particular attention to past lead exposure (occupational and nonoccupational), personal habits (smoking, hygiene), and past gastrointestinal, hematologic, renal, cardiovascular, reproductive and neurological problems;

(B) A thorough physical examination, with particular attention to teeth, gums, hematologic, gastrointestinal, renal, cardiovascular, and neurological systems. Pulmonary status should be evaluated if respiratory protection will be used;

(C) A blood pressure measurement;

(D) A blood sample and analysis which determines:

(I) Blood lead level;

(II) Hemoglobin and hematocrit determinations, red cell indices, and examination of peripheral smear morphology;

(III) Zinc protoporphyrin;

(IV) Blood urea nitrogen; and

(V) Serum creatinine;

(E) A routine urinalysis with microscopic examination; and

(F) Any laboratory or other test which the examining physician deems necessary by sound medical practice.

The content of medical examinations made available pursuant to subitems (11)(c)(i)(C) through (D) of this section shall be determined by an examining physician and, if requested by an employee, shall include pregnancy testing or laboratory evaluation of male fertility.

(iii) Multiple physician review mechanism.

(A) If the employer selects the initial physician who conducts any medical examination or consultation provided to an employee under this section, the employee may designate a second physician:

(I) To review any findings, determinations or recommendations of the initial physician; and

(II) To conduct such examinations, consultations, and laboratory tests as the second physician deems necessary to facilitate this review.

(B) 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 pursuant to this section. 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 foregoing notification, or receipt of the initial physician's written opinion, whichever is later:

(I) The employee informing the employer that he or she intends to seek a second medical opinion, and

(II) The employee initiating steps to make an appointment with a second physician.

(C) 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 any disagreement.

(D) If the two physicians have been unable to quickly resolve their disagreement, then the employer and the employee through their respective physicians shall designate a third physician:

(I) To review any findings, determinations or recommendations of the prior physicians; and

(II) To conduct such examinations, consultations, laboratory tests and discussions with the prior physicians as the third physician deems necessary to resolve the disagreement of the prior physicians.

(E) 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.

(iv) Information provided to examining and consulting physicians.

(A) The employer shall provide an initial physician conducting a medical examination or consultation under this section with the following information:

(I) A copy of this regulation for lead including all appendices;

(II) A description of the affected employee's duties as they relate to the employee's exposure;

(III) The employee's exposure level or anticipated exposure level to lead and to any other toxic substance (if applicable);

(IV) A description of any personal protective equipment used or to be used;

(V) Prior blood lead determinations; and

(VI) All prior written medical opinions concerning the employee in the employer's possession or control.

(B) The employer shall provide the foregoing information to a second or third physician conducting a medical examination or consultation under this section upon request either by the second or third physician, or by the employee.

(v) Written medical opinions.

(A) The employer shall obtain and furnish the employee with a copy of a written medical opinion from each examining or consulting physician which contains the following information:

(I) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at increased risk of material impairment of the employee's health from exposure to lead;

(II) Any recommended special protective measures to be provided to the employee, or limitations to be placed upon the employee's exposure to lead;

(III) Any recommended limitation upon the employee's use of respirators, including a determination of whether the employee can wear a powered air purifying respirator if a physician determines that the employee cannot wear a negative pressure respirator; and

(IV) The results of the blood lead determinations.

(B) The employer shall instruct each examining and consulting physician to:

(I) Not reveal either in the written opinion, or in any other means of communication with the employer, findings,

including laboratory results, or diagnoses unrelated to an employee's occupational exposure to lead; and

(II) Advise the employee of any medical condition, occupational or nonoccupational, which dictates further medical examination or treatment.

(vi) Alternate physician determination mechanisms. The employer and an employee or authorized employee representative may agree upon the use of any expeditious alternate physician determination mechanism in lieu of the multiple physician review mechanism provided by this subsection so long as the alternate mechanism otherwise satisfies the requirements contained in this subsection.

(d) Chelation.

(i) The employer shall assure that any person whom he retains, employs, supervises or controls does not engage in prophylactic chelation of any employee at any time.

(ii) If therapeutic or diagnostic chelation is to be performed by any person in item (11)(d)(i), the employer shall assure that it be done under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring and that the employee is notified in writing prior to its occurrence.

(12) Medical removal protection.

(a) Temporary medical removal and return of an employee.

(i) Temporary removal due to elevated blood lead levels.

(A) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a periodic and a follow-up blood sampling test conducted pursuant to this section indicate that the employee's blood lead level is at or above 60  $\mu\text{g}/100\text{ g}$  of whole blood; and

(B) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that the average of the last three blood sampling tests conducted pursuant to this section (or the average of all blood sampling tests conducted over the previous six months, whichever is longer) indicates that the employee's blood lead level is at or above 50  $\mu\text{g}/100\text{ g}$  of whole blood; provided, however, that an employee need not be removed if the last blood sampling test indicates a blood lead level at or below 40  $\mu\text{g}/100\text{ g}$  of whole blood.

(ii) Temporary removal due to a final medical determination.

(A) The employer shall remove an employee from work having an exposure to lead at or above the action level on each occasion that a final medical determination results in a medical finding, determination, or opinion that the employee has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(B) For the purposes of this section, the phrase "final medical determination" shall mean the outcome of the multiple physician review mechanism or alternate medical determination mechanism used pursuant to the medical surveillance provisions of this section.

(C) Where a final medical determination results in any recommended special protective measures for an employee, or limitations on an employee's exposure to lead, the

employer shall implement and act consistent with the recommendation.

(iii) Return of the employee to former job status.

(A) The employer shall return an employee to his or her former job status:

(I) For an employee removed due to a blood lead level at or above 60  $\mu\text{g}/100\text{ g}$ , or due to an average blood lead level at or above 50  $\mu\text{g}/100\text{ g}$ , when two consecutive blood sampling tests indicate that the employee's blood lead level is at or below 40  $\mu\text{g}/100\text{ g}$  of whole blood;

(II) For an employee removed due to a final medical determination, when a subsequent final medical determination results in a medical finding, determination, or opinion that the employee no longer has a detected medical condition which places the employee at increased risk of material impairment to health from exposure to lead.

(B) For the purposes of this section, the requirement that an employer return an employee to his or her former job status is not intended to expand upon or restrict any rights an employee has or would have had, absent temporary medical removal, to a specific job classification or position under the terms of a collective bargaining agreement.

(iv) Removal of other employee special protective measure or limitations. The employer shall remove any limitations placed on an employee or end any special protective measures provided to an employee pursuant to a final medical determination when a subsequent final medical determination indicates that the limitations or special protective measures are no longer necessary.

(v) Employer options pending a final medical determination. Where the multiple physician review mechanism, or alternate medical determination mechanism used pursuant to the medical surveillance provisions of this section, has not yet resulted in a final medical determination with respect to an employee, the employer shall act as follows:

(A) Removal. The employer may remove the employee from exposure to lead, provide special protective measures to the employee, or place limitations upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status.

(B) Return. The employer may return the employee to his or her former job status, end any special protective measures provided to the employee, and remove any limitations placed upon the employee, consistent with the medical findings, determinations, or recommendations of any of the physicians who have reviewed the employee's health status, with two exceptions. If:

(I) The initial removal, special protection, or limitation of the employee resulted from a final medical determination which differed from the findings, determinations, or recommendations of the initial physician; or

(II) The employee has been on removal status for the preceding eighteen months due to an elevated blood lead level, then the employer shall await a final medical determination.

(b) Medical removal protection benefits.

(i) Provision of medical removal protection benefits. The employer shall provide to an employee up to eighteen months of medical removal protection benefits on each occasion that

an employee is removed from exposure to lead or otherwise limited pursuant to this section.

(ii) Definition of medical removal protection benefits.

For the purposes of this section, the requirement that an employer provide medical removal protection benefits means that the employer shall maintain the earnings, seniority and other employment rights and benefits of an employee as though the employee had not been removed from normal exposure to lead or otherwise limited.

(iii) Follow-up medical surveillance during the period of employee removal or limitation. During the period of time that an employee is removed from normal exposure to lead or otherwise limited, the employer may condition the provision of medical removal protection benefits upon the employee's participation in follow-up medical surveillance made available pursuant to this section.

(iv) Workers' compensation claims. If a removed employee files a claim for workers' compensation payments for a lead-related disability, then the employer shall continue to provide medical removal protection benefits pending disposition of the claim. To the extent that an award is made to the employee for earnings lost during the period of removal, the employer's medical removal protection obligation shall be reduced by such amount. The employer shall receive no credit for workers' compensation payments received by the employee for treatment related expenses.

(v) Other credits. The employer's obligation to provide medical removal protection benefits to a removed employee shall 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 receives income from employment with another employer made possible by virtue of the employee's removal.

(vi) Employees whose blood lead levels do not adequately decline within eighteen months of removal. The employer shall take the following measures with respect to any employee removed from exposure to lead due to an elevated blood lead level whose blood lead level has not declined within the past eighteen months of removal so that the employee has been returned to his or her former job status:

(A) The employer shall make available to the employee a medical examination pursuant to this section to obtain a final medical determination with respect to the employee;

(B) The employer shall assure that the final medical determination obtained indicates whether or not the employee may be returned to his or her former job status, and if not, what steps should be taken to protect the employee's health;

(C) Where the final medical determination has not yet been obtained, or once obtained indicates that the employee may not yet be returned to his or her former job status, the employer shall continue to provide medical removal protection benefits to the employee until either the employee is returned to former job status, or a final medical determination is made that the employee is incapable of ever safely returning to his or her former job status.

(D) Where the employer acts pursuant to a final medical determination which permits the return of the employee to his or her former job status despite what would otherwise be an

unacceptable blood lead level, later questions concerning removing the employee again shall be decided by a final medical determination. The employer need not automatically remove such an employee pursuant to the blood lead level removal criteria provided by this section.

(vii) Voluntary removal or restriction of an employee. Where an employer, although not required by this section to do so, removes an employee from exposure to lead or otherwise places limitations on an employee due to the effects of lead exposure on the employee's medical condition, the employer shall provide medical removal protection benefits to the employee equal to that required by item (12)(b)(i) of this section.

(13) Employee information and training.

(a) Training program.

(i) Each employer who has a workplace in which there is a potential exposure to airborne lead at any level shall inform employees of the content of Appendices A and B of this regulation.

(ii) The employer shall institute a training program for and assure the participation of all employees who are subject to exposure to lead at or above the action level or for whom the possibility of skin or eye irritation exists.

(iii) The employer shall provide initial training by one hundred eighty days from the effective date for those employees covered by item (13)(a)(ii) on the standard's effective date and prior to the time of initial job assignment for those employees subsequently covered by this subsection.

(iv) The training program shall be repeated at least annually for each employee.

(v) The employer shall assure that each employee is informed of the following:

(A) The content of this standard and its appendices;

(B) The specific nature of the operations which could result in exposure to lead above the action level;

(C) The purpose, proper use, limitations, and other training requirements for respiratory protection as required by chapter 296-62 WAC, Part E;

(D) The purpose and a description of the medical surveillance program, and the medical removal protection program including information concerning the adverse health effects associated with excessive exposure to lead (with particular attention to the adverse reproductive effects on both males and females);

(E) The engineering controls and work practices associated with the employee's job assignment;

(F) The contents of any compliance plan in effect; and

(G) Instructions to employees that chelating agents should not routinely be used to remove lead from their bodies and should not be used at all except under the direction of a licensed physician.

(b) Access to information and training materials.

(i) The employer shall make readily available to all affected employees a copy of this standard and its appendices.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(iii) In addition to the information required by item (13)(a)(v), the employer shall include as part of the training

program, and shall distribute to employees, any materials pertaining to the Occupational Safety and Health Act, the regulations issued pursuant to the act, and this lead standard, which are made available to the employer by the director.

(14) Signs.

(a) General.

(i) The employer may use signs required by other statutes, regulations or ordinances in addition to, or in combination with, signs required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign required by this subsection which contradicts or detracts from the meaning of the required sign.

(b) Signs.

(i) The employer shall post the following warning signs in each work area where the PEL is exceeded:

WARNING  
LEAD WORK AREA  
POISON  
NO SMOKING OR EATING

(ii) The employer shall assure that signs required by this subsection are illuminated and cleaned as necessary so that the legend is readily visible.

(15) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required in subsection (5) of this section.

(ii) This record shall include:

(A) The date(s), number, duration, location and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure where applicable;

(B) A description of the sampling and analytical methods used and evidence of their accuracy;

(C) The type of respiratory protective devices worn, if any;

(D) Name, social security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent; and

(E) The environmental variables that could affect the measurement of employee exposure.

(iii) The employer shall maintain these monitoring records for at least forty years or for the duration of employment plus twenty years, whichever is longer.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by subsection (11) of this section.

(ii) This record shall include:

(A) The name, social security number, and description of the duties of the employee;

(B) A copy of the physician's written opinions;

(C) Results of any airborne exposure monitoring done for that employee and the representative exposure levels supplied to the physician; and

(D) Any employee medical complaints related to exposure to lead.

(iii) The employer shall keep, or assure that the examining physician keeps, the following medical records:

(A) A copy of the medical examination results including medical and work history required under subsection (11) of this section;

(B) A description of the laboratory procedures and a copy of any standards or guidelines used to interpret the test results or references to that information; and

(C) A copy of the results of biological monitoring.

(iv) The employer shall maintain or assure that the physician maintains those medical records for at least forty years, or for the duration of employment plus twenty years, whichever is longer.

(c) Medical removals.

(i) The employer shall establish and maintain an accurate record for each employee removed from current exposure to lead pursuant to subsection (12) of this section.

(ii) Each record shall include:

(A) The name and social security number of the employee;

(B) The date on each occasion that the employee was removed from current exposure to lead as well as the corresponding date on which the employee was returned to his or her former job status;

(C) A brief explanation of how each removal was or is being accomplished; and

(D) A statement with respect to each removal indicating whether or not the reason for the removal was an elevated blood lead level.

(iii) The employer shall maintain each medical removal record for at least the duration of an employee's employment.

(d) Availability.

(i) The employer shall make available upon request all records required to be maintained by subsection (15) of this section to the director for examination and copying.

(ii) Environmental monitoring, medical removal, and medical records required by this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with chapter 296-802 WAC. Medical removal records shall be provided in the same manner as environmental monitoring records.

(iii) Upon request, the employer shall make an employee's medical records required to be maintained by this section available to the affected employee or former employee or to a physician or other individual designated by such affected employee or former employees for examination and copying.

(e) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by subsection (15) of this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records required to be maintained by this section for the prescribed period, these records shall be transmitted to the director.

(iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the director at least three months prior

to the disposal of such records and shall transmit those records to the director if requested within the period.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in chapter 296-802 WAC.

(16) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to lead conducted pursuant to subsection (5) of this section.

(b) Observation procedures.

(i) Whenever observation of the monitoring of employee exposure to lead requires entry into an area where the use of respirators, protective clothing or equipment is required, the employer shall provide the observer with and assure the use of such respirators, clothing and such equipment, and shall require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled to:

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the monitoring of lead performed at the place of exposure; and

(C) Record the results obtained or receive copies of the results when returned by the laboratory.

(17) Appendices. The information contained in the appendices to this section is not intended by itself, to create any additional obligations not otherwise imposed by this standard nor detract from any existing obligation.

(a) Appendix A. Substance Data Sheet for Occupational Exposure to Lead.

(i) Substance identification.

(A) Substance. Pure lead (Pb) is a heavy metal at room temperature and pressure and is a basic chemical element. It can combine with various other substances to form numerous lead compounds.

(B) Compounds covered by the standard. The word "lead" when used in this standard means elemental lead, all inorganic lead compounds (except those which are not biologically available due to either solubility or specific chemical interaction), and a class of organic lead compounds called lead soaps. This standard does not apply to other organic lead compounds.

(C) Uses. Exposure to lead occurs in at least 120 different occupations, including primary and secondary lead smelting, lead storage battery manufacturing, lead pigment manufacturing and use, solder manufacturing and use, shipbuilding and ship repairing, auto manufacturing, and printing.

(D) Permissible exposure. The Permissible Exposure Limit (PEL) set by the standard is 50 micrograms of lead per cubic meter of air (50  $\mu\text{g}/\text{m}^3$ ), averaged over an eight-hour work day.

(E) Action level. The standard establishes an action level of 30 micrograms per cubic meter of air (30  $\mu\text{g}/\text{m}^3$ ) time weighted average, based on an eight-hour work day. The action level initiates several requirements of the standard, such as exposure monitoring, medical surveillance, and training and education.

(ii) Health hazard data.

## (A) Ways in which lead enters your body.

(I) When absorbed into your body in certain doses lead is a toxic substance. The object of the lead standard is to prevent absorption of harmful quantities of lead. The standard is intended to protect you not only from the immediate toxic effects of lead, but also from the serious toxic effects that may not become apparent until years of exposure have passed.

(II) Lead can be absorbed into your body by inhalation (breathing) and ingestion (eating). Lead (except for certain organic lead compounds not covered by the standard, such as tetraethyl lead) is not absorbed through your skin. When lead is scattered in the air as a dust, fume or mist, it can be inhaled and absorbed through your lungs and upper respiratory tract. Inhalation of airborne lead is generally the most important source of occupational lead absorption. You can also absorb lead through your digestive system if lead gets into your mouth and is swallowed. If you handle food, cigarettes, chewing tobacco, or make-up which have lead on them or handle them with hands contaminated with lead, this will contribute to ingestion.

(III) A significant portion of the lead that you inhale or ingest gets into your blood stream. Once in your blood stream lead is circulated throughout your body and stored in various organs and body tissues. Some of this lead is quickly filtered out of your body and excreted, but some remains in your blood and other tissue. As exposure to lead continues, the amount stored in your body will increase if you are absorbing more lead than your body is excreting. Even though you may not be aware of any immediate symptoms of disease, this lead stored in your tissues can be slowly causing irreversible damage, first to individual cells, then to your organs and whole body systems.

## (B) Effects of overexposure to lead.

(I) Short-term (acute) overexposure. Lead is a potent, systemic poison that serves no known useful function once absorbed by your body. Taken in large enough doses, lead can kill you in a matter of days. A condition affecting the brain called acute encephalopathy may arise which develops quickly to seizures, coma, and death from cardiorespiratory arrest. A short-term dose of lead can lead to acute encephalopathy. Short-term occupational exposures of this magnitude are highly unusual, but not impossible. Similar forms of encephalopathy may, however arise from extended, chronic exposure to lower doses of lead. There is no sharp dividing line between rapidly developing acute effects of lead, and chronic effects which take longer to acquire. Lead adversely affects numerous body systems, and causes forms of health impairment and disease which arise after periods of exposure as short as days or as long as several years.

## (II) Long-term (chronic) overexposure.

a) Chronic overexposure to lead may result in severe damage to your blood-forming, nervous, urinary and reproductive systems. Some common symptoms of chronic overexposure include loss of appetite, metallic taste in the mouth, anxiety, constipation, nausea, pallor, excessive tiredness, weakness, insomnia, headache, nervous irritability, muscle and joint pain or soreness, fine tremors, numbness, dizziness, hyperactivity and colic. In lead colic there may be severe abdominal pain.

b) Damage to the central nervous system in general and the brain (encephalopathy) in particular is one of the most severe forms of lead poisoning. The most severe, often fatal, form of encephalopathy may be preceded by vomiting, a feeling of dullness progressing to drowsiness and stupor, poor memory, restlessness, irritability, tremor, and convulsions. It may arise suddenly with the onset of seizures, followed by coma, and death. There is a tendency for muscular weakness to develop at the same time. This weakness may progress to paralysis often observed as a characteristic "wrist drop" or "foot drop" and is a manifestation of a disease to the nervous system called peripheral neuropathy.

c) Chronic overexposure to lead also results in kidney disease with few, if any, symptoms appearing until extensive and most likely permanent kidney damage has occurred. Routine laboratory tests reveal the presence of this kidney disease only after about two-thirds of kidney function is lost. When overt symptoms of urinary dysfunction arise, it is often too late to correct or prevent worsening conditions, and progression of kidney dialysis or death is possible.

d) Chronic overexposure to lead impairs the reproductive systems of both men and women. Overexposure to lead may result in decreased sex drive, impotence and sterility in men. Lead can alter the structure of sperm cells raising the risk of birth defects. There is evidence of miscarriage and stillbirth in women whose husbands were exposed to lead or who were exposed to lead themselves. Lead exposure also may result in decreased fertility, and abnormal menstrual cycles in women. The course of pregnancy may be adversely affected by exposure to lead since lead crosses the placental barrier and poses risks to developing fetuses. Children born of parents either one of whom were exposed to excess lead levels are more likely to have birth defects, mental retardation, behavioral disorders or die during the first year of childhood.

e) Overexposure to lead also disrupts the blood-forming system resulting in decreased hemoglobin (the substance in the blood that carries oxygen to the cells) and ultimately anemia. Anemia is characterized by weakness, pallor and fatigability as a result of decreased oxygen carrying capacity in the blood.

## (III) Health protection goals of the standard.

a) Prevention of adverse health effects for most workers from exposure to lead throughout a working lifetime requires that worker blood lead (PbB) levels be maintained at or below forty micrograms per one hundred grams of whole blood (40  $\mu\text{g}/100\text{g}$ ). The blood lead levels of workers (both male and female workers) who intend to have children should be maintained below 30  $\mu\text{g}/100\text{g}$  to minimize adverse reproductive health effects to the parents and to the developing fetus.

b) The measurement of your blood lead level is the most useful indicator of the amount of lead absorbed by your body. Blood lead levels (PbB) are most often reported in units of milligrams (mg) or micrograms ( $\mu\text{g}$ ) of lead (1 mg = 1000  $\mu\text{g}$ ) per 100 grams (100g), 100 milliliters (100 ml) or deciliter (dl) of blood. These three units are essentially the same. Sometimes PbB's are expressed in the form of mg% or  $\mu\text{g}\%$ . This is a shorthand notation for 100g, 100ml, or dl.

c) PbB measurements show the amount of lead circulating in your blood stream, but do not give any information about the amount of lead stored in your various tissues. PbB measurements merely show current absorption of lead, not the effect that lead is having on your body or the effects that past lead exposure may have already caused. Past research into lead-related diseases, however, has focused heavily on associations between PbBs and various diseases. As a result, your PbB is an important indicator of the likelihood that you will gradually acquire a lead-related health impairment or disease.

d) Once your blood lead level climbs above 40  $\mu\text{g}/100\text{g}$ , your risk of disease increases. There is a wide variability of individual response to lead, thus it is difficult to say that a particular PbB in a given person will cause a particular effect. Studies have associated fatal encephalopathy with PbBs as low as 150  $\mu\text{g}/100\text{g}$ . Other studies have shown other forms of disease in some workers with PbBs well below 80  $\mu\text{g}/100\text{g}$ . Your PbB is a crucial indicator of the risks to your health, but one other factor is extremely important. This factor is the length of time you have had elevated PbBs. The longer you have an elevated PbB, the greater the risk that large quantities of lead are being gradually stored in your organs and tissues (body burden). The greater your overall body burden, the greater the chances of substantial permanent damage.

e) The best way to prevent all forms of lead-related impairments and diseases—both short-term and long-term—is to maintain your PbB below 40  $\mu\text{g}/100\text{g}$ . The provisions of the standard are designed with this end in mind. Your employer has prime responsibility to assure that the provisions of the standard are complied with both by the company and by individual workers. You as a worker, however, also have a responsibility to assist your employer in complying with the standard. You can play a key role in protecting your own health by learning about the lead hazards and their control, learning what the standard requires, following the standard where it governs your own action, and seeing that your employer complies with the provisions governing his actions.

(IV) Reporting signs and symptoms of health problems. You should immediately notify your employer if you develop signs or symptoms associated with lead poisoning or if you desire medical advice concerning the effects of current or past exposure to lead on your ability to have a healthy child. You should also notify your employer if you have difficulty breathing during a respirator fit test or while wearing a respirator. In each of these cases your employer must make available to you appropriate medical examinations or consultations. These must be provided at no cost to you and at a reasonable time and place.

(b) Appendix B. Employee Standard Summary. This appendix summarizes key provisions of the standard that you as a worker should become familiar with. The appendix discusses the entire standard.

(i) Permissible exposure limit (PEL). The standard sets a permissible exposure limit (PEL) of fifty micrograms of lead per cubic meter of air (50  $\mu\text{g}/\text{m}^3$ ), averaged over an eight-hour workday. This is the highest level of lead in air to which you may be permissibly exposed over an eight-hour workday. Since it is an eight-hour average it permits short exposures

above the PEL so long as for each eight-hour workday your average exposure does not exceed the PEL.

(ii) Exposure monitoring.

(A) If lead is present in the work place where you work in any quantity, your employer is required to make an initial determination of whether the action level is exceeded for any employee. The initial determination must include instrument monitoring of the air for the presence of lead and must cover the exposure of a representative number of employees who are reasonably believed to have the highest exposure levels. If your employer has conducted appropriate air sampling for lead in the past year he may use these results. If there have been any employee complaints of symptoms which may be attributable to exposure to lead or if there is any other information or observations which would indicate employee exposure to lead, this must also be considered as part of the initial determination. If this initial determination shows that a reasonable possibility exists that any employee may be exposed, without regard to respirators, over the action level (30  $\mu\text{g}/\text{m}^3$ ) your employer must set up an air monitoring program to determine the exposure level of every employee exposed to lead at your work place.

(B) In carrying out this air monitoring program, your employer is not required to monitor the exposure of every employee, but he or she must monitor a representative number of employees and job types. Enough sampling must be done to enable each employee's exposure level to be reasonably represented by at least one full shift (at least seven hours) air sample. In addition, these air samples must be taken under conditions which represent each employee's regular, daily exposure to lead.

(C) If you are exposed to lead and air sampling is performed, your employer is required to quickly notify you in writing of air monitoring results which represent your exposure. If the results indicate your exposure exceeds the PEL (without regard to your use of respirators), then your employer must also notify you of this in writing, and provide you with a description of the corrective action that will be taken to reduce your exposure.

(D) Your exposure must be rechecked by monitoring every six months if your exposure is over the action level but below the PEL. Air monitoring must be repeated every three months if you are exposed over the PEL. Your employer may discontinue monitoring for you if two consecutive measurements, taken at least two weeks apart, are below the action level. However, whenever there is a production, process, control, or personnel change at your work place which may result in new or additional exposure to lead, or whenever there is any other reason to suspect a change which may result in new or additional exposure to lead, your employer must perform additional monitoring.

(iii) Methods of compliance. Your employer is required to assure that no employee is exposed to lead in excess of the PEL. The standard establishes a priority of methods to be used to meet the PEL.

(iv) Respiratory protection.

(A) Your employer is required to provide and assure your use of respirators when your exposure to lead is not controlled below the PEL by other means. The employer must pay the cost of the respirator. Whenever you request one,



your employer is also required to provide you a respirator even if your air exposure level does not exceed the PEL. You might desire a respirator when, for example, you have received medical advice that your lead absorption should be decreased. Or, you may intend to have children in the near future, and want to reduce the level of lead in your body to minimize adverse reproductive effects. While respirators are the least satisfactory means of controlling your exposure, they are capable of providing significant protection if properly chosen, fitted, worn, cleaned, maintained, and replaced when they stop providing adequate protection.

(B) Your employer is required to select respirators from the seven types listed in Table II of the respiratory protection section of this standard (see subsection (7)(c) of this section). Any respirator chosen must be certified by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 42 CFR part 84. This respirator selection table will enable your employer to choose a type of respirator which will give you a proper amount of protection based on your airborne lead exposure. Your employer may select a type of respirator that provides greater protection than that required by the standard; that is, one recommended for a higher concentration of lead than is present in your work place. For example, a powered air purifying respirator (PAPR) is much more protective than a typical negative-pressure respirator, and may also be more comfortable to wear. A PAPR has a filter, cartridge or canister to clean the air, and a power source which continuously blows filtered air into your breathing zone. Your employer might make a PAPR available to you to ease the burden of having to wear a respirator for long periods of time. The standard provides that you can obtain a PAPR upon request.

(C) Your employer must also start a respiratory protection program. This program must include written procedures for the proper selection, use, cleaning, storage, and maintenance of respirators.

(D) Your employer must assure that your respirator facepiece fits properly. Proper fit of a respirator facepiece is critical to your protection against air borne lead. Obtaining a proper fit on each employee may require your employer to make available several different types of respirator masks. To ensure that your respirator fits properly and that facepiece leakage is minimal, your employer must give you either a qualitative or quantitative fit test as required in chapter ((296-62)) 296-842 WAC((Part E)).

(E) You must also receive from your employer proper training in the use of respirators. Your employer is required to teach you how to wear a respirator, to know why it is needed, and to understand its limitations.

(F) The standard provides that if your respirator uses filter elements, you must be given an opportunity to change the filter elements whenever an increase in breathing resistance is detected. You also must be permitted to periodically leave your work area to wash your face and respirator facepiece whenever necessary to prevent skin irritation. If you ever have difficulty breathing during a fit test or while using a respirator, your employer must make a medical examination available to you to determine whether you can safely wear a respirator. The result of this examination may be to give you

a positive pressure respirator (which reduces breathing resistance) or to provide alternative means of protection.

(v) Protective work clothing and equipment. If you are exposed to lead above the PEL, or if you are exposed to lead compounds such as lead arsenate or lead azide which can cause skin and eye irritation, your employer must provide you with protective work clothing and equipment appropriate for the hazard. If work clothing is provided, it must be provided in a clean and dry condition at least weekly, and daily if your airborne exposure to lead is greater than 200  $\mu\text{g}/\text{m}^3$ . Appropriate protective work clothing and equipment can include coveralls or similar full-body work clothing, gloves, hats, shoes or disposable shoe coverlets, and face shields or vented goggles. Your employer is required to provide all such equipment at no cost to you. He or she is responsible for providing repairs and replacement as necessary and also is responsible for the cleaning, laundering or disposal of protective clothing and equipment. Contaminated work clothing or equipment must be removed in change rooms and not worn home or you will extend your exposure and expose your family since lead from your clothing can accumulate in your house, car, etc. Contaminated clothing which is to be cleaned, laundered or disposed of must be placed in closed containers in the change room. At no time may lead be removed from protective clothing or equipment by any means which disperses lead into the work room air.

(vi) Housekeeping. Your employer must establish a housekeeping program sufficient to maintain all surfaces as free as practicable of accumulations of lead dust. Vacuuming is the preferred method of meeting this requirement, and the use of compressed air to clean floors and other surfaces is absolutely prohibited. Dry or wet sweeping, shoveling, or brushing may not be used except where vacuuming or other equally effective methods have been tried and do not work. Vacuums must be used and emptied in a manner which minimizes the reentry of lead into the work place.

(vii) Hygiene facilities and practices.

(A) The standard requires that change rooms, showers and filtered air lunchrooms be constructed and made available to workers exposed to lead above the PEL. When the PEL is exceeded, the employer must assure that food and beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied, except in these facilities. Change rooms, showers and lunchrooms, must be used by workers exposed in excess of the PEL. After showering, no clothing or equipment worn during the shift may be worn home and this includes shoes and underwear. Your own clothing worn during the shift should be carried home and cleaned carefully so that it does not contaminate your home. Lunchrooms may not be entered with protective clothing or equipment unless surface dust has been removed by vacuuming, downdraft booth or other cleaning methods. Finally, workers exposed above the PEL must wash both their hands and faces prior to eating, drinking, smoking or applying cosmetics.

(B) All of the facilities and hygiene practices just discussed are essential to minimize additional sources of lead absorption from inhalation or ingestion of lead that may accumulate on you, your clothes or your possessions. Strict compliance with these provisions can virtually eliminate sev-



eral sources of lead exposure which significantly contribute to excessive lead absorption.

(viii) Medical surveillance.

(A) The medical surveillance program is part of the standard's comprehensive approach to the prevention of lead-related disease. Its purpose is to supplement the main thrust of the standard which is aimed at minimizing airborne concentrations of lead and sources of ingestion. Only medical surveillance can determine if the other provisions of the standard have effectively protected you as an individual. Compliance with the standard's provision will protect most workers from the adverse effects of lead exposure, but may not be satisfactory to protect individual workers (I) who have high body burdens of lead acquired over past years, (II) who have additional uncontrolled sources of nonoccupational lead exposure, (III) who exhibit unusual variations in lead absorption rates, or (IV) who have specific nonwork related medical conditions which could be aggravated by lead exposure (e.g., renal disease, anemia). In addition, control systems may fail, or hygiene and respirator programs may be inadequate. Periodic medical surveillance of individual workers will help detect those failures. Medical surveillance will also be important to protect your reproductive ability - regardless of whether you are a man or a woman.

(B) All medical surveillance required by the standard must be performed by or under the supervision of a licensed physician. The employer must provide required medical surveillance without cost to employees and at a reasonable time and place. The standard's medical surveillance program has two parts - periodic biological monitoring, and medical examinations.

(C) Your employer's obligation to offer medical surveillance is triggered by the results of the air monitoring program. Medical surveillance must be made available to all employees who are exposed in excess of the action level for more than 30 days a year. The initial phase of the medical surveillance program, which included blood lead level tests and medical examinations, must be completed for all covered employees no later than 180 days from the effective date of this standard. Priority within this first round of medical surveillance must be given to employees whom the employer believes to be at greatest risk from continued exposure (for example, those with the longest prior exposure to lead, or those with the highest current exposure). Thereafter, the employer must periodically make medical surveillance - both biological monitoring and medical examinations - available to all covered employees.

(D) Biological monitoring under the standard consists of blood lead level (PbB) and zinc protoporphyrin tests at least every six months after the initial PbB test. A zinc protoporphyrin (ZPP) test is a very useful blood test which measures an effect of lead on your body. If a worker's PbB exceeds 40  $\mu\text{g}/100\text{g}$ , the monitoring frequency must be increased from every six months to at least every two months and not reduced until two consecutive PbBs indicate a blood lead level below 40  $\mu\text{g}/100\text{g}$ . Each time your PbB is determined to be over 40  $\mu\text{g}/100\text{g}$ , your employer must notify you of this in writing within five working days of the receipt of the test results. The employer must also inform you that the standard requires temporary medical removal with economic protec-

tion when your PbB exceeds certain criteria (see Discussion of Medical Removal Protection - subsection (12)). During the first year of the standard, this removal criterion is 80  $\mu\text{g}/100\text{g}$ . Anytime your PbB exceeds 80  $\mu\text{g}/100\text{g}$  your employer must make available to you a prompt follow-up PbB test to ascertain your PbB. If the two tests both exceed 80  $\mu\text{g}/100\text{g}$  and you are temporarily removed, then your employer must make successive PbB tests available to you on a monthly basis during the period of your removal.

(E) Medical examinations beyond the initial one must be made available on an annual basis if your blood lead levels exceeds 40  $\mu\text{g}/100\text{g}$  at any time during the preceding year. The initial examination will provide information to establish a baseline to which subsequent data can be compared. An initial medical examination must also be made available (prior to assignment) for each employee being assigned for the first time to an area where the airborne concentration of lead equals or exceeds the action level. In addition, a medical examination or consultation must be made available as soon as possible if you notify your employer that you are experiencing signs or symptoms commonly associated with lead poisoning or that you have difficulty breathing while wearing a respirator or during a respirator fit test. You must also be provided a medical examination or consultation if you notify your employer that you desire medical advice concerning the effects of current or past exposure to lead on your ability to procreate a healthy child.

(F) Finally, appropriate follow-up medical examinations or consultations may also be provided for employees who have been temporarily removed from exposure under the medical removal protection provisions of the standard (see item (ix) below).

(G) The standard specifies the minimum content of pre-assignment and annual medical examinations. The content of other types of medical examinations and consultations is left up to the sound discretion of the examining physician. Pre-assignment and annual medical examinations must include (I) a detailed work history and medical history, (II) a thorough physical examination, and (III) a series of laboratory tests designed to check your blood chemistry and your kidney function. In addition, at any time upon your request, a laboratory evaluation of male fertility will be made (microscopic examination of a sperm sample), or a pregnancy test will be given.

(H) The standard does not require that you participate in any of the medical procedures, tests, etc., which your employer is required to make available to you. Medical surveillance can, however, play a very important role in protecting your health. You are strongly encouraged, therefore, to participate in a meaningful fashion. Generally, your employer will choose the physician who conducts medical surveillance under the lead standard - unless you and your employer can agree on the choice of a physician or physicians. Some companies and unions have agreed in advance, for example, to use certain independent medical laboratories or panels of physicians. Any of these arrangements are acceptable so long as required medical surveillance is made available to workers.

(I) The standard requires your employer to provide certain information to a physician to aid in his or her examina-

tion of you. This information includes (I) the standard and its appendices, (II) a description of your duties as they relate to lead exposure, (III) your exposure level, (IV) a description of personal protective equipment you wear, (V) prior blood level results, and (VI) prior written medical opinions concerning you that the employer has. After a medical examination or consultation the physician must prepare a written report which must contain (I) the physician's opinion as to whether you have any medical conditions which places you at increased risk of material impairment to health from exposure to lead, (II) any recommended special protective measures to be provided to you, (III) any blood lead level determinations, and (IV) any recommended limitation on your use of respirators. This last element must include a determination of whether you can wear a powered air purifying respirator (PAPR) if you are found unable to wear a negative pressure respirator.

(J) The medical surveillance program of the lead standard may at some point in time serve to notify certain workers that they have acquired a disease or other adverse medical condition as a result of occupational lead exposure. If this is true these workers might have legal rights to compensation from public agencies, their employers, firms that supply hazardous products to their employers, or other persons. Some states have laws, including worker compensation laws, that disallow a worker to learn of a job-related health impairment to sue, unless the worker sues within a short period of time after learning of the impairment. (This period of time may be a matter of months or years.) An attorney can be consulted about these possibilities. It should be stressed that WISHA is in no way trying to either encourage or discourage claims or lawsuits. However, since results of the standard's medical surveillance program can significantly affect the legal remedies of a worker who has acquired a job-related disease or impairment, it is proper for WISHA to make you aware of this.

(K) The medical surveillance section of the standard also contains provisions dealing with chelation. Chelation is the use of certain drugs (administered in pill form or injected into the body) to reduce the amount of lead absorbed in body tissues. Experience accumulated by the medical and scientific communities has largely confirmed the effectiveness of this type of therapy for the treatment of very severe lead poisoning. On the other hand it has also been established that there can be a long list of extremely harmful side effects associated with the use of chelating agents. The medical community has balanced the advantages and disadvantages resulting from the use of chelating agents in various circumstances and has established when the use of these agents is acceptable. The standard includes these accepted limitations due to a history of abuse of chelation therapy by some lead companies. The most widely used chelating agents are calcium disodium EDTA, (Ca Na<sub>2</sub>EDTA), Calcium Disodium Versenate (Versenate), and d-penicillamine (penicillamine or Cupramine).

(L) The standard prohibits "prophylactic chelation" of any employee by any person the employer retains, supervises or controls. "Prophylactic chelation" is the routine use of chelating or similarly acting drugs to prevent elevated blood levels in workers who are occupationally exposed to lead, or

the use of these drugs to routinely lower blood lead levels to predesignated concentrations believed to be safe. It should be emphasized that where an employer takes a worker who has no symptoms of lead poisoning and has chelation carried out by a physician (either inside or outside of a hospital) solely to reduce the worker's blood lead level, that will generally be considered prophylactic chelation. The use of a hospital and a physician does not mean that prophylactic chelation is not being performed. Routine chelation to prevent increased or reduce current blood lead levels is unacceptable whatever the setting.

(M) The standard allows the use of "therapeutic" or "diagnostic" chelation if administered under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring. Therapeutic chelation responds to severe lead poisoning where there are marked symptoms. Diagnostic chelation, involves giving a patient a dose of the drug then collecting all urine excreted for some period of time as an aid to the diagnosis of lead poisoning.

(N) In cases where the examining physician determines that chelation is appropriate, you must be notified in writing of this fact before such treatment. This will inform you of a potentially harmful treatment, and allow you to obtain a second opinion.

(ix) Medical removal protection.

(A) Excessive lead absorption subjects you to increased risk of disease. Medical removal protection (MRP) is a means of protecting you when for whatever reasons, other methods, such as engineering controls, work practices, and respirators, have failed to provide the protection you need. MRP involves the temporary removal of a worker from his or her regular job to a place of significantly lower exposure without any loss of earnings, seniority, or other employment rights of benefits. The purpose of this program is to cease further lead absorption and allow your body to naturally excrete lead which has previously been absorbed. Temporary medical removal can result from an elevated blood lead level, or a medical opinion. Up to eighteen months of protection is provided as a result of either form of removal. The vast majority of removed workers, however, will return to their former jobs long before this eighteen month period expires. The standard contains special provisions to deal with the extraordinary but possible case where a long-term worker's blood lead level does not adequately decline during eighteen months of removal.

(B) During the first year of the standard, if your blood lead level is 80 µg/100g or above you must be removed from any exposure where your air lead level without a respirator would be 100 µg/m<sup>3</sup> or above. If you are removed from your normal job you may not be returned until your blood lead level declines to at least 60 µg/100g. These criteria for removal and return will change according to the following schedule:

TABLE 1

Effective Date	Removal Blood Level (µg/100g)	Air Lead (µg/m <sup>3</sup> )	Return Blood Lead (µg/100g)
9/6/81	At or above 70	50 or above	At or below 50

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TABLE 1

Effective Date	Removal Blood Level ( $\mu\text{g}/100\text{g}$ )	Air Lead ( $\mu\text{g}/\text{m}^3$ )	Return Blood Lead ( $\mu\text{g}/100\text{g}$ )
9/6/82	At or above 60	30 or above	At or below 40
9/6/84	At or above 50 averaged over six months	30 or above	At or below 40

(C) You may also be removed from exposure even if your blood lead levels are below these criteria if a final medical determination indicates that you temporarily need reduced lead exposure for medical reasons. If the physician who is implementing your employer's medical program makes a final written opinion recommending your removal or other special protective measures, your employer must implement the physician's recommendation. If you are removed in this manner, you may only be returned when the physician indicates it is safe for you to do so.

(D) The standard does not give specific instructions dealing with what an employer must do with a removed worker. Your job assignment upon removal is a matter for you, your employer and your union (if any) to work out consistent with existing procedures for job assignments. Each removal must be accomplished in a manner consistent with existing collective bargaining relationships. Your employer is given broad discretion to implement temporary removals so long as no attempt is made to override existing agreements. Similarly, a removed worker is provided no right to veto an employer's choice which satisfies the standard.

(E) In most cases, employers will likely transfer removed employees to other jobs with sufficiently low lead exposure. Alternatively, a worker's hours may be reduced so that the time weighted average exposure is reduced, or he or she may be temporarily laid off if no other alternative is feasible.

(F) In all of these situations, MRP benefits must be provided during the period of removal - i.e., you continue to receive the same earnings, seniority, and other rights and benefits you would have had if you had not been removed. Earnings include more than just your base wage; it includes overtime, shift differentials, incentives, and other compensation you would have earned if you had not been removed. During the period of removal you must also be provided with appropriate follow-up medical surveillance. If you were removed because your blood lead level was too high, you must be provided with a monthly blood test. If a medical opinion caused your removal, you must be provided medical tests or examinations that the physician believes to be appropriate. If you do not participate in this follow-up medical surveillance, you may lose your eligibility for MRP benefits.

(G) When you are medically eligible to return to your former job, your employer must return you to your "former job status." This means that you are entitled to the position, wages, benefits, etc., you would have had if you had not been removed. If you would still be in your old job if no removal

had occurred, that is where you go back. If not, you are returned consistent with whatever job assignment discretion your employer would have had if no removal had occurred. MRP only seeks to maintain your rights, not expand them or diminish them.

(H) If you are removed under MRP and you are also eligible for worker compensation or other compensation for lost wages, your employer's MRP benefits obligation is reduced by the amount that you actually receive from these other sources. This is also true if you obtain other employment during the time you are laid off with MRP benefits.

(I) The standard also covers situations where an employer voluntarily removes a worker from exposure to lead due to the effects of lead on the employee's medical condition, even though the standard does not require removal. In these situations MRP benefits must still be provided as though the standard required removal. Finally, it is important to note that in all cases where removal is required, respirators cannot be used as a substitute. Respirators may be used before removal becomes necessary, but not as an alternative to a transfer to a low exposure job, or to a lay-off with MRP benefits.

(x) Employee information and training.

(A) Your employer is required to provide an information and training program for all employees exposed to lead above the action level or who may suffer skin or eye irritation from lead. This program must inform these employees of the specific hazards associated with their work environment, protective measures which can be taken, the danger of lead to their bodies (including their reproductive systems), and their rights under the standard. In addition, your employer must make readily available to all employees, including those exposed below the action level, a copy of the standard and its appendices and must distribute to all employees any materials provided to the employer under the Washington Industrial Safety and Health Act (WISHA).

(B) Your employer is required to complete this training for all employees by March 4, 1981. After this date, all new employees must be trained prior to initial assignment to areas where there is possibility of exposure over the action level. This training program must also be provided at least annually thereafter.

(xi) Signs. The standard requires that the following warning sign be posted in work areas where the exposure to lead exceeds the PEL:

WARNING  
LEAD WORK AREA  
NO SMOKING OR EATING

(xii) Recordkeeping.

(A) Your employer is required to keep all records of exposure monitoring for airborne lead. These records must include the name and job classification of employees measured, details of the sampling and analytic techniques, the results of this sampling and the type of respiratory protection being worn by the person sampled. Your employer is also required to keep all records of biological monitoring and medical examination results. These must include the names of the employees, the physician's written opinion and a copy of the results of the examination. All of the above kinds of

records must be kept for 40 years, or for at least 20 years after your termination of employment, whichever is longer.

(B) Recordkeeping is also required if you are temporarily removed from your job under the MRP program. This record must include your name and social security number, the date of your removal and return, how the removal was or is being accomplished, and whether or not the reason for the removal was an elevated blood lead level. Your employer is required to keep each medical removal record only for as long as the duration of an employee's employment.

(C) The standard requires that if you request to see or copy environmental monitoring, blood lead level monitoring, or medical removal records, they must be made available to you or to a representative that you authorize. Your union also has access to these records. Medical records other than PbBs must also be provided to you upon request, to your physician or to any other person whom you may specifically designate. Your union does not have access to your personal medical records unless you authorize their access.

(xiii) Observations of monitoring. When air monitoring for lead is performed at your work place as required by this standard, your employer must allow you or someone you designate to act as an observer of the monitoring. Observers are entitled to an explanation of the measurement procedure, and to record the results obtained. Since results will not normally be available at the time of the monitoring, observers are entitled to record or receive the results of the monitoring when returned by the laboratory. Your employer is required to provide the observer with any personal protective devices required to be worn by employees working in the areas that is being monitored. The employer must require the observer to wear all such equipment and to comply with all other applicable safety and health procedures.

(xiv) Effective date. The standard's effective date is September 6, 1980, and the employer's obligation under the standard begin to come into effect as of that date. The standard was originally adopted as WAC 296-62-07349 and later recodified to WAC 296-62-07521.

(c) Appendix C. Medical Surveillance Guidelines.

(i) Introduction.

(A) The primary purpose of the Washington Industrial Safety and Health Act of 1973 is to assure, so far as possible, safe and healthful working conditions for every working man and woman. The occupational health standard for inorganic lead\* was promulgated to protect workers exposed to inorganic lead including metallic lead, all inorganic lead compounds and organic lead soaps.

\*The term inorganic lead used throughout the medical surveillance appendices is meant to be synonymous with the definition of lead set forth in the standard.

(B) Under this final standard in effect as of September 6, 1980, occupational exposure to inorganic lead is to be limited to 50 µg/m<sup>3</sup> (micrograms per cubic meter) based on an eight-hour time-weighted average (TWA). This level of exposure eventually must be achieved through a combination of engineering, work practice and other administrative controls. Periods of time ranging from one to ten years are provided for different industries to implement these controls which are based on individual industry considerations. Until these con-

trols are in place, respirators must be used to meet the 50 µg/m<sup>3</sup> exposure limit.

(C) The standard also provides for a program of biological monitoring and medical surveillance for all employees exposed to levels of inorganic lead above the action level of 30 µg/m<sup>3</sup> for more than thirty days per year.

(D) The purpose of this document is to outline the medical surveillance provisions of the standard for inorganic lead, and to provide further information to the physician regarding the examination and evaluation of workers exposed to inorganic lead.

(E) Item (ii) provides a detailed description of the monitoring procedure including the required frequency of blood testing for exposed workers, provisions for medical removal protection (MRP), the recommended right of the employee to a second medical opinion, and notification and recordkeeping requirements of the employer. A discussion of the requirements for respirator use and respirator monitoring and WISHA's position on prophylactic chelation therapy are also included in this section.

(F) Item (iii) discusses the toxic effects and clinical manifestations of lead poisoning and effects of lead intoxication on enzymatic pathways in heme synthesis. The adverse effects on both male and female reproductive capacity and on the fetus are also discussed.

(G) Item (iv) outlines the recommended medical evaluation of the worker exposed to inorganic lead including details of the medical history, physical examination, and recommended laboratory tests, which are based on the toxic effects of lead as discussed in item (ii).

(H) Item (v) provides detailed information concerning the laboratory tests available for the monitoring of exposed workers. Included also is a discussion of the relative value of each test and the limitations and precautions which are necessary in the interpretation of the laboratory results.

(I) Airborne levels to be achieved without reliance or respirator protection through a combination of engineering and work practice or other administrative controls are illustrated in the following table:

Industry	Permissible Lead Level/Compliance Date		
	200µg/m <sup>3</sup>	100µg/m <sup>3</sup>	50µg/m <sup>3</sup>
Primary Lead Production	1973	06/29/84	06/29/91
Secondary Lead Production	1973	06/29/84	06/29/91
Lead Acid Battery Manufacturing	1973	06/29/83	06/29/91
Automobile Mfg./Solder, Grinding	1973	N/A	03/08/97
Electronics, Gray Iron Foundries, Ink Mfg., Paints and Coatings Mfg., Can Mfg., Wallpaper Mfg., and Printing.	1973	N/A	06/29/91

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Industry	Permissible Lead Level/Compliance Date		
	200µg/m <sup>3</sup>	100µg/m <sup>3</sup>	50µg/m <sup>3</sup>
Lead Chemical Mfg., Nonferrous Foundries, Leaded Steel Mfg., Battery Breaking in the Collection and Processing of Scrap (when not a part of secondary lead smelter)			
Secondary Copper Smelter, Brass and Bronze Ingot Production.	1973	N/A	N/A <sup>1*</sup>
All Other Industries	1973	N/A	09/08/92

\* Feasibility of achieving the PEL by engineering and work practice controls for these industries has yet to be resolved in court, therefore no date has been scheduled.

(ii) Medical surveillance and monitoring requirements for workers exposed to inorganic lead.

(A) Under the occupational health standard for inorganic lead, a program of biological monitoring and medical surveillance is to be made available to all employees exposed to lead above the action level of 30 µg/m<sup>3</sup> TWA for more than thirty days each year. This program consists of periodic blood sampling and medical evaluation to be performed on a schedule which is defined by previous laboratory results, worker complaints or concerns, and the clinical assessment of the examining physician.

(B) Under this program, the blood lead level of all employees who are exposed to lead above the action level of 30 µg/m<sup>3</sup> is to be determined at least every six months. The frequency is increased to every two months for employees

whose last blood lead level was between 40µg/100g whole blood and the level requiring employee medical removal to be discussed below. For employees who are removed from exposure to lead due to an elevated blood lead, a new blood lead level must be measured monthly. Zinc protoporphyrin (ZPP) measurement is required on each occasion that a blood lead level measurement is made.

(C) An annual medical examination and consultation performed under the guidelines discussed in item (iv) is to be made available to each employee for whom a blood test conducted at any time during the preceding twelve months indicated a blood lead level at or above 40 µg/100g. Also, an examination is to be given to all employees prior to their assignment to an area in which airborne lead concentrations reach or exceed the action level. In addition, a medical examination must be provided as soon as possible after notification by an employee that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice regarding lead exposure and the ability to procreate a healthy child, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during respirator use. An examination is also to be made available to each employee removed from exposure to lead due to a risk of sustaining material impairment to health, or otherwise limited or specially protected pursuant to medical recommendations.

(D) Results of biological monitoring or the recommendations of an examining physician may necessitate removal of an employee from further lead exposure pursuant to the standard's medical removal program (MRP). The object of the MRP program is to provide temporary medical removals to workers either with substantially elevated blood lead levels or otherwise at risk of sustaining material health impairment from continued substantial exposure to lead. The following guidelines which are summarized in Table 10 were created under the standard for the temporary removal of an exposed employee and his or her subsequent return to work in an exposure area.

TABLE 10

EFFECTIVE DATE

	Sept. 6, 1980	Sept. 6, 1981	Sept. 6, 1982	Sept. 6, 1983	Sept. 6, 1984
A. Blood lead level requiring employee medical removal (level must be confirmed with second follow-up blood lead level within two weeks of first report).	>80 µg/100g.	>70 µg/100g.	>60 µg/100g.	>60 µg/100g.	>60 µg/100g or average of last three blood samples or all blood samples over previous 6 months (whichever is over a longer time period) is 50 µg/100g. or greater unless last sample is 40 µg/100g or less.

TABLE 10  
EFFECTIVE DATE

	Sept. 6, 1980	Sept. 6, 1981	Sept. 6, 1982	Sept. 6, 1983	Sept. 6, 1984
B. Frequency which employees exposed is action level of lead (30 µg/m <sup>3</sup> TWA) must have blood lead level checked. (ZPP is also required in each occasion that a blood test is obtained):					
1. Last blood lead level less than 40 µg/100g . . . . .	Every 6 months.	Every 6 months.	Every 6 months.	Every 6 months.	Every 6 months.
2. Last blood lead level between 40 µg/100g and level requiring medical removal (see A above) . . . . .	Every 2 months.	Every 2 months.	Every 2 months.	Every 2 months.	Every 2 months.
3. Employees removed from exposure to lead because of an elevated blood lead level . . . . .	Every 1 month.	Every 1 month.	Every 1 month.	Every 1 month.	Every 1 month.
C. Permissible airborne exposure limit for workers removed from work due to an elevated blood lead level (without regard to respirator protection).					
	100 µg/m <sup>3</sup> 8 hr TWA	50 µg/m <sup>3</sup> 8 hr TWA	30 µg/m <sup>3</sup> 8 hr TWA	30 µg/m <sup>3</sup> 8 hr TWA	30 µg/m <sup>3</sup> 8 hr TWA
D. Blood lead level confirmed with a second blood analysis, at which employee may return to work. Permissible exposure without regard to respirator protection is listed by industry in Table 1.					
	60 µg/100g	50 µg/100g	40 µg/100g	40 µg/100g	40 µg/100g

Note: Where medical opinion indicates that an employee is at risk of material impairment from exposure to lead, the physician can remove an employee from exposure exceeding the action level (or less) or recommend special protective measures as deemed appropriate and necessary. Medical monitoring during the medical removal period can be more stringent than noted in the table above if the physician so specifies. Return to work or removal of limitations and special protections is permitted when the physician indicates that the worker is no longer at risk of material impairment.

(E) Under the standard's ultimate worker removal criteria, a worker is to be removed from any work having any eight-hour TWA exposure to lead of 30 µg/m<sup>3</sup> or more whenever either of the following circumstances apply. (I) a blood lead level of 60 µg/100g or greater is obtained and confirmed by a second follow-up blood lead level performed within two weeks after the employer receives the results of the first

blood sample test, or (II) the average of the previous three blood lead determinations or the average of all blood lead determinations conducted during the previous six months, whichever encompasses the longest time period, equals or exceeds 50 µg/100g, unless the last blood sample indicates a blood lead level at or below 40 µg/100g, in which case the employee need not be removed. Medical removal is to con-

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tinue until two consecutive blood lead levels are 40  $\mu\text{g}/100\text{g}$  or less.

(F) During the first two years that the ultimate removal criteria are being phased in, the return criteria have been set to assure that a worker's blood lead level has substantially declined during the period of removal. From March 1, 1979, to March 1, 1980, the blood lead level requiring employee medical removal is 80  $\mu\text{g}/100\text{g}$ . Workers found to have a confirmed blood lead at this level or greater need only be removed from work having a daily eight hour TWA exposure to lead at or above 100  $\mu\text{g}/\text{m}^3$ . Workers so removed are to be returned to work when their blood lead levels are at or below 60  $\mu\text{g}/100\text{g}$  of whole blood. From March 1, 1980, to March 1, 1981, the blood lead level requiring medical removal is 70  $\mu\text{g}/100\text{g}$ . During this period workers need only be removed from jobs having a daily eight hour TWA exposure to lead at or above 50  $\mu\text{g}/\text{m}^3$  and are to be returned to work when a level of 50  $\mu\text{g}/100\text{g}$  is achieved. Beginning March 1, 1981, return depends on the worker's blood lead level declining to 40  $\mu\text{g}/100\text{g}$  of whole blood.

(G) As part of the standard, the employer is required to notify in writing each employee whose whole blood lead level exceeds 40  $\mu\text{g}/100\text{g}$ . In addition, each such employee is to be informed that the standard requires medical removal with MRP benefits, discussed below, when an employee's blood lead level exceeds the above defined limits.

(H) In addition to the above blood lead level criteria, temporary worker removal may also take place as a result of medical determinations and recommendations. Written medical opinions must be prepared after each examination pursuant to the standard. If the examining physician includes medical finding, determination or opinion that the employee has a medical condition which places the employee at increased risk of material health impairment from exposure to lead, then the employee must be removed from exposure to lead at or above the action level. Alternatively, if the examining physician recommends special protective measures for an employee (e.g., use of a powered air purifying respirator) or recommends limitations on an employee's exposure to lead, then the employer must implement these recommendations. Recommendations may be more stringent than the specific provisions of the standard. The examining physician, therefore, is given broad flexibility to tailor special protective procedures to the needs of individual employees. This flexibility extends to the evaluation and management of pregnant workers and male and female workers who are planning to conceive children. Based on the history, physical examination, and laboratory studies, the physician might recommend special protective measures or medical removal for an employee who is pregnant or who is planning to conceive a child when, in the physician's judgment, continued exposure to lead at the current job would pose a significant risk. The return of the employee to his or her former job status, or the removal of special protections or limitations, depends upon the examining physician determining that the employee is no longer at increased risk of material impairment or that the special measures are no longer needed.

(I) During the period of any form of special protection or removal, the employer must maintain the worker's earnings,

seniority, and other employment rights and benefits (as though the worker has not been removed) for a period of up to eighteen months. This economic protection will maximize meaningful worker participation in the medical surveillance program, and is appropriate as part of the employer's overall obligation to provide a safe and healthful work place. The provisions of MRP benefits during the employee's removal period may, however, be conditioned upon participation in medical surveillance.

(J) On rare occasions, an employee's blood lead level may not acceptably decline within eighteen months of removal. This situation will arise only in unusual circumstances, thus the standard relies on an individual medical examination to determine how to protect such an employee. This medical determination is to be based on both laboratory values, including lead levels, zinc protoporphyrin levels, blood counts, and other tests felt to be warranted, as well as the physician's judgment that any symptoms or findings on physical examination are a result of lead toxicity. The medical determination may be that the employee is incapable of ever safely returning to his or her former job status. The medical determination may provide additional removal time past eighteen months for some employees or specify special protective measures to be implemented.

(K) The lead standard provides for a multiple physician review in cases where the employee wishes a second opinion concerning potential lead poisoning or toxicity. If an employee wishes a second opinion, he or she can make an appointment with a physician of his or her choice. This second physician will review the findings, recommendations or determinations of the first physician and conduct any examinations, consultations or tests deemed necessary in an attempt to make a final medical determination. If the first and second physicians do not agree in their assessment they must try to resolve their differences. If they cannot reach an agreement then they must designate a third physician to resolve the dispute.

(L) The employer must provide examining and consulting physicians with the following specific information: A copy of the lead regulations and all appendices, a description of the employee's duties as related to exposure, the exposure level to lead and any other toxic substances (if applicable), a description of personal protective equipment used, blood lead levels, and all prior written medical opinions regarding the employee in the employer's possession or control. The employer must also obtain from the physician and provide the employee with a written medical opinion containing blood lead levels, the physician's opinion as to whether the employee is at risk of material impairment to health, any recommended protective measures for the employee if further exposure is permitted, as well as any recommended limitations upon an employee's use of respirators.

(M) Employers must instruct each physician not to reveal to the employer in writing or in any other way his or her findings, laboratory results, or diagnoses which are felt to be unrelated to occupational lead exposure. They must also instruct each physician to advise the employee of any occupationally or nonoccupationally related medical condition requiring further treatment or evaluation.



(N) The standard provides for the use of respirators when engineering and other primary controls have not been fully implemented. However, the use of respirator protection shall not be used in lieu of temporary medical removal due to elevated blood lead levels or findings that an employee is at risk of material health impairment. This is based on the numerous inadequacies of respirators including skin rash where the facepiece makes contact with the skin, unacceptable stress to breathing in some workers with underlying cardiopulmonary impairment, difficulty in providing adequate fit, the tendency for respirators to create additional hazards by interfering with vision, hearing, and mobility, and the difficulties of assuring the maximum effectiveness of a complicated work practice program involving respirators. Respirators do, however, serve a useful function where engineering and work practice are inadequate by providing interim or short-term protection, provided they are properly selected for the environment in which the employee will be working, properly fitted to the employee, maintained and cleaned periodically, and worn by the employee when required.

(O) In its final standard on occupational exposure to inorganic lead, WISHA has prohibited prophylactic chelation. Diagnostic and therapeutic chelation are permitted only under the supervision of a licensed physician with appropriate medical monitoring in an acceptable clinical setting. The decision to initiate chelation therapy must be made on an individual basis and take into account the severity of symptoms felt to be a result of lead toxicity along with blood lead levels, ZPP levels and other laboratory tests as appropriate. EDTA and penicillamine, which are the primary chelating agents used in the therapy of occupational lead poisoning, have significant potential side effects and their use must be justified on the basis of expected benefits to the worker.

(P) Unless frank and severe symptoms are present, therapeutic chelation is not recommended given the opportunity to remove a worker from exposure and allow the body to naturally excrete accumulated lead. As a diagnostic aid, the chelation mobilization test using CA-EDTA has limited applicability. According to some investigators, the tests can differentiate between lead-induced and other nephropathies. The test may also provide an estimation of the mobile fraction of the total body lead burden.

(Q) Employers are required to assure that accurate records are maintained on exposure monitoring, medical surveillance, and medical removal for each employee. Exposure monitoring and medical surveillance records must be kept for forty years or the duration of employment plus twenty years, whichever is longer, while medical removal records must be maintained for the duration of employment. All records required under the standard must be made available upon request to representatives of the director of the department of labor and industries. Employers must also make environmental and biological monitoring and medical removal records available to affected employees and to former employees or their authorized employee representatives. Employees or their specifically designated representatives have access to their entire medical surveillance records.

(R) In addition, the standard requires that the employer inform all workers exposed to lead at or above the action level of the provisions of the standard and all its appendices,

the purpose and description of medical surveillance and provisions for medical removal protection if temporary removal is required. An understanding of the potential health effects of lead exposure by all exposed employees along with full understanding of their rights under the lead standard is essential for an effective monitoring program.

(iii) Adverse health effects of inorganic lead.

(A) Although the toxicity of lead has been known for 2,000 years, the knowledge of the complex relationship between lead exposure and human response is still being refined. Significant research into the toxic properties of lead continues throughout the world, and it should be anticipated that our understanding of thresholds of effects and margins of safety will be improved in future years. The provisions of the lead standard are founded on two prime medical judgments; first, the prevention of adverse health effects from exposure to lead throughout a working lifetime requires that worker blood lead levels be maintained at or below 40  $\mu\text{g}/100\text{g}$ , and second, the blood lead levels of workers, male or female, who intend to parent in the near future should be maintained below 30  $\mu\text{g}/100\text{g}$  to minimize adverse reproduction health effects to the parent and developing fetus. The adverse effects of lead on reproduction are being actively researched and WISHA encourages the physician to remain abreast of recent developments in the area to best advise pregnant workers or workers planning to conceive children.

(B) The spectrum of health effects caused by lead exposure can be subdivided into five developmental states; normal, physiological changes of uncertain significance, pathophysiological changes, overt symptoms (morbidity), and mortality. Within this process there are no sharp distinctions, but rather a continuum of effects. Boundaries between categories overlap due to the wide variation of individual responses and exposures in the working population. WISHA's development of the lead standard focused on pathophysiological changes as well as later stages of disease.

(I) Heme synthesis inhibition.

a) The earliest demonstrated effect of lead involves its ability to inhibit at least two enzymes of the heme synthesis pathway at very low blood levels. Inhibition of delta aminolevulinic acid dehydrase (ALA-D) which catalyzes the conversion of delta-aminolevulinic acid (ALA) to protoporphyrin is observed at a blood lead level below 20  $\mu\text{g}/100\text{g}$  whole blood. At a blood lead level of 40  $\mu\text{g}/100\text{g}$ , more than twenty percent of the population would have seventy percent inhibition of ALA-D. There is an exponential increase in ALA excretion at blood lead levels greater than 40  $\mu\text{g}/100\text{g}$ .

b) Another enzyme, ferrochelatase, is also inhibited at low blood lead levels. Inhibition of ferrochelatase leads to increased free erythrocyte protoporphyrin (FEP) in the blood which can then bind to zinc to yield zinc protoporphyrin. At a blood lead level of 50  $\mu\text{g}/100\text{g}$  or greater, nearly 100 percent of the population will have an increase FEP. There is also an exponential relationship between blood lead levels greater than 40  $\mu\text{g}/100\text{g}$  and the associated ZPP level, which has led to the development of the ZPP screening test for lead exposure.

c) While the significance of these effects is subject to debate, it is WISHA's position that these enzyme distur-



bances are early stages of a disease process which may eventually result in the clinical symptoms of lead poisoning. Whether or not the effects do progress to the later stages of clinical disease, disruption of these enzyme processes over a working lifetime is considered to be a material impairment of health.

d) One of the eventual results of lead-induced inhibition of enzymes in the heme synthesis pathway is anemia which can be asymptomatic if mild but associated with a wide array of symptoms including dizziness, fatigue, and tachycardia when more severe. Studies have indicated that lead levels as low as 50  $\mu\text{g}/100\text{g}$  can be associated with a definite decreased hemoglobin, although most cases of lead-induced anemia, as well as shortened red-cell survival times, occur at lead levels exceeding 80  $\mu\text{g}/100\text{g}$ . Inhibited hemoglobin synthesis is more common in chronic cases whereas shortened erythrocyte life span is more common in acute cases.

e) In lead-induced anemias, there is usually a reticulocytosis along with the presence of basophilic stippling, and ringed sideroblasts, although none of the above are pathognomonic for lead-induced anemia.

#### (II) Neurological effects.

a) Inorganic lead had been found to have toxic effects on both the central and peripheral nervous systems. The earliest stage of lead-induced central nervous system effects first manifest themselves in the form of behavioral disturbances and central nervous system symptoms including irritability, restlessness, insomnia and other sleep disturbances, fatigue, vertigo, headache, poor memory, tremor, depression, and apathy. With more severe exposure, symptoms can progress to drowsiness, stupor, hallucinations, delirium, convulsions and coma.

b) The most severe and acute form of lead poisoning which usually follows ingestion or inhalation of large amounts of lead is acute encephalopathy which may arise precipitously with the onset of intractable seizures, coma, cardiorespiratory arrest, and death within 48 hours.

c) While there is disagreement about what exposure levels are needed to produce the earliest symptoms, most experts agree that symptoms definitely can occur at blood lead levels of 60  $\mu\text{g}/100\text{g}$  whole blood and therefore recommend a 40  $\mu\text{g}/100\text{g}$  maximum. The central nervous system effects frequently are not reversible following discontinued exposure or chelation therapy and when improvement does occur, it is almost always only partial.

d) The peripheral neuropathy resulting from lead exposure characteristically involves only motor function with minimal sensory damage and has a marked predilection for the extensor muscles of the most active extremity. The peripheral neuropathy can occur with varying degrees of severity. The earliest and mildest form which can be detected in workers with blood lead levels as low as 50  $\mu\text{g}/100\text{g}$  is manifested by slowing of motor nerve conduction velocity often without clinical symptoms. With progression of the neuropathy there is development of painless extensor muscle weakness usually involving the extensor muscles of the fingers and hand in the most active upper extremity, followed in severe cases by wrist drop, much less commonly, foot drop.

e) In addition to slowing of nerve conduction, electromyographical studies in patients with blood lead levels

greater than 50  $\mu\text{g}/100\text{g}$  have demonstrated a decrease in the number of acting motor unit potentials, an increase in the duration of motor unit potentials, and spontaneous pathological activity including fibrillations and fasciculation. Whether these effects occur at levels of 40  $\mu\text{g}/100\text{g}$  is undetermined.

f) While the peripheral neuropathies can occasionally be reversed with therapy, again such recovery is not assured particularly in the more severe neuropathies and often improvement is only partial. The lack of reversibility is felt to be due in part to segmental demyelination.

(III) Gastrointestinal. Lead may also effect the gastrointestinal system producing abdominal colic or diffuse abdominal pain, constipation, obstipation, diarrhea, anorexia, nausea and vomiting. Lead colic rarely develops at blood lead levels below 80  $\mu\text{g}/100\text{g}$ .

#### (IV) Renal.

a) Renal toxicity represents one of the most serious health effects of lead poisoning. In the early stages of disease nuclear inclusion bodies can frequently be identified in proximal renal tubular cells. Renal functions remain normal and the changes in this stage are probably reversible. With more advanced disease there is progressive interstitial fibrosis and impaired renal function. Eventually extensive interstitial fibrosis ensues with sclerotic glomeruli and dilated and atrophied proximal tubules; all represent end stage kidney disease. Azotemia can be progressive, eventually resulting in frank uremia necessitating dialysis. There is occasionally associated hypertension and hyperuricemia with or without gout.

b) Early kidney disease is difficult to detect. The urinalysis is normal in early lead nephropathy and the blood urea nitrogen and serum creatinine increase only when two-thirds of kidney function is lost. Measurement of creatinine clearance can often detect earlier disease as can other methods of measurement of glomerular filtration rate. An abnormal Ca-EDTA mobilization test has been used to differentiate between lead-induced and other nephropathies, but this procedure is not widely accepted. A form of Fanconi syndrome with aminoaciduria, glycosuria, and hyperphosphaturia indicating severe injury to the proximal renal tubules is occasionally seen in children.

#### (V) Reproductive effects.

a) Exposure to lead can have serious effects on reproductive function in both males and females. In male workers exposed to lead there can be a decrease in sexual drive, impotence, decreased ability to produce healthy sperm, and sterility. Malformed sperm (teratospermia), decreased number of sperm (hypospermia), and sperm with decreased motility (asthenospermia) can occur. Teratospermia has been noted at mean blood lead levels of 53  $\mu\text{g}/100\text{g}$  and hypospermia and asthenospermia at 41  $\mu\text{g}/100\text{g}$ . Furthermore, there appears to be a dose-response relationship for teratospermia in lead exposed workers.

b) Women exposed to lead may experience menstrual disturbances including dysmenorrhea, menorrhagia and amenorrhea. Following exposure to lead, women have a higher frequency of sterility, premature births, spontaneous miscarriages, and stillbirths.

c) Germ cells can be affected by lead and cause genetic damage in the egg or sperm cells before conception and result in failure to implant, miscarriage, stillbirth, or birth defects.

d) Infants of mothers with lead poisoning have a higher mortality during the first year and suffer from lowered birth weights, slower growth, and nervous system disorders.

e) Lead can pass through the placental barrier and lead levels in the mother's blood are comparable to concentrations of lead in the umbilical cord at birth. Transplacental passage becomes detectable at 12-14 weeks of gestation and increases until birth.

f) There is little direct data on damage to the fetus from exposure to lead but it is generally assumed that the fetus and newborn would be at least as susceptible to neurological damage as young children. Blood lead levels of 50-60 µg/100g in children can cause significant neurobehavioral impairments, and there is evidence of hyperactivity at blood levels as low as 25 µg/100g. Given the overall body of literature concerning the adverse health effects of lead in children, WISHA feels that the blood lead level in children should be maintained below 30 µg/100g with a population mean of 15 µg/100g. Blood lead levels in the fetus and newborn likewise should not exceed 30 µg/100g.

g) Because of lead's ability to pass through the placental barrier and also because of the demonstrated adverse effects of lead on reproductive function in both males and females as well as the risk of genetic damage of lead on both the ovum and sperm, WISHA recommends a 30 µg/100g maximum permissible blood lead level in both males and females who wish to bear children.

(IV) Other toxic effects.

a) Debate and research continue on the effects of lead on the human body. Hypertension has frequently been noted in occupationally exposed individuals although it is difficult to assess whether this is due to lead's adverse effects on the kidneys or if some other mechanism is involved.

b) Vascular and electrocardiographic changes have been detected but have not been well characterized. Lead is thought to impair thyroid function and interfere with the pituitary-adrenal axis, but again these effects have not been well defined.

(iv) Medical evaluation.

(A) The most important principle in evaluating a worker for any occupational disease including lead poisoning is a high index of suspicion on the part of the examining physician. As discussed in Section (ii), lead can affect numerous organ systems and produce a wide array of signs and symptoms, most of which are nonspecific and subtle in nature at least in the early stages of disease. Unless serious concern for lead toxicity is present, many of the early clues to diagnosis may easily be overlooked.

(B) The crucial initial step in the medical evaluation is recognizing that a worker's employment can result in exposure to lead. The worker will frequently be able to define exposures to lead and lead-containing materials but often will not volunteer this information unless specifically asked. In other situations the worker may not know of any exposures to lead but the suspicion might be raised on the part of the physician because of the industry or occupation of the worker. Potential occupational exposure to lead and its compounds

occur in at least 120 occupations, including lead smelting, the manufacture of lead storage batteries, the manufacture of lead pigments and products containing pigments, solder manufacture, shipbuilding and ship repair, auto manufacturing, construction, and painting.

(C) Once the possibility for lead exposure is raised, the focus can then be directed toward eliciting information from the medical history, physical exam, and finally from laboratory data to evaluate the worker for potential lead toxicity.

(D) A complete and detailed work history is important in the initial evaluation. A listing of all previous employment with information on work processes, exposure to fumes or dust, known exposures to lead or other toxic substances, respiratory protection used, and previous medical surveillance should all be included in the worker's record. Where exposure to lead is suspected, information concerning on-the-job personal hygiene, smoking or eating habits in work areas, laundry procedures, and use of any protective clothing or respiratory protection equipment should be noted. A complete work history is essential in the medical evaluation of a worker with suspected lead toxicity, especially when long-term effects such as neurotoxicity and nephrotoxicity are considered.

(E) The medical history is also of fundamental importance and should include a listing of all past and current medical conditions, current medications including proprietary drug intake, previous surgeries and hospitalizations, allergies, smoking history, alcohol consumption, and also nonoccupational lead exposures such as hobbies (hunting, riflery). Also known childhood exposures should be elicited. Any previous history of hematological, neurological, gastrointestinal, renal, psychological, gynecological, genetic, or reproductive problems should be specifically noted.

(F) A careful and complete review of systems must be performed to assess both recognized complaints and subtle or slowly acquired symptoms which the worker might not appreciate as being significant. The review of symptoms should include the following:

- General - weight loss, fatigue, decreased appetite.
- Head, Eyes, Ears, Nose, Throat (HEENT) - headaches, visual disturbance or decreased visual acuity, hearing deficits or tinnitus, pigmentation of the oral mucosa, or metallic taste in mouth.
- Cardiopulmonary - shortness of breath, cough, chest pains, palpitations, or orthopnea.
- Gastrointestinal - nausea, vomiting, heartburn, abdominal pain, constipation or diarrhea.

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- Neurologic**
- irritability, insomnia, weakness (fatigue), dizziness, loss of memory, confusion, hallucinations, incoordination, ataxia, decreased strength in hands or feet, disturbance in gait, difficulty in climbing stairs, or seizures.
- Hematologic**
- pallor, easy fatigability, abnormal blood loss, melena.
- Reproductive (male or female and spouse where relevant)**
- history of infertility, impotence, loss of libido, abnormal menstrual periods, history of miscarriages, stillbirths, or children with birth defects.
- Musculoskeletal**
- muscle and joint pains.

(G) The physical examination should emphasize the neurological, gastrointestinal, and cardiovascular systems. The worker's weight and blood pressure should be recorded and the oral mucosa checked for pigmentation characteristic of a possible Burtonian or lead line on the gingiva. It should be noted, however, that the lead line may not be present even in severe lead poisoning if good oral hygiene is practiced.

(H) The presence of pallor on skin examination may indicate an anemia, which if severe might also be associated with a tachycardia. If an anemia is suspected, an active search for blood loss should be undertaken including potential blood loss through the gastrointestinal tract.

(I) A complete neurological examination should include an adequate mental status evaluation including a search for behavioral and psychological disturbances, memory testing, evaluation for irritability, insomnia, hallucinations, and mental clouding. Gait and coordination should be examined along with close observation for tremor. A detailed evaluation of peripheral nerve function including careful sensory and motor function testing is warranted. Strength testing particularly of extensor muscle groups of all extremities is of fundamental importance.

(J) Cranial nerve evaluation should also be included in the routine examination.

(K) The abdominal examination should include auscultation for bowel sounds and abnormal bruits and palpation for organomegaly, masses, and diffuse abdominal tenderness.

(L) Cardiovascular examination should evaluate possible early signs of congestive heart failure. Pulmonary status should be addressed particularly if respirator protection is contemplated.

(M) As part of the medical evaluation, the lead standard requires the following laboratory studies.

(I) Blood lead level.

(II) Hemoglobin and hematocrit determinations, red cell indices, and examination of the peripheral blood smear to evaluate red blood cell morphology.

(III) Blood urea nitrogen.

(IV) Serum creatinine.

(V) Routine urinalysis with microscopic examination.

(VI) A zinc protoporphyrin level.

(N) In addition to the above, the physician is authorized to order any further laboratory or other tests which he or she deems necessary in accordance with sound medical practice. The evaluation must also include pregnancy testing or laboratory evaluation of male fertility if requested by the employee.

(O) Additional tests which are probably not warranted on a routine basis but may be appropriate when blood lead and ZPP levels are equivocal include delta aminolevulinic acid and coproporphyrin concentrations in the urine, and dark-field illumination for detection of basophilic stippling in red blood cells.

(P) If an anemia is detected further studies including a careful examination of the peripheral smear, reticulocyte count, stool for occult blood, serum iron, total iron binding capacity, bilirubin, and, if appropriate vitamin B12 and folate may be of value in attempting to identify the cause of the anemia.

(Q) If a peripheral neuropathy is suspected, nerve conduction studies are warranted both for diagnosis and as a basis to monitor any therapy.

(R) If renal disease is questioned, a 24-hour urine collection for creatinine clearance, protein, and electrolytes may be indicated. Elevated uric acid levels may result from lead-induced renal disease and a serum uric acid level might be performed.

(S) An electrocardiogram and chest X ray may be obtained as deemed appropriate.

(T) Sophisticated and highly specialized testing should not be done routinely and where indicated should be under the direction of a specialist.

(v) Laboratory evaluation.

(A) The blood level at present remains the single most important test to monitor lead exposure and is the test used in the medical surveillance program under the lead standard to guide employee medical removal. The ZPP has several advantages over the blood lead level. Because of its relatively recent development and the lack of extensive data concerning its interpretation, the ZPP currently remains an ancillary test.

(B) This section will discuss the blood lead level and ZPP in detail and will outline their relative advantages and disadvantages. Other blood tests currently available to evaluate lead exposure will also be reviewed.

(C) The blood lead level is a good index of current or recent lead absorption when there is no anemia present and when the worker has not taken any chelating agents. However, blood lead levels along with urinary lead levels do not necessarily indicate the total body burden of lead and are not adequate measures of past exposure. One reason for this is that lead has a high affinity for bone and up to 90 percent of the body's total lead is deposited there. A very important component of the total lead body burden is lead in soft tissue (liver, kidneys, and brain). This fraction of the lead body burden, the biologically active lead, is not entirely reflected by blood lead levels since it is a function of the dynamics of lead absorption, distribution, deposition in bone and excretion. Following discontinuation of exposure to lead, the excess body burden is only slowly mobilized from bone and other relatively stable stores and excreted. Consequently, a high

blood lead level may only represent recent heavy exposure to lead without a significant total body excess and likewise a low blood lead level does not exclude an elevated total body burden of lead.

(D) Also due to its correlation with recent exposures, the blood lead level may vary considerably over short time intervals.

(E) To minimize laboratory error and erroneous results due to contamination, blood specimens must be carefully collected after thorough cleaning of the skin with appropriate methods using lead-free containers and analyzed by a reliable laboratory. Under the standard, samples must be analyzed in laboratories which are approved by the Center for Disease Control (CDC) or which have received satisfactory grades in proficiency testing by the CDC in the previous year. Analysis is to be made using atomic absorption spectrophotometry, anodic stripping, voltammetry or any method which meets the accuracy requirements set forth by the standard.

(F) The determination of lead in urine is generally considered a less reliable monitoring technique than analysis of whole blood primarily due to individual variability in urinary excretion capacity as well as the technical difficulty of obtaining accurate 24 hour urine collections. In addition, workers with renal insufficiency, whether due to lead or some other cause, may have decreased lead clearance and consequently urine lead levels may underestimate the true lead burden. Therefore, urine lead levels should not be used as a routine test.

(G) The zinc protoporphyrin test, unlike the blood lead determination, measures an adverse metabolic effect of lead and as such is a better indicator of lead toxicity than the level of blood lead itself. The level of ZPP reflects lead absorption over the preceding three to four months, and therefore is a better indicator of lead body burden. The ZPP requires more time than the blood lead to read significantly elevated levels; the return to normal after discontinuing lead exposure is also slower. Furthermore, the ZPP test is simpler, faster, and less expensive to perform and no contamination is possible. Many investigators believe it is the most reliable means of monitoring chronic lead absorption.

(H) Zinc protoporphyrin results from the inhibition of the enzyme ferrochelatase which catalyzes the insertion of an iron molecule into the protoporphyrin molecule, which then becomes heme. If iron is not inserted into the molecule then zinc, having a greater affinity for protoporphyrin, takes place in the iron, forming ZPP.

(I) An elevation in the level of circulating ZPP may occur at blood lead levels as low as 20-30  $\mu\text{g}/100\text{g}$  in some workers. Once the blood lead level has reached 40  $\mu\text{g}/100\text{g}$  there is more marked rise in the ZPP value from its normal range of less than 100  $\mu\text{g}/100\text{ml}$ . Increases in blood lead levels beyond 40  $\mu\text{g}/100\text{g}$  are associated with exponential increases in ZPP.

(J) Whereas blood lead levels fluctuate over short time spans, ZPP levels remain relatively stable. ZPP is measured directly in red blood cells and is present for the cell's entire 120 day lifespan. Therefore, the ZPP level in blood reflects the average ZPP production over the previous three to four months and consequently the average lead exposure during that time interval.

(K) It is recommended that a hematocrit be determined whenever a confirmed ZPP of 50  $\mu\text{g}/100\text{ml}$  whole blood is obtained to rule out a significant underlying anemia. If the ZPP is in excess of 100  $\mu\text{g}/100\text{ml}$  and not associated with abnormal elevations in blood lead levels, the laboratory should be checked to be sure the blood leads were determined using atomic absorption spectrophotometry, anodic stripping voltammetry or any method which meets the accuracy requirements set forth by the standard, by a CDC approved laboratory which is experienced in lead level determinations. Repeat periodic blood lead studies should be obtained in all individuals with elevated ZPP levels to be certain that an associated elevated blood lead level has not been missed due to transient fluctuations in blood leads.

(L) ZPP has characteristic fluorescence spectrum with a peak at 594nm which is detectable with a hematofluorimeter. The hematofluorimeter is accurate and portable and can provide on-site, instantaneous results for workers who can be frequently tested via a finger prick.

(M) However, careful attention must be given to calibration and quality control procedures. Limited data on blood lead -ZPP correlations and the ZPP levels which are associated with the adverse health effects discussed in item (ii) are the major limitations of the test. Also it is difficult to correlate ZPP levels with environmental exposure and there is some variation of response with age and sex. Nevertheless, the ZPP promises to be an important diagnostic test for the early detection of lead toxicity and its value will increase as more data is collected regarding its relationship to other manifestations of lead poisoning.

(N) Levels of delta-aminolevulinic acid (ALA) in the urine are also used as a measure of lead exposure. Increasing concentrations of ALA are believed to result from the inhibition of the enzyme delta-aminolevulinic acid dehydrase (ALA-D). Although the test is relatively easy to perform, inexpensive, and rapid, the disadvantages include variability in results, the necessity to collect a complete 24 hour urine sample which has a specific gravity greater than 1.010, and also the fact that ALA decomposes in the presence of light.

(O) The pattern of porphyrin excretion in the urine can also be helpful in identifying lead intoxication. With lead poisoning, the urine concentrations of coproporphyrins I and II, porphobilinogen and uroporphyrin I rise. The most important increase, however, is that of coproporphyrin III; levels may exceed 5,000  $\mu\text{g}/1$  in the urine in lead poisoned individuals, but its correlation with blood lead levels and ZPP are not as good as those of ALA. Increases in urinary porphyrins are not diagnostic of lead toxicity and may be seen in porphyria, some liver diseases, and in patients with high reticulocyte counts.

(vi) Summary.

(A) The WISHA standard for inorganic lead places significant emphasis on the medical surveillance of all workers exposed to levels of inorganic lead above the action level of 30  $\mu\text{g}/\text{m}^3$  TWA. The physician has a fundamental role in this surveillance program, and in the operation of the medical removal protection program.

(B) Even with adequate worker education on the adverse health effects of lead and appropriate training in work practices, personal hygiene and other control measures, the physi-

cian has a primary responsibility for evaluating potential lead toxicity in the worker. It is only through a careful and detailed medical and work history, a complete physical examination and appropriate laboratory testing that an accurate assessment can be made. Many of the adverse health effects of lead toxicity are either irreversible or only partially reversible and therefore early detection of disease is very important.

(C) This document outlines the medical monitoring program as defined by the occupational safety and health standard for inorganic lead. It reviews the adverse health effects of lead poisoning and describes the important elements of the history and physical examinations as they relate to these adverse effects.

(D) It is hoped that this review and discussion will give the physician a better understanding of the WISHA standard with the ultimate goal of protecting the health and well-being of the worker exposed to lead under his or her care.

(d) Appendix D. Recommendations to employers concerning high-risk tasks (nonmandatory).

The department advises employers that the following tasks have a high risk for lead overexposure (this list is not complete; other tasks also can result in lead over-exposure):

- Any open flame operation involving lead-containing solder in a manner producing molten solder, including the manufacture or repair of motor vehicle radiators;
- Sanding, cutting or grinding of lead-containing solder;
- Breaking, recycling or manufacture of lead-containing batteries;
- Casting objects using lead, brass, or lead-containing alloys;
- Where lead-containing coatings or paints are present:
  - abrasive blasting
  - welding
  - cutting
  - torch burning
  - manual demolition of structures
  - manual scraping
  - manual sanding
  - heat gun applications
  - power tool cleaning
  - rivet busting
  - clean-up activities where dry expendable abrasives are used
  - abrasive blasting enclosure movement and removal;
- Spray-painting with lead-containing paint;
- Using lead-containing mortar;
- Lead burning;
- Operation or cleaning of shooting facilities where lead bullets are used;
- Formulation or processing of lead-containing pigments or paints;
- Cutting, burning, or melting of lead-containing materials.

The department recommends that annual blood lead testing be offered to all employees potentially overexposed to lead, including those performing the tasks listed above, regardless of air lead levels. Research has shown that air lead levels often do not accurately predict workers' lead overexpo-

sure. The blood lead testing will provide the most information if performed during a period of peak lead exposure.

Employers should be aware that the United States Public Health Service has set a goal of eliminating occupational exposures which result in whole blood lead levels of 25 µg/dl or greater. This goal should guide whether employees' blood lead levels indicate lead overexposure.

If blood lead levels are elevated in an employee performing a task associated with lead overexposure, employers should assess the maintenance and effectiveness of exposure controls, hygiene facilities, respiratory protection program, the employee's work practices and personal hygiene, and the employee's respirator use, if any. If a deficiency exists in any of these areas, the employer should correct the problem.

AMENDATORY SECTION (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

**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 formal-

dehyde 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 multiemployer 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), and 296-62-07150 through 296-62-07156))) 296-842 WAC, except WAC 296-842-13005 and 296-842-14005.

(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.

Condition of use or formaldehyde concentration (ppm)	Minimum respirator required <sup>1</sup>
Up to 7.5 ppm (10 x PEL) . . . .	Full facepiece with cartridges or canisters specifically approved for protection against formaldehyde <sup>2</sup> .
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.

TABLE 1  
MINIMUM REQUIREMENTS FOR RESPIRATORY PROTECTION  
AGAINST FORMALDEHYDE

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.

<sup>1</sup> Respirators specified for use at higher concentrations may be used at lower concentrations.

<sup>2</sup> 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.

(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.

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(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 as required by chapter 296-839 WAC.

(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 multiemployer 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)) 296-842 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 copy-

ing, to the subject employee, or former employee, and employee representatives in accordance with chapter 296-802 WAC.

(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 chapter 296-802 WAC.

**AMENDATORY SECTION** (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-62-07615 Respiratory protection.** (1) 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:

- (a) Periods necessary to install or implement feasible engineering and work-practice controls;
- (b) Work operations for which the employer establishes that engineering and work-practice controls are not feasible;
- (c) Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce exposure to or below the PEL;
- (d) Emergencies.

(2) Respirator program. The employer must implement a respiratory protection program as required by chapter ((296-62-WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156))) 296-842 WAC, except WAC 296-842-13005 and 296-842-14005.

(3) Respirator selection.

(a) The employer must select, and ensure that employees use, the appropriate respirator from Table 1 of this section.

Table 1.—Respiratory Protection for MDA

Airborne concentration of MDA or condition of use	Respirator type
a. Less than or equal to 10xPEL	(1) Half-mask respirator with HEPA <sup>1</sup> cartridge <sup>2</sup> .
b. Less than or equal to 50xPEL	(1) Full facepiece respirator with HEPA <sup>1</sup> cartridge or canister <sup>2</sup> .
c. Less than or equal to 1000xPEL	(1) Full facepiece powered air-purifying respirator with HEPA <sup>1</sup> cartridges <sup>2</sup> .
d. Greater than 1000xPEL or	(1) Self-contained breathing unknown concentrations apparatus with full facepiece in positive pressure mode;
	(2) Full facepiece positive pressure demand supplied-air respirator with auxiliary self-contained air supply.
e. Escape	(1) Any full facepiece air-purifying respirator with HEPA <sup>1</sup> cartridges <sup>2</sup> ;
	(2) Any positive pressure or continuous flow self-contained breathing apparatus with full facepiece or hood.
f. Fire fighting	(1) Full facepiece self-contained breathing apparatus in positive pressure demand mode.

Note: Respirators assigned for higher environmental concentrations may be used at lower concentrations.

- <sup>1</sup> High efficiency particulate in air filter (HEPA) means a filter that is at least 99.97 percent efficient against mono-dispersed particles of 0.3 micrometers or larger.
- <sup>2</sup> Combination HEPA/organic vapor cartridges shall be used whenever MDA in liquid form or a process requiring heat is used.

(b) Any employee who cannot use a negative-pressure respirator must be given the option of using a positive-pressure respirator, or a supplied-air respirator operated in the continuous-flow or pressure-demand mode.

**AMENDATORY SECTION** (Amending WSR 00-06-075, filed 3/1/00, effective 4/10/00)

**WAC 296-62-07722 Employee information and training.** (1) Certification.

(a) Only certified asbestos workers may work on an asbestos project as required in WAC 296-65-010 and 296-65-030.

(b) Only certified asbestos supervisors may supervise asbestos abatement projects as required in WAC 296-65-012 and 296-65-030.

(c) In cases where certification requirements of chapter 296-65 WAC do not apply, all employees must be trained according to the provisions of this section regardless of their exposure levels.

(d) Certification is not required for asbestos work on materials containing less than one percent asbestos.

(2) Training must be provided prior to or at the time of initial assignment, unless the employee has received equivalent training within the previous twelve months, and at least annually thereafter.

(3) Asbestos projects.

(a) Class I work must be considered an asbestos project. Only certified asbestos workers may do this work.

(b) Only certified workers may conduct Class II asbestos work that is considered an asbestos project.

(i) The following Class II asbestos work must be considered asbestos projects:

(A) All Class II asbestos work where critical barriers, equivalent isolation methods, or negative pressure enclosures are required; or

(B) All Class II asbestos work where asbestos containing materials do not stay intact (including removal of vinyl asbestos floor (VAT) or roofing materials by mechanical methods such as chipping, grinding, or sanding).

(ii) The following Class II asbestos work is not considered an asbestos project and is excluded from asbestos worker certification:

(A) All Class II asbestos work involving intact asbestos containing materials (for example, intact roofing materials, bituminous or asphalt pipeline coatings, and intact flooring/decking materials);

(B) All Class II asbestos work of less than one square foot of asbestos containing materials; or

(C) All Class II asbestos work involving asbestos-cement water pipe when the work is done in accordance with training approved by the department through the asbestos certification program (see WAC 296-65-015(4)).

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(iii) Asbestos work involving the removal of one square foot or more of intact roofing materials by mechanical sawing or heavy equipment must meet the following requirements:

(A) Only certified asbestos workers may conduct mechanical sawing of intact roofing material;

(B) Noncertified asbestos workers may handle roofing dust, material and debris;

(C) Operators of heavy equipment (such as track hoes with clam shells and excavators) do not need to be certified asbestos workers in the removal or demolition of intact roofing materials.

(c) Only certified asbestos workers may conduct all Class III and Class IV asbestos work that is considered an asbestos project.

(i) The following asbestos work is considered an asbestos project:

(A) All Class III asbestos work where one square foot or more of asbestos containing materials that do not stay intact;

(B) All Class IV asbestos work where one square foot or more of asbestos containing materials that do not stay intact; or

(C) All Class III and Class IV asbestos work with pipe insulation.

(ii) Except for a project involving pipe insulation work, any project involving only Class III or Class IV asbestos work with less than one square foot of asbestos containing materials is not considered an asbestos project.

(4) Training requirements for asbestos work that is not considered an asbestos project or is excluded from asbestos worker certification.

(a) Class II asbestos work.

(i) Employers must provide eight-hours of training to employees who perform asbestos work on one generic category of asbestos containing materials (ACM). When performing asbestos work in more than one category of asbestos containing materials, additional training must be used to supplement the first eight hour training course.

(ii) The training course must include:

- Hands-on training that applies to the category of asbestos containing materials,
- Specific work practices and engineering controls related to the category of asbestos containing materials present as specified in WAC 296-62-07712, and
- All the minimum elements of subsection (5) of this section.

(b) Class III asbestos work (maintenance and custodial work in buildings containing asbestos containing materials).

(i) Employers must provide training with curriculum and training methods equivalent to the 16-hour operations and maintenance course developed by the EPA. (See 40 CFR 763.92(a)(2).) For those employees whose only affected work is Class II work as described in subsection (4)(a)(i) of this section, employers must meet this 16-hour training requirement or provide training that meets the eight hours Class II requirements in subsection (4)(a) of this section.

(ii) Sixteen hours of training must include:

- Hands-on training in the use of respiratory protection and work practices, and

- All the minimum elements of subsection (5) of this section.

(c) Class IV asbestos work (maintenance and custodial work in buildings containing asbestos-containing materials).

(i) Employers must provide at least two hours of training with curriculum and training methods equivalent to the awareness training course developed by the EPA.

(ii) Training must include:

- Available information concerning the location of PACM, ACM, asbestos-containing flooring materials or flooring materials where the absence of asbestos has not been certified,
- Instruction on how to recognize damaged, deteriorated, and delimitation of asbestos containing building materials, and
- All of the minimum elements of subsection (5) of this section.

(5) The training program must be conducted in a manner which the employee is able to understand. The employer must ensure that each employee is informed of the following:

(a) The health effects associated with asbestos exposure;

(b) The relationship between smoking and exposure to asbestos producing lung cancer;

(c) Methods of recognizing asbestos and quantity, location, manner of use, release (including the requirements of WAC 296-62-07721 (1)(c) and (2)(b) to presume certain building materials contain asbestos), and storage of asbestos and the specific nature of operations which could result in exposure to asbestos;

(d) The engineering controls and work practices associated with the employee's job assignment;

(e) The specific procedures implemented to protect employees from exposure to asbestos, such as appropriate work practices, housekeeping procedures, hygiene facilities, decontamination procedures, emergency and clean-up procedures (including where Class III and IV work is performed, the contents "Managing Asbestos In Place" (EPA 20T-2003, July 1990) or its equivalent in content), personal protective equipment to be used, waste disposal procedures, and any necessary instructions in the use of these controls and procedures;

(f) The purpose, proper use, and limitations of protective clothing;

(g) The purpose and a description of the medical surveillance program required by WAC 296-62-07725;

(h) The content of this standard, including appendices;

(i) The names, addresses and phone numbers of public health organizations which provide information, materials, and/or conduct programs concerning smoking cessation. The employer may distribute the list of such organizations contained in Appendix I, to comply with this requirement;

(j) The requirements for posting signs and affixing labels and the meaning of the required legends for such signs and labels; and

(k) The purpose, proper use, limitations, and other training requirements for respiratory protection as required by chapter ~~((296-62))~~ 296-842 WAC ~~((, Part E))~~ (see WAC ~~((296-62-07117))~~ 296-842-11005, ~~((296-62-07172))~~ 296-842-16005, and ~~((296-62-07186 through 296-62-07199))~~ 296-842-19005).

(6) The employer must also provide, at no cost to employees who perform housekeeping operations in a facility which contains ACM or PACM, an asbestos awareness training course to all employees who are or will work in areas where ACM and/or PACM is present who work in buildings containing asbestos-containing materials, which must, at a minimum, contain the following elements:

- Health effects of asbestos,
- Locations of ACM and PACM in the building/facility,
- Recognition of ACM and PACM damage and deterioration,
- Requirements in this standard relating to housekeeping, and
- Proper response to fiber release episodes.

Each such employee must be so trained at least once a year.

(7) Access to information and training materials.

(a) The employer must make a copy of this standard and its appendices readily available without cost to all affected employees.

(b) The employer must provide, upon request, all materials relating to the employee information and training program to the director.

(c) The employer must inform all employees concerning the availability of self-help smoking cessation program material. Upon employee request, the employer must distribute such material, consisting of NIH Publication No. 89-1647, or equivalent self-help material, which is approved or published by a public health organization listed in Appendix I, WAC 296-62-07751.

**AMENDATORY SECTION** (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

**WAC 296-62-14533 Cotton dust.** (1) Scope and application.

(a) This section, in its entirety, applies to the control of employee exposure to cotton dust in all workplaces where employees engage in yarn manufacturing, engage in slashing and weaving operations, or work in waste houses for textile operations.

(b) This section does not apply to the handling or processing of woven or knitted materials; to maritime operations covered by chapters 296-56 and 296-304 WAC; to harvesting or ginning of cotton; or to the construction industry.

(c) Only subsection (8) Medical surveillance, subsection (11)(b) Medical surveillance, subsection (11)(c) Availability, subsection (11)(d) Transfer of records, and Appendices B, C, and D of this section apply in all work places where employees exposed to cotton dust engage in cottonseed processing or waste processing operations.

(d) This section applies to yarn manufacturing and slashing and weaving operations exclusively using washed cotton (as defined by subsection (14) of this section) only to the extent specified by subsection (14) of this section.

(e) This section, in its entirety, applies to the control of all employees exposure to the cotton dust generated in the preparation of washed cotton from opening until the cotton is thoroughly wetted.

(f) This section does not apply to knitting, classing or warehousing operations except that employers with these operations, if requested by WISHA, shall grant WISHA access to their employees and workplaces for exposure monitoring and medical examinations for purposes of a health study to be performed by WISHA on a sampling basis.

(2) Definitions applicable to this section:

(a) "Blow down" - the cleaning of equipment and surfaces with compressed air.

(b) "Blow off" - the use of compressed air for cleaning of short duration and usually for a specific machine or any portion of a machine.

(c) "Cotton dust" - dust present in the air during the handling or processing of cotton, which may contain a mixture of many substances including ground-up plant matter, fiber, bacteria, fungi, soil, pesticides, noncotton plant matter and other contaminants which may have accumulated with the cotton during the growing, harvesting and subsequent processing or storage periods. Any dust present during the handling and processing of cotton through the weaving or knitting of fabrics, and dust present in other operations or manufacturing processes using raw or waste cotton fibers or cotton fiber byproducts from textile mills are considered cotton dust within this definition. Lubricating oil mist associated with weaving operations is not considered cotton dust.

(d) "Director" - the director of labor and industries or his authorized representative.

(e) "Equivalent instrument" - a cotton dust sampling device that meets the vertical elutriator equivalency requirements as described in subsection (4)(a)(iii) of this section.

(f) "Lint-free respirable cotton dust" - particles of cotton dust of approximately 15 microns or less aerodynamic equivalent diameter.

(g) "Vertical elutriator cotton dust sampler" or "vertical elutriator" - a dust sampler which has a particle size cut-off at approximately 15 microns aerodynamic equivalent diameter when operating at the flow rate of  $7.4 \pm 0.2$  liters per minute.

(h) "Waste processing" - waste recycling (sorting, blending, cleaning and willowing) and garnetting.

(i) "Yarn manufacturing" - all textile mill operations from opening to, but not including, slashing and weaving.

(3) Permissible exposure limits and action levels.

(a) Permissible exposure limits (PEL).

(i) The employer shall assure that no employee who is exposed to cotton dust in yarn manufacturing and cotton washing operations is exposed to airborne concentrations of lint-free respirable cotton dust greater than  $200 \mu\text{g}/\text{m}^3$  mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(ii) The employer shall assure that no employee who is exposed to cotton dust in textile mill waste house operations or is exposed in yarn manufacturing to dust from "lower grade washed cotton" as defined in subsection (14)(e) of this section is exposed to airborne concentrations of lint-free respirable cotton dust greater than  $500 \mu\text{g}/\text{m}^3$  mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(iii) The employer shall assure that no employee who is exposed to cotton dust in the textile processes known as slashing and weaving is exposed to airborne concentrations

of lint-free respirable cotton dust greater than  $750 \mu\text{g}/\text{m}^3$  mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(b) Action levels.

(i) The action level for yarn manufacturing and cotton washing operations is an airborne concentration of lint-free respirable cotton dust of  $100 \mu\text{g}/\text{m}^3$  mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(ii) The action level for waste houses for textile operations is an airborne concentration of lint-free respirable cotton dust of  $250 \mu\text{g}/\text{m}^3$  mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(iii) The action level for the textile processes known as slashing and weaving is an airborne concentration of lint-free respirable cotton dust of  $375 \mu\text{g}/\text{m}^3$  mean concentration, averaged over an eight-hour period, as measured by a vertical elutriator or an equivalent instrument.

(4) Exposure monitoring and measurement.

(a) General.

(i) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(ii) The sampling device to be used shall be either the vertical elutriator cotton dust sampler or an equivalent instrument.

(iii) If an alternative to the vertical elutriator cotton dust sampler is used, the employer shall establish equivalency by demonstrating that the alternative sampling devices:

(A) It collects respirable particulates in the same range as the vertical elutriator (approximately 15 microns);

(B) Replicate exposure data used to establish equivalency are collected in side-by-side field and laboratory comparisons; and

(C) A minimum of 100 samples over the range of 0.5 to 2 times the permissible exposure limit are collected, and ninety percent of these samples have an accuracy range of plus or minus twenty-five percent of the vertical elutriator reading with a ninety-five percent confidence level as demonstrated by a statistically valid protocol. (An acceptable protocol for demonstrating equivalency is described in Appendix E of this section.)

(iv) WISHA will issue a written opinion stating that an instrument is equivalent to a vertical elutriator cotton dust sampler if:

(A) A manufacturer or employer requests an opinion in writing and supplies the following information:

(I) Sufficient test data to demonstrate that the instrument meets the requirements specified in this paragraph and the protocol specified in Appendix E of this section;

(II) Any other relevant information about the instrument and its testing requested by WISHA; and

(III) A certification by the manufacturer or employer that the information supplied is accurate, and

(B) If WISHA finds, based on information submitted about the instrument, that the instrument meets the requirements for equivalency specified by this subsection.

(b) Initial monitoring. Each employer who has a place of employment within the scope of subsections (1)(a), (d) or (e)

of this section shall conduct monitoring by obtaining measurements which are representative of the exposure of all employees to airborne concentrations of lint-free respirable cotton dust over an eight-hour period. The sampling program shall include at least one determination during each shift for each work area.

(c) Periodic monitoring.

(i) If the initial monitoring required by (4)(b) of this section or any subsequent monitoring reveals employee exposure to be at or below the permissible exposure limit, the employer shall repeat the monitoring for those employees at least annually.

(ii) If the initial monitoring required by (4)(b) of this section or any subsequent monitoring reveals employee exposure to be above the PEL, the employer shall repeat the monitoring for those employees at least every six months.

(iii) Whenever there has been a production, process, or control change which may result in new or additional exposure to cotton dust, or whenever the employer has any other reason to suspect an increase in employee exposure, the employer shall repeat the monitoring and measurements for those employees affected by the change or increase.

(d) Employee notification.

(i) Within twenty working days after the receipt of monitoring results, the employer shall notify each employee in writing of the exposure measurements which represent that employee's exposure.

(ii) Whenever the results indicate that the employee's exposure exceeds the applicable permissible exposure limit specified in subsection (3) of this section, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action taken to reduce exposure below the permissible exposure limit.

(5) Methods of compliance.

(a) Engineering and work practice controls. The employer shall institute engineering and work practice controls to reduce and maintain employee exposure to cotton dust at or below the permissible exposure limit specified in subsection (3) of this section, except to the extent that the employer can establish that such controls are not feasible.

(b) Whenever feasible engineering and work practice controls are not sufficient to reduce employee exposure to or below the permissible exposure limit, the employer shall nonetheless institute these controls to immediately reduce exposure to the lowest feasible level, and shall supplement these controls with the use of respirators which shall comply with the provisions of subsection (6) of this section.

(c) Compliance program.

(i) Where the most recent exposure monitoring data indicates that any employee is exposed to cotton dust levels greater than the permissible exposure limit, the employer shall establish and implement a written program sufficient to reduce exposures to or below the permissible exposure limit solely by means of engineering controls and work practices as required by (a) of this subsection.

(ii) The written program shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to cotton dust;



(B) Engineering plans and other studies used to determine the controls for each process;

(C) A report of the technology considered in meeting the permissible exposure limit;

(D) Monitoring data obtained in accordance with subsection (4) of this section;

(E) A detailed schedule for development and implementation of engineering and work practice controls, including exposure levels projected to be achieved by such controls;

(F) Work practice program; and

(G) Other relevant information.

(iii) The employer's schedule as set forth in the compliance program, shall project completion of the implementation of the compliance program no later than March 27, 1984 or as soon as possible if monitoring after March 27, 1984 reveals exposures over the PEL, except as provided in (13)(b)(ii)(B) of this section.

(iv) The employer shall complete the steps set forth in his program by the dates in the schedule.

(v) Written programs shall be submitted, upon request, to the director, and shall be available at the worksite for examination and copying by the director, and any affected employee or their designated representatives.

(vi) The written programs required under subsection (5)(c) of this section shall be revised and updated at least every six months to reflect the current status of the program and current exposure levels.

(d) Mechanical ventilation. When mechanical ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system to control exposure, such as capture velocity, duct velocity, or static pressure shall be made at reasonable intervals.

(6) Use of respirators.

(a) General. For employees who are required to use respirators by this section, the employer must provide respirators that comply with the requirements of this section. Respirators must be used during:

(i) Periods necessary to install or implement feasible engineering controls and work-practice controls;

(ii) Maintenance and repair activities for which 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 employee exposure to or below the permissible exposure limits;

(iv) Work operations specified under subsection (7)(a) of this section;

(v) Periods for which an employee requests a respirator.

(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) and 296-62-07150 through 296-62-07156)))~~ 296-842 WAC, except WAC 296-842-13005 and 296-842-14005.

(ii) Whenever a physician determines that an employee who works in an area in which the cotton-dust concentration exceeds the PEL is unable to use a respirator, including a powered air-purifying respirator, the employee must be given the opportunity to transfer to an available position, or to a position that becomes available later, that has a cotton-dust

concentration at or below the PEL. The employer must ensure that such employees retain their current wage rate or other benefits as a result of the transfer.

(c) Respirator selection.

(i) The employer must select the appropriate respirator from Table 1 of this section.

TABLE - 1

Cotton dust concentration	Required respirator
Not greater than—	
(a) 5 x the applicable permissible exposure limit (PEL).	A disposable respirator with a particulate filter.
(b) 10 x the applicable PEL.	A quarter or half-mask respirator, other than a disposable respirator, equipped with particulate filters.
(c) 100 x the applicable PEL.	A full facepiece respirator equipped with high-efficiency particulate filters.
(d) Greater than 100 x the applicable PEL.	A powered air-purifying respirator equipped with high-efficiency particulate filters.

- Notes
1. A disposable respirator means the filter element is an inseparable part of the respirator.
  2. Any respirators permitted at higher environmental concentrations can be used at lower concentrations.
  3. Self-contained breathing apparatus are not required respirators but are permitted respirators.
  4. Supplied air respirators are not required but are permitted under the following conditions: Cotton dust concentration not greater than 10X the PEL—Any supplied air respirator; not greater than 100X the PEL—Any supplied air respirator with full facepiece, helmet or hood; greater than 100X the PEL—A supplied air respirator operated in positive pressure mode.

(ii) Whenever respirators are required by this section for cotton-dust concentrations that do not exceed the applicable permissible exposure limit by a multiple of 100 (100 x), the employer must, when requested by an employee, provide a powered air-purifying respirator with a high-efficiency particulate filter instead of the respirator specified in (a), (b), or (c) of Table 1 of this section.

(7) Work practices. Each employer shall, regardless of the level of employee exposure, immediately establish and implement a written program of work practices which shall minimize cotton dust exposure. The following shall be included where applicable:

(a) Compressed air "blow down" cleaning shall be prohibited, where alternative means are feasible. Where compressed air is used for cleaning, the employees performing the "blow down" or "blow off" shall wear suitable respirators. Employees whose presence is not required to perform "blow down" or "blow off" shall be required to leave the area affected by the "blow down" or "blow off" during this cleaning operation.

(b) Cleaning of clothing or floors with compressed air shall be prohibited.

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(c) Floor sweeping shall be performed with a vacuum or with methods designed to minimize dispersal of dust.

(d) In areas where employees are exposed to concentrations of cotton dust greater than the permissible exposure limit, cotton and cotton waste shall be stacked, sorted, baled, dumped, removed or otherwise handled by mechanical means, except where the employer can show that it is infeasible to do so. Where infeasible, the method used for handling cotton and cotton waste shall be the method which reduces exposure to the lowest level feasible.

(8) Medical surveillance.

(a) General.

(i) Each employer covered by the standard shall institute a program of medical surveillance for all employees exposed to cotton dust.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician and are provided without cost to the employee.

(iii) Persons other than licensed physicians, who administer the pulmonary function testing required by this section shall have completed a NIOSH approved training course in spirometry.

(b) Initial examinations. The employer shall provide medical surveillance to each employee who is or may be exposed to cotton dust. For new employees' this examination shall be provided prior to initial assignment. The medical surveillance shall include at least the following:

(i) A medical history;

(ii) The standardized questionnaire contained in WAC 296-62-14537; and

(iii) A pulmonary function measurement, including a determination of forced vital capacity (FVC) and forced expiratory volume in one second ( $FEV_1$ ), the  $FEV_1/FVC$  ratio, and the percentage that the measured values of  $FEV_1$  and FVC differ from the predicted values, using the standard tables in WAC 296-62-14539. These determinations shall be made for each employee before the employee enters the workplace on the first day of the work week, preceded by at least thirty-five hours of no exposure to cotton dust. The tests shall be repeated during the shift, no less than four hours and no more than ten hours after the beginning of the work shift; and, in any event, no more than one hour after cessation of exposure. Such exposure shall be typical of the employee's usual workplace exposure. The predicted  $FEV_1$  and FVC for blacks shall be multiplied by 0.85 to adjust for ethnic differences.

(iv) Based upon the questionnaire results, each employee shall be graded according to Schilling's byssinosis classification system.

(c) Periodic examinations.

(i) The employer shall provide at least annual medical surveillance for all employees exposed to cotton dust above the action level in yarn manufacturing, slashing and weaving, cotton washing and waste house operations. The employer shall provide medical surveillance at least every two years for all employees exposed to cotton dust at or below the action level, for all employees exposed to cotton dust from washed cotton (except from washed cotton defined in subsection (9)(c) of this section), and for all employees exposed to cot-

ton dust in cottonseed processing and waste processing operations. Periodic medical surveillance shall include at least an update of the medical history, standardized questionnaire (Appendix B-111), Schilling byssinosis grade, and the pulmonary function measurements in (b)(iii) of this subsection.

(ii) Medical surveillance as required in (c)(i) of this subsection shall be provided every six months for all employees in the following categories:

(A) An  $FEV_1$  of greater than eighty percent of the predicted value, but with an  $FEV_1$  decrement of five percent or 200 ml. on a first working day;

(B) An  $FEV_1$  of less than eighty percent of the predicted value; or

(C) Where, in the opinion of the physician, any significant change in questionnaire findings, pulmonary function results, or other diagnostic tests have occurred.

(iii) An employee whose  $FEV_1$  is less than sixty percent of the predicted value shall be referred to a physician for a detailed pulmonary examination.

(iv) A comparison shall be made between the current examination results and those of previous examinations and a determination made by the physician as to whether there has been a significant change.

(d) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this regulation and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's exposure level or anticipated exposure level;

(iv) A description of any personal protective equipment used or to be used; and

(v) Information from previous medical examinations of the affected employee which is not readily available to the examining physician.

(e) Physician's written opinion.

(i) The employer shall obtain and furnish the employee with a copy of a written opinion from the examining physician containing the following:

(A) The results of the medical examination and tests including the  $FEV_1$ , FVC, and  $FEV_1/FVC$  ratio;

(B) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from exposure to cotton dust;

(C) The physician's recommended limitations upon the employee's exposure to cotton dust or upon the employee's use of respirators including a determination of whether an employee can wear a negative pressure respirator, and where the employee cannot, a determination of the employee's ability to wear a powered air purifying respirator; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The written opinion obtained by the employer shall not reveal specific findings or diagnoses unrelated to occupational exposure.

(9) Employee education and training.

## (a) Training program.

(i) The employer shall provide a training program for all employees exposed to cotton dust and shall assure that each employee is informed of the following:

(A) The acute and long term health hazards associated with exposure to cotton dust;

(B) The names and descriptions of jobs and processes which could result in exposure to cotton dust at or above the PEL.

(C) The measures, including work practices required by subsection (7) of this section, necessary to protect the employee from exposures in excess of the permissible exposure limit;

(D) The purpose, proper use, limitations, and other training requirements for respiratory protection as required by subsection (6) of this section and chapter ((296-62)) 296-842 WAC((, Part E)) (see WAC ((296-62-07117, 296-62-07172, and 296-62-01786 through 296-62-07199)) 296-842-11005, 296-842-16005 and 296-842-19005);

(E) The purpose for and a description of the medical surveillance program required by subsection (8) of this section and other information which will aid exposed employees in understanding the hazards of cotton dust exposure; and

(F) The contents of this standard and its appendices.

(ii) The training program shall be provided prior to initial assignment and shall be repeated annually for each employee exposed to cotton dust, when job assignments or work processes change and when employee performance indicates a need for retraining.

(b) Access to training materials.

(i) Each employer shall post a copy of this section with its appendices in a public location at the workplace, and shall, upon request, make copies available to employees.

(ii) The employer shall provide all materials relating to the employee training and information program to the director upon request.

(10) Signs. The employer shall post the following warning sign in each work area where the permissible exposure limit for cotton dust is exceeded:

WARNING  
COTTON DUST WORK AREA  
MAY CAUSE ACUTE OR DELAYED LUNG INJURY  
(BYSSINOSIS)  
RESPIRATORS REQUIRED IN THIS AREA

## (11) Recordkeeping.

## (a) Exposure measurements.

(i) The employer shall establish and maintain an accurate record of all measurements required by subsection (4) of this section.

(ii) The record shall include:

(A) A log containing the items listed in WAC 296-62-14535 (4)(a), and the dates, number, duration, and results of each of the samples taken, including a description of the procedure used to determine representative employee exposures;

(B) The type of protective devices worn, if any, and length of time worn; and

(C) The names, social security number, job classifications, and exposure levels of employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least twenty years.

## (b) Medical surveillance.

(i) The employer shall establish and maintain an accurate medical record for each employee subject to medical surveillance required by subsection (8) of this section.

(ii) The record shall include:

(A) The name and social security number and description of the duties of the employee;

(B) A copy of the medical examination results including the medical history, questionnaire response, results of all tests, and the physician's recommendation;

(C) A copy of the physician's written opinion;

(D) Any employee medical complaints related to exposure to cotton dust;

(E) A copy of this standard and its appendices, except that the employer may keep one copy of the standard and the appendices for all employees, provided that he references the standard and appendices in the medical surveillance record of each employee; and

(F) A copy of the information provided to the physician as required by subsection (8)(d) of this section.

(iii) The employer shall maintain this record for at least twenty years.

## (c) Availability.

(i) The employer shall make all records required to be maintained by subsection (11) of this section available to the director for examination and copying.

(ii) Employee exposure measurement records and employee medical records required by this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with chapter 296-802 WAC.

## (d) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by subsection (11) of this section.

(ii) Whenever the employer ceases to do business, and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the director.

(iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the director at least three months prior to the disposal of such records and shall transmit those records to the director if he requests them within that period.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in chapter 296-802 WAC.

## (12) Observation of monitoring.

(a) The employer shall provide affected employees or their designated representatives an opportunity to observe any measuring or monitoring of employee exposure to cotton dust conducted pursuant to subsection (4) of this section.

(b) Whenever observation of the measuring or monitoring of employee exposure to cotton dust requires entry into an area where the use of personal protective equipment is

required, the employer shall provide the observer with and assure the use of such equipment and shall require the observer to comply with all other applicable safety and health procedures.

(c) Without interfering with the measurement, observers shall be entitled to:

(i) An explanation of the measurement procedures;  
 (ii) An opportunity to observe all steps related to the measurement of airborne concentrations of cotton dust performed at the place of exposure; and

(iii) An opportunity to record the results obtained.

(13) Washed cotton.

(a) Exemptions. Cotton, after it has been washed by the processes described in this section is exempt from all or parts of this section as specified if the requirements of this section are met.

(b) Initial requirements.

(i) In order for an employer to qualify as exempt or partially exempt from this standard for operations using washed cotton, the employer must demonstrate that the cotton was washed in a facility which is open to inspection by the director and the employer must provide sufficient accurate documentary evidence to demonstrate that the washing methods utilized meet the requirements of this section.

(ii) An employer who handles or processes cotton which has been washed in a facility not under the employer's control and claims an exemption or partial exemption under this paragraph, must obtain from the cotton washer and make available at the worksite, to the director, or his designated representative, to any affected employee, or to their designated representative the following:

(A) A certification by the washer of the cotton of the grade of cotton, the type of washing process, and that the batch meets the requirements of this section:

(B) Sufficient accurate documentation by the washer of the cotton grades and washing process; and

(C) An authorization by the washer that the director may inspect the washer's washing facilities and documentation of the process.

(c) Medical and dyed cotton. Medical grade (USP) cotton, cotton that has been scoured, bleached and dyed, and mercerized yarn shall be exempt from all provisions of this standard.

(d) Higher grade washed cotton. The handling or processing of cotton classed as "low middling light spotted or better" (color grade 52 or better and leaf grade code 5 or better according to the 1993 USDA classification system) shall be exempt from all provisions of the standard except requirements of subsection (8) of this section, medical surveillance; subsection (11)(b) through (d) of this section, recordkeeping-medical records, and Appendices B, C, and D of this section, if they have been washed on one of the following systems:

(i) On a continuous batt system or a rayon rinse system including the following conditions:

(A) With water;

(B) At a temperature of no less than 60°C;

(C) With a water-to-fiber ratio of no less than 40:1; and

(D) With the bacterial levels in the wash water controlled to limit bacterial contamination of the cotton.

(ii) On a batch kier washing system including the following conditions:

(A) With water;

(B) With cotton fiber mechanically opened and thoroughly pretwetted before forming the cake;

(C) For low-temperature processing, at a temperature of no less than 60°C with a water-to-fiber ratio of no less than 40:1; or, for high-temperature processing, at a temperature of no less than 93°C with a water-to-fiber ratio of no less than 15:1;

(D) With a minimum of one wash cycle followed by two rinse cycles for each batch, using fresh water in each cycle; and

(E) With bacterial levels in the wash water controlled to limit bacterial contamination of the cotton.

(e) Lower grade washed cotton. The handling and processing of cotton of grades lower than "low middling light spotted," that has been washed as specified in (d) of this subsection and has also been bleached, shall be exempt from all provisions of the standard except the requirements of subsection (3)(a) Permissible exposure limits, subsection (4) Exposure monitoring and measurement, subsection (8) Medical surveillance, subsection (11) Recordkeeping, and Appendices B, C and D of this section.

(f) Mixed grades of washed cotton. If more than one grade of washed cotton is being handled or processed together, the requirements of the grade with the most stringent exposure limit, medical and monitoring requirements shall be followed.

(14) Appendices.

(a) Appendix B (B-I, B-II and B-III), WAC 296-62-14537, Appendix C, WAC 296-62-14539 and Appendix D, WAC 296-62-14541 are incorporated as part of this chapter and the contents of these appendices are mandatory.

(b) Appendix A of this chapter, WAC 296-62-14535 contains information which is not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

(c) Appendix E of this chapter is a protocol which may be followed in the validation of alternative measuring devices as equivalent to the vertical elutriator cotton dust sampler. Other protocols may be used if it is demonstrated that they are statistically valid, meet the requirements in subsection (4)(a)(iii) of this section, and are appropriate for demonstrating equivalency.

**AMENDATORY SECTION** (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-62-20011 Respiratory protection.** (1) General.

For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this section. Compliance with the permissible exposure limit may not be achieved by the use of respirators except during:

(a) Periods necessary to install or implement feasible engineering and work-practice controls;

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(b) Work operations, such as maintenance and repair activity, for which engineering and work-practice controls are technologically not feasible;

(c) Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce employee exposure to or below the permissible exposure limit;

(d) Emergencies.

(2) Respirator program. The employer must implement a respiratory protection program as required by chapter ((296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156))) 296-842 WAC, except WAC 296-842-13005 and 296-842-14005.

(3) Respirator selection. The employer must select appropriate respirators or combination of respirators from Table I of this section.

**TABLE I**  
**RESPIRATORY PROTECTION FOR COKE**  
**OVEN EMISSIONS**

Airborne concentration of coke oven emissions	Required respirator
(i) Any concentration.	(A) A Type C supplied air respirator operated in pressure demand or other positive pressure or continuous flow mode; or (B) A powered air-purifying particulate filter respirator for dust, mist, and fume; or (C) A powered air-purifying particulate filter respirator combination chemical cartridge and particulate filter respirator for coke oven emissions.
(ii) Concentrations not greater than 1500 µg/m <sup>3</sup> .	(A) Any particulate filter respirator for dust, mist and fume, except single-use respirator; or (B) Any particulate filter respirator or combination chemical cartridge and particulate filter respirator for coke oven emissions; or (C) Any respirator listed in subsection (2)(a)(i) of this section.

**AMENDATORY SECTION** (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-62-20019 Employee information and training.** (1) Training program.

(a) The employer shall institute a training program for employees who are employed in the regulated area and shall assure their participation.

(b) The training program shall be provided as of January 20, 1977, for employees who are employed in the regulated

area at that time or at the time of initial assignment to a regulated area.

(c) The training program shall be provided at least annually for all employees who are employed in the regulated area, except that training regarding the occupational safety and health hazards associated with exposure to coke oven emissions and the purpose, proper use, and limitations of respiratory protective devices shall be provided at least quarterly until January 20, 1978.

(d) The training program shall include informing each employee of:

- (i) The information contained in the substance information sheet for coke oven emissions (Appendix A);
- (ii) The purpose, proper use, and limitations of respiratory protective devices in addition to other information as required by chapter ((296-62)) 296-842 WAC((,-Part E)) (see WAC ((296-62-07117)) 296-842-11005, ((296-62-07172)) 296-842-16005, and ((296-62-07186 through 296-62-07190)) 296-842-19005).

(iii) The purpose for and a description of the medical surveillance program required by WAC 296-62-20017 including information on the occupational safety and health hazards associated with exposure to coke oven emissions;

(iv) A review of all written procedures and schedules required under WAC 296-62-20009; and

- (v) A review of this standard.
- (2) Access to training materials.
  - (a) The employer shall make a copy of this standard and its appendixes readily available to all employees who are employed in the regulated area.
  - (b) The employer shall provide all materials relating to the employee information and training program to the director.

**AMENDATORY SECTION** (Amending WSR 99-07-097, filed 3/23/99, effective 6/23/99)

**WAC 296-62-3060 Engineering controls, work practices, and personal protective equipment for employee protection.** (1) Engineering controls, work practices, personal protective equipment, or a combination of these must be implemented in accordance with this section to protect employees from exposure to hazardous substances and health hazards.

(a) Engineering controls, work practices, and PPE for substances regulated in chapters 296-62 and 296-841 WAC.

Engineering controls and work practices must be instituted to reduce and maintain employee exposure to or below the permissible exposure limits for substances regulated by this chapter, except to the extent that such controls and practices are not feasible.

Note: Engineering controls which may be feasible include the use of pressurized cabs or control booths on equipment, and/or the use of remotely operated material handling equipment. Work practices which may be feasible are removing all nonessential employees from potential exposure during opening of drums, wetting down dusty operations, and locating employees upwind of possible hazards.

(b) Whenever engineering controls and work practices are not feasible, or not required, any reasonable combination of engineering controls, work practices, and PPE must be

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used to reduce and maintain exposures to or below the permissible exposure limits or dose limits for substances regulated by chapters 296-62 and 296-841 WAC.

(c) The employer must not implement a schedule of employee rotation as a means of compliance with permissible exposure limits or dose limits except when there is no other feasible way of complying with the airborne or dermal dose limits for ionizing radiation.

(d) The provisions of WAC 296-62-080 through 296-62-09013, 296-62-09015 through 296-62-09055, and 296-62-100 through 296-62-130 must be followed.

(2) Engineering controls, work practices, and personal protective equipment for substances not regulated in chapters 296-62 and 296-841 WAC. An appropriate combination of engineering controls, work practices, and personal protective equipment must be used to reduce and maintain employee exposure to or below published exposure levels for hazardous substances and health hazards not regulated by chapter 296-62 WAC. The employer may use the published literature and MSDS as a guide in making the employer's determination as to what level of protection the employer believes is appropriate for hazardous substances and health hazards for which there is no permissible exposure limit or published exposure level.

**AMENDATORY SECTION** (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

**WAC 296-62-3195 Appendix E—Training curriculum guidelines.** The following nonmandatory general criteria may be used for assistance in developing site-specific training curriculum used to meet the training requirements of WAC 296-62-3040 through 296-62-30465, 296-62-31435 through 296-62-31445, 296-62-31465, 296-62-4102 through 296-62-41021, and 296-62-41023.

These are generic guidelines and they are not presented as a complete training curriculum for any specific employer. Site-specific training programs must be developed on the basis of a needs assessment of the hazardous waste site, RCRA/TSD, or emergency response operation in accordance with this chapter (chapter 296-62 WAC, Part P and Part R).

The guidance set forth here presents a highly effective program that in the areas covered would meet or exceed the regulatory requirements. In addition, other approaches could meet the regulatory requirements.

**Suggested general criteria:**

**Definitions:**

"Competent" means possessing the skills, knowledge, experience, and judgment to perform assigned tasks or activities satisfactorily as determined by the employer.

"Demonstration" means the showing by actual use of equipment or procedures.

"Hands-on training" means training in a simulated work environment that permits each student to have experience performing tasks, making decisions, or using equipment appropriate to the job assignment for which the training is being conducted.

"Initial training" means training required prior to beginning work.

"Lecture" means an interactive discourse with a class lead by an instructor.

"Proficient" means meeting a stated level of achievement.

"Site-specific" means individual training directed to the operations of a specific job site.

"Training hours" means the number of hours devoted to lecture, learning activities, small group work sessions, demonstration, evaluations, or hands-on experience.

**Suggested core criteria:**

(1) Training facility. The training facility should have available sufficient resources, equipment, and site locations to perform concise and hands-on training when appropriate. Training facilities should have sufficient organization, support staff, and services to conduct training in each of the courses offered.

(2) Training director. Each training program should be under the direction of a training director who is responsible for the program. The training director should have a minimum of two years of employee education experience.

(3) Instructors. Instructors should be deemed competent on the basis of previous documented experience in their area of instruction, successful completion of a "train-the-trainer" program specific to the topics they will teach, and an evaluation of instructional competence by the training director.

(a) Instructors should be required to maintain professional competency by participating in continuing education or professional development programs or by successfully completing an annual refresher course and having an annual review by the training director.

(b) The annual review by the training director should include observation of an instructor's delivery, a review of those observations with the trainer, and an analysis of any instructor or class evaluations completed by the students during the previous year.

(4) Course materials. The training director should approve all course materials to be used by the training provider. Course materials should be reviewed and updated at least annually. Materials and equipment should be in good working order and maintained properly.

(a) All written and audio-visual materials in training curricula should be peer reviewed by technically competent outside reviewers or by a standing advisory committee.

(b) Reviewers should possess expertise in the following disciplines were applicable: Occupational health, industrial hygiene and safety, chemical/environmental engineering, employee education, or emergency response. One or more of the peer reviewers should be an employee experienced in the work activities to which the training is directed.

(5) Students. The program for accepting students should include:

(a) Assurance that the student is or will be involved in work where chemical exposures are likely and that the student possesses the skills necessary to perform the work.

(b) A policy on the necessary medical clearance.

(6) Ratios. Student-instructor ratios should not exceed thirty students per instructor. Hands-on activity requiring the use of personal protective equipment should have the following student-instructor ratios: For Level C or Level D personal protective equipment the ratio should be ten students

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per instructor. For Level A or Level B personal protective equipment the ratio should be five students per instructor.

(7) Proficiency assessment. Proficiency should be evaluated and documented by the use of a written assessment and a skill demonstration selected and developed by the training director and training staff. The assessment and demonstration should evaluate the knowledge and individual skills developed in the course of training. The level of minimum achievement necessary for proficiency must be specified in writing by the training director.

(a) If a written test is used, there should be a minimum of fifty questions. If a written test is used in combination with a skills demonstration, a minimum of twenty-five questions should be used. If a skills demonstration is used, the tasks chosen and the means to rate successful completion should be fully documented by the training director.

(b) The content of the written test or of the skill demonstration must be relevant to the objectives of the course.

The written test and skill demonstration should be updated as necessary to reflect changes in the curriculum and any update should be approved by the training director.

(c) The proficiency assessment methods, regardless of the approach or combination of approaches used, should be justified, documented and approved by the training director.

(d) The proficiency of those taking the additional courses for supervisors should be evaluated and documented by using proficiency assessment methods acceptable to the training director. These proficiency assessment methods must reflect the additional responsibilities borne by supervisory personnel in hazardous waste operations or emergency response.

(8) Course certificate. Written documentation should be provided to each student who satisfactorily completes the training course. The documentation should include:

(a) Student's name.

(b) Course title.

(c) Course date.

(d) Statement that the student has successfully completed the course.

(e) Name and address of the training provider.

(f) An individual identification number for the certificate.

(g) List of the levels of personal protective equipment used by the student to complete the course.

(i) This documentation may include a certificate and an appropriate wallet-sized laminated card with a photograph of the student and the above information.

(ii) When such course certificate cards are used, the individual identification number for the training certificate should be shown on the card.

(9) Recordkeeping. Training providers should maintain records listing the dates courses were presented, the names of the individual course attendees, the names of those students successfully completing each course, and the number of training certificates issued to each successful student. These records should be maintained for a minimum of five years after the date an individual participated in a training program offered by the training provider. These records should be available and provided upon the student's request or as mandated by law.

(10) Program quality control. The training director should conduct or direct an annual written audit of the training program. Program modifications to address deficiencies, if any, should be documented, approved, and implemented by the training provider. The audit and the program modification documents should be maintained at the training facility.

#### **Suggested Program Quality Control Criteria:**

Factors listed here are suggested criteria for determining the quality and appropriateness of employee health and safety training for hazardous waste operations and emergency response.

(1) Training plan. Adequacy and appropriateness of the training program's curriculum development, instructor training, distribution of course materials, and direct student training should be considered, including:

(a) The duration of training, course content, and course schedules/agendas;

(b) The different training requirements of the various target populations, as specified in the appropriate generic training curriculum;

(c) The process for the development of curriculum, which includes appropriate technical input, outside review, evaluation, program pretesting.

(d) The adequate and appropriate inclusion of hands-on, demonstration, and instruction methods;

(e) Adequate monitoring of student safety, progress, and performance during the training.

(2) Program management, training director, staff, and consultants. Adequacy and appropriateness of staff performance and delivering an effective training program should be considered, including:

(a) Demonstration of the training director's leadership in assuring quality of health and safety training;

(b) Demonstration of the competency of the staff to meet the demands of delivering high quality hazardous waste employee health and safety training;

(c) Organization charts establishing clear lines of authority;

(d) Clearly defined staff duties including the relationship of the training staff to the overall program;

(e) Evidence that the training organizational structure suits the needs of the training program;

(f) Appropriateness and adequacy of the training methods used by the instructors;

(g) Sufficiency of the time committed by the training director and staff to the training program;

(h) Adequacy of the ratio of training staff to students;

(i) Availability and commitment of the training program of adequate human and equipment resources in the areas of:

(i) Health effects;

(ii) Safety;

(iii) Personal protective equipment (PPE);

(iv) Operational procedures;

(v) Employee protection practices/procedures;

(j) Appropriateness of management controls;

(k) Adequacy of the organization and appropriate resources assigned to assure appropriate training;

(l) In the case of multiple-site training programs, adequacy of management of the satellite centers.

(3) Training facilities and resources. Adequacy and appropriateness of the facilities and resources for supporting the training program should be considered, including:

- (a) Space and equipment to conduct the training;
- (b) Facilities for representative hands-on training;
- (c) In the case of multiple-site programs, equipment and facilities at the satellite centers;

(d) Adequacy and appropriateness of the quality control and evaluations program to account for instructor performance;

(e) Adequacy and appropriateness of the quality control and evaluation program to ensure appropriate course evaluation, feedback, updating, and corrective action;

(f) Adequacy and appropriateness of disciplines and expertise being used within the quality control and evaluation program;

(g) Adequacy and appropriateness of the role of student evaluations to provide feedback for training program improvement.

(4) Quality control and evaluation. Adequacy and appropriateness of quality control and evaluation plans for training programs should be considered, including:

(a) A balanced advisory committee and/or competent outside reviewers to give overall policy guidance;

(b) Clear and adequate definition of the composition and active programmatic role of the advisory committee or outside reviewers;

(c) Adequacy of the minutes or reports of the advisory committee or outside reviewers' meetings or written communication;

(d) Adequacy and appropriateness of the quality control and evaluations program to account for instructor performance;

(e) Adequacy and appropriateness of the quality control and evaluation program to ensure appropriate course evaluation, feedback, updating, and corrective action;

(f) Adequacy and appropriateness of disciplines and expertise being used within the quality control and evaluation program;

(g) Adequacy and appropriateness of the role of student evaluations to provide feedback for training program improvement.

(5) Students. Adequacy and appropriateness of the program for accepting students should be considered, including:

(a) Assurance that the student already possess the necessary skills for their job, including necessary documentation;

(b) Appropriateness of methods the program uses to ensure that recruits are capable of satisfactorily completing training;

(c) Review and compliance with any medical clearance policy.

(6) Institutional environment and administrative support. The adequacy and appropriateness of the institutional environment and administrative support system for the training program should be considered, including:

(a) Adequacy of the institutional commitment to the employee training program;

(b) Adequacy and appropriateness of the administrative structure and administrative support.

(7) Summary of evaluation questions. Key questions for evaluating the quality and appropriateness of an overall training program should include the following:

(a) Are the program objectives clearly stated?

(b) Is the program accomplishing its objectives?

(c) Are appropriate facilities and staff available?

(d) Is there an appropriate mix of classroom, demonstration, and hands-on training?

(e) Is the program providing quality employee health and safety training that fully meets the intent of regulatory requirements?

(f) What are the program's main strengths?

(g) What are the program's main weaknesses?

(h) What is recommended to improve the program?

(i) Are instructors instructing according to their training outlines?

(j) Is the evaluation tool current and appropriate for the program content?

(k) Is the course material current and relevant to the target group?

#### **Suggested Training Curriculum Guidelines:**

The following training curriculum guidelines are for those operations specifically identified in this Part P, as requiring training. Issues such as qualifications of instructors, training certification, and similar criteria appropriate to all categories of operations addressed in this Part P, have been covered in the preceding section and are not readdressed in each of the generic guidelines. Basic core requirements for training programs that are addressed include: (1) *General hazardous waste operations*; (2) *RCRA operations—Treatment, storage, and disposal facilities*.

(1) General hazardous waste operations and site-specific training.

(a) Off-site training. Training course content for hazardous waste operations, required by WAC 296-62-3040 through 296-62-30465, should include the following topics or procedures:

(i) Regulatory knowledge.

(A) A review of this Part P and the core elements of an occupational safety and health program.

(B) The content of a medical surveillance program as outlined in WAC 296-62-3050 through 296-62-30535.

(C) The content of an effective site safety and health plan consistent with the requirements of WAC 296-62-30135(2).

(D) Emergency response plan and procedures as outlined in WAC 296-24-567 and 296-62-3110 through 296-62-31110.

(E) Adequate illumination.

(F) Sanitation recommendation and equipment.

(G) Review and explanation of WISHA's hazard-communication standard WAC 296-800-170, and chapter 296-24 WAC, Part A-4, safety procedures for the control of hazardous energy (lockout/tagout).

(H) Review of other applicable standards including but not limited to those in the construction standards, chapter 296-155 WAC.

(I) Rights and responsibilities of employers and employees under applicable WISHA/OSHA and department of ecology (DOE)/Environmental Protection Association (EPA) regulations and laws.



(ii) Technical knowledge.

(A) Type of potential exposures to chemical, biological, and radiological hazards; types of human responses to these hazards and recognition of those responses; principles of toxicology and information about acute and chronic hazards; health and safety considerations of new technology.

(B) Fundamentals of chemical hazards including but not limited to vapor pressure, boiling points, flash points, pH, other physical and chemical properties.

(C) Fire and explosion hazards of chemicals.

(D) General safety hazards such as but not limited to electrical hazards, powered equipment hazards, motor vehicle hazards, walking-working surface hazards, excavation hazards, and hazards associated with working in hot and cold temperature extremes.

(E) Review and knowledge of confined space entry procedures in chapter 296-62 WAC, Part M.

(F) Work practices to minimize employee risk from site hazards.

(G) Safe use of engineering controls, equipment, and any new relevant safety technology or safety procedures.

(H) Review and demonstration of competency with air sampling and monitoring equipment that may be used in a site monitoring program.

(I) Container sampling procedures and safeguarding; general drum and container handling procedures including special requirement for laboratory waste packs, shock-sensitive wastes, and radioactive wastes.

(J) The elements of a spill control program.

(K) Proper use and limitations of material handling equipment.

(L) Procedures for safe and healthful preparation of containers for shipping and transport.

(M) Methods of communication including those used while wearing respiratory protection.

(iii) Technical skills.

(A) Selection, use maintenance, and limitations of personal protective equipment including the components and procedures for carrying out a respirator program to comply with chapter ((296-62)) 296-842 WAC ((~~Part E, Respiratory Protection~~)), Respirators.

(B) Instruction in decontamination programs including personnel, equipment, and hardware; hands-on training including Levels A, B, and C ensembles and appropriate decontamination lines; field activities including the donning and doffing of protective equipment to a level commensurate with the employee's anticipated job function and responsibility and to the degree required by potential hazards.

(C) Sources for additional hazard information; exercises using relevant manuals and hazard coding systems.

(iv) Additional suggested items.

(A) A laminated, dated card or certificate with photo, denoting limitations and level of protection for which the employee is trained should be issued to those students successfully completing a course.

(B) Attendance should be required at all training modules, with successful completion of exercises and a final written or oral examination with at least fifty questions.

(C) A minimum of one-third of the program should be devoted to hands-on exercises.

(D) A curriculum should be established for the eight-hour refresher training required by WAC 296-62-30460, with delivery of such courses directed toward those areas of previous training that need improvement or reemphasis.

(E) A curriculum should be established for the required eight-hour training for supervisors. Demonstrated competency in the skills and knowledge provided in forty-hour and eighty-hour courses should be prerequisites for supervisor training.

(b) Refresher training. The eight-hour annual refresher training required in WAC 296-62-30460 should be conducted by qualified training providers. Refresher training should include at a minimum the following topics and procedures:

(i) Review of and retraining on relevant topics covered in the forty-hour and eighty-hour programs, as appropriate, using reports by the students on their work experiences.

(ii) Update on developments with respect to material covered in the forty-hour and eighty-hour courses.

(iii) Review of changes to pertinent provisions of DOE/EPA or WISHA/OSHA standards or laws.

(iv) Introduction of additional subject areas as appropriate.

(v) Hands-on review of new or altered PPE or decontamination equipment or procedures. Review of new developments in personal protective equipment.

(vi) Review of newly developed air and contaminant monitoring equipment.

(c) On-site training. The employer should provide employees engaged in hazardous waste site activities with information and training prior to initial assignment into their work area, as follows:

(i) The requirements of the hazard communication program including the location and availability of the written program, required lists of hazardous chemicals, and material safety data sheets.

(ii) Activities and locations in their work area where hazardous substance may be present.

(iii) Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearances, or other evidence (sight, sound or smell) of hazardous chemicals being released, and applicable alarms from monitoring devices that record chemical releases.

(iv) The physical and health hazards of substances known or potentially present in the work area.

(v) The measures employees can take to help protect themselves from worksite hazards, including specific procedures the employer has implemented.

(vi) An explanation of the labeling system and material safety data sheets and how employees can obtain and use appropriate hazard information.

(vii) The elements of the confined space program including special PPE, permits, monitoring requirements, communication procedures, emergency response, and applicable lockout procedures.

(d) The employer should provide hazardous waste employees with information and training and should provide a review and access to the site safety and health plan as follows:



- (i) Names of personnel and alternate responsible for site safety and health.
- (ii) Safety and health hazards present on the site.
- (iii) Selection, use, maintenance, and limitations of personal protective equipment specific to the site.
- (iv) Work practices by which the employee can minimize risks from hazards.
- (v) Safe use of engineering controls and equipment available on site.
- (vi) Safe decontamination procedures established to minimize employee contact with hazardous substances, including:
  - (A) Employee decontamination;
  - (B) Clothing decontamination; and
  - (C) Equipment decontamination.
- (vii) Elements of the site emergency response plan, including:
  - (A) Preemergency planning.
  - (B) Personnel roles and lines of authority and communication.
  - (C) Emergency recognition and prevention.
  - (D) Safe distances and places of refuge.
  - (E) Site security and control.
  - (F) Evacuation routes and procedures.
  - (G) Decontamination procedures not covered by the site safety and health plan.
  - (H) Emergency medical treatment and first aid.
  - (I) Emergency equipment and procedures for handling emergency incidents.
- (e) The employer should provide hazardous waste employees with information and training on personal protective equipment used at the site, such as the following:
  - (i) PPE to be used based upon known or anticipated site hazards.
  - (ii) PPE limitations of materials and construction; limitations during temperature extremes, heat stress, and other appropriate medical considerations; use and limitations of respirator equipment as well as documentation procedures as outlined in chapter ((296-62)) 296-842 WAC, ((Part E, Respiratory Protection)) Respirators.
  - (iii) PPE inspection procedures prior to, during, and after use.
  - (iv) PPE donning and doffing procedures.
  - (v) PPE decontamination and disposal procedures.
  - (vi) PPE maintenance and storage.
  - (vii) Task duration as related to PPE limitations.
- (f) The employer should instruct the employee about the site medical surveillance program relative to the particular site, including:
  - (i) Specific medical surveillance programs that have been adapted for the site.
  - (ii) Specific signs and symptoms related to exposure to hazardous materials on the site.
  - (iii) The frequency and extent of periodic medical examinations that will be used on the site.
  - (iv) Maintenance and availability of records.
  - (v) Personnel to be contacted and procedures to be followed when signs and symptoms of exposures are recognized.

(g) The employees will review and discuss the site safety and health plan as part of the training program. The location of the site safety and health plan and all written programs should be discussed with employees including a discussion of the mechanisms for access, review, and references described.

(2) RCRA operations training for treatment, storage and disposal facilities.

(a) As a minimum, the training course required in WAC 296-62-31435 through 296-62-31440 and 296-62-31465 should include the following topics:

(i) Review of the applicable parts of this Part P and the elements of the employer's occupational safety and health plan.

(ii) Review of relevant hazards such as, but not limited to, chemical, biological, and radiological exposures; fire and explosion hazards; thermal extremes; and physical hazards.

(iii) General safety hazards including those associated with electrical hazards, powered equipment hazards, lockout/tagout procedures, motor vehicle hazards and walking-working surface hazards.

(iv) Confined space hazards and procedures.

(v) Work practices to minimize employee risk from workplace hazards.

(vi) Emergency response plan and procedures including first aid meeting the requirements of WAC 296-62-31450.

(vii) A review of procedures to minimize exposure to hazardous waste and various type of waste streams, including the materials handling program and spill containment program.

(viii) A review of chemical hazard communication programs meeting the requirements of WAC 296-800-170.

(ix) A review of medical surveillance programs meeting the requirements of WAC 296-62-3050 and 296-62-31415 including the recognition of signs and symptoms of overexposure to hazardous substance including known synergistic interactions.

(x) A review of decontamination programs and procedures meeting the requirements of WAC 296-62-3100 and 296-62-31420.

(xi) A review of an employer's requirements to implement a training program and its elements.

(xii) A review of the criteria and programs for proper selection and use of personal protective equipment, including respirators.

(xiii) A review of the applicable appendices to this Part P (Appendices A through E).

(xiv) Principles of toxicology and biological monitoring as they pertain to occupational health.

(xv) Rights and responsibilities of employees and employers under applicable WISHA/OSHA and DOE/EPA regulations and laws.

(xvi) Hands-on exercises and demonstrations of competency with equipment to illustrate the basic equipment principles that may be used during the performance of work duties, including the donning and doffing of PPE.

(xvii) Sources of reference, efficient use of relevant manuals, and knowledge of hazard coding systems to include information contained in hazardous waste manifests.

(xviii) At least eight hours of hands-on training.

(xix) Training in the job skills required for an employee's job function and responsibility before they are permitted to participate in or supervise field activities.

(b) The individual employer should provide hazardous waste employees with information and training prior to an employee's initial assignment into a work area. The training and information should cover the following topics:

(i) The emergency response plan and procedures including first aid.

(ii) A review of the employer's hazardous waste handling procedures including the materials handling program and elements of the spill containment program, location of spill response kits or equipment, and the names of those trained to respond to releases.

(iii) The hazardous communication program meeting the requirements of WAC 296-800-170.

(iv) A review of the employer's medical surveillance program including the recognition of signs and symptoms of exposure to relevant hazardous substance including known synergistic interactions.

(v) A review of the employer's decontamination program and procedures.

(vi) A review of the employer's training program and the parties responsible for that program.

(vii) A review of the employer's personal protective equipment program including the proper selection and use of PPE based upon specific site hazards.

(viii) All relevant site-specific procedures addressing potential safety and health hazards. This may include, as appropriate, biological and radiological exposures, fire and explosion hazards, thermal hazards, and physical hazards such as electrical hazards, powered equipment hazards, lockout/tagout hazards, motor vehicle hazards, and walking-working surface hazards.

(ix) Safe use of engineering controls and equipment on-site.

(x) Names of personnel and alternates responsible for safety and health.

**AMENDATORY SECTION** (Amending Order 90-10, filed 8/13/90, effective 9/24/90)

**WAC 296-62-40001 Scope and application.** (1) This section shall apply to all employers and employees engaged in the laboratory use of hazardous chemicals as follows:

(a) Where this section applies, it shall supersede, for laboratories, the requirements of all other WISHA health standards in chapters 296-62 and 296-841 WAC, except for any WISHA health standard, only the requirement to limit employee exposure to the specific permissible exposure limit shall apply for laboratories, unless that particular standard states otherwise or unless the conditions of subdivision (c) of this section apply.

(b) Prohibition of eye and skin contact where specified by any WISHA health standard shall be observed.

(c) Where the action level (or in the absence of an action level, the permissible exposure limit) is routinely exceeded for a WISHA regulated substance with exposure monitoring and medical surveillance requirements, of WAC 296-62-40007.

(2) This section shall not apply to:

(a) Uses of hazardous chemicals which do not meet the definition of laboratory use, and in such cases, the employer shall comply with the relevant standard in WAC 296-62-075, even if such use occurs in a laboratory.

(b) Laboratory uses of hazardous chemicals which provide no potential for employee exposure. Examples of such conditions might include:

(i) Procedures using chemically-impregnated test media such as Dip-and-Read tests where a reagent strip is dipped into the specimen to be tested and the results are interpreted by comparing the color reaction to a color chart supplied by the manufacturer of the test strip; and

(ii) Commercially prepared kits such as those used in performing pregnancy tests in which all of the reagents needed to conduct the test are contained in the kit.

**AMENDATORY SECTION** (Amending Order 90-10, filed 8/13/90, effective 9/24/90)

**WAC 296-62-40007 Employee exposure determination.** (1) Initial monitoring. The employer shall measure the employee's exposure to any substance regulated by a standard which requires monitoring if there is reason to believe that exposure levels for that substance routinely exceed the action level (or in the absence of an action level, the PEL).

(2) Periodic monitoring. If the initial monitoring prescribed by subsection (1) of this section discloses employee exposure over the action level (or in the absence of an action level, the PEL), the employer shall immediately comply with the exposure monitoring provisions of chapters 296-62 and 296-841 WAC.

(3) Termination of monitoring. Monitoring may be terminated in accordance with chapters 296-62 and 296-841 WAC.

(4) Employee notification of monitoring results. The employer shall, within 15 working days after the receipt of any monitoring results, notify the employee of these results in writing either individually or by posting results in an appropriate location that is accessible to employees.

**AMENDATORY SECTION** (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-78-665 Sanding machines.** (1) Each belt sanding machine shall have both pulleys enclosed in such a manner as to guard the points where the belt runs onto the pulleys. The edges of the unused run of belt shall be enclosed or otherwise guarded from contact by employees.

(2) Each drum sanding machine shall be provided with a guard so arranged as to completely enclose the revolving drum except such portion required for the application of the material to be finished. Guards with hinges to facilitate the insertion of sandpaper may be installed. The exhaust hood may form part or all of this guard. When so used, the hood shall conform to the specifications as given under exhaust systems in WAC 296-78-710.

(3) All standard stationary sanding machines shall be provided with exhaust systems in conformity with the section of this code dealing with exhaust systems.

(4) All portable sanding machines shall be provided with means of removing excessive dust, or employees using equipment shall be provided with such necessary respiratory protective equipment as will conform to the requirements of the general occupational health standards, chapter ((296-62)) 296-842 WAC((,Part E)).

(5) The requirements of WAC 296-24-16533, general safety and health standards, shall be applicable to sanding machines.

**AMENDATORY SECTION** (Amending WSR 02-15-102, filed 7/17/02, effective 10/1/02)

**WAC 296-78-71015 Tanks and chemicals.** (1) All open vats and tanks into which workers may fall shall be guarded with standard railings or screen guards in all cases where such guarding is possible with regard to practical operation.

(2) Foundations of elevated tanks shall be accessible for inspections. When the tank platform is more than five feet above the ground a stairway or ladder shall be permanently attached.

(3) Every open tank over five feet in height shall be equipped with fixed standard ladders both inside and out, extending from the bottom to the rim of the tank arranged to be accessible to each other, so far as local conditions permit.

(4) The use of chemicals for treating of lumber for prevention of sap stain or mold or as preservatives, shall conform to the requirements of chapter 296-835 WAC, Dipping and coating operations (dip tanks).

(a) Storage, handling, and use of chemicals. Threshold limits. Employees shall not be exposed to airborne concentration of toxic dusts, vapors, mists or gases that exceed the threshold limit values set forth in chapter 296-62 WAC, Part H, and chapter 296-62 WAC, Part E, general occupational health standards.

(b) Protective equipment. The use of chemicals shall be controlled so as to protect employees from harmful exposure to toxic materials. Where necessary, employees shall be provided with and required to wear such protective equipment as will afford adequate protection against harmful exposure as required by WAC 296-800-160, and chapter ((296-62)) 296-842 WAC, ((Part E,)) general occupational health standards.

(5)(a) Means shall be provided and used to collect any excess of chemicals used in treating lumber so as to protect workers from accidental contact with harmful concentrations of toxic chemicals or fumes.

(b) Dip tanks containing flammable or combustible liquids shall be constructed, maintained and used in accordance with chapter 296-835 WAC, Dipping and coating operations (dip tanks).

(c) An evacuation plan shall be developed and implemented for all employees working in the vicinity of dip tanks using flammable and/or combustible liquids. A copy of the plan shall be available at the establishment for inspection at all times. Every employee shall be made aware of the evacuation plan and know what to do in the event of an emergency and be evacuated in accordance with the plan. The plan shall be reviewed with employees at least quarterly and documented.

(d) When automatic foam, automatic carbon dioxide or automatic dry chemical extinguishing systems are used, an alarm device shall be activated to alert employees in the dip tank area before and during the activation of the system. The following combinations of extinguishment systems when used in conjunction with the evacuation plan as stated above will be acceptable in lieu of bottom drains:

(i) A dip tank cover with an automatic foam extinguishing system under the cover, or an automatic carbon dioxide system, or an automatic dry chemical extinguishing system, or an automatic water spray extinguishing system;

(ii) An automatic dry chemical extinguishing system with an automatic carbon dioxide system or a second automatic dry chemical extinguishing system or an automatic foam extinguishing system;

(iii) An automatic carbon dioxide system with a second automatic carbon dioxide system or an automatic foam extinguishing system.

(e) The automatic water spray extinguishing systems, automatic foam extinguishing systems, and dip tank covers shall conform with the requirements of chapter 296-835 WAC, Dipping and coating operations (dip tanks). The automatic carbon dioxide systems and dry chemical extinguishing system shall conform with the requirements of WAC 296-24-615 and 296-24-620.

(6) Where workers are engaged in the treating of lumber with chemicals or are required to handle lumber or other materials so treated, the workers shall be provided with, at no cost to the worker, and required to use such protective equipment as will provide complete protection against contact with toxic chemicals or fumes therefrom.

(7) Sanitation requirements. The requirements of WAC 296-800-220 and 296-800-230 (safety and health core rules), shall govern sanitation practices.

(8) The sides of steam vats and soaking pits unless otherwise guarded shall extend forty-two inches above the floor level. The floor adjacent thereto shall be of nonslip construction.

(9) Large steam vats or soaking pits, divided into sections, shall be provided with substantial walkways between each section, each walkway to be provided with standard railings which may be removable if necessary.

(10) Covers shall be removed only from that portion of the steaming vats on which workers are working and a portable railing shall be placed at this point to protect the operators.

(11) Workers shall not ride or step on logs in steam vats.

**AMENDATORY SECTION** (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

**WAC 296-78-71019 Exhaust systems.** (1) Air requirements in buildings, where persons are habitually employed, shall meet the requirements of the general occupational health standard, WAC 296-62-100 through 296-62-11013.

(2) Where the natural ventilation is not sufficient to remove dust, fumes or vapors that create or constitute a hazard, additional means of removal shall be provided.

(3) All mills containing one or more machines whose operations create dust, shavings, chips or slivers during a

period of time equal to or greater than one-fourth of the working day or shift, shall be equipped with a collecting system either continuous or automatic in action and of sufficient strength and capacity to thoroughly remove such refuse from the points of operation of the machines and the work areas.

(4) Each woodworking machine that creates dust, shavings, chips, or slivers shall be equipped with an exhaust or conveyor system located and adjusted to remove the maximum amount of refuse from the point of operation and immediate vicinity.

(5) Blower, collecting and exhaust systems shall be designed, constructed and maintained in accordance with American National Standards Z33.1 - 1961 (for the installation of blower and exhaust systems for dust, stock and vapor removal or conveying) and Z12.2 - 1962 (R1969) (code for the prevention of dust explosions in woodworking and wood flour manufacturing plants).

(6) Fans used for ventilating shall be of ample capacity, as evidenced by the performance schedules of the manufacturers, and shall be guarded when exposed to contact. Hoods, dust conveyors, dust collectors and other accessory equipment shall be large enough to insure free intake and discharge.

(7) The outlet or discharge of all ventilating equipment shall be so arranged that at no time will the dust, vapors, gases or other air borne impurities discharged, create or constitute a hazard.

(8) Where a hood is used to form a part or all of the guard required on a given machine, it shall be constructed of not less than ten U.S. gauge sheet metal, or if of cast iron it shall be not less than three-sixteenths inches in thickness.

(9) All exhaust pipes shall be of such construction and internal dimensions as to minimize the possibility of clogging. They shall be readily accessible for cleaning.

(10) All exhaust pipes shall empty into settling or dust chambers which shall effectively prevent the dust or refuse from entering any work area. Such settling or dust chambers shall be so designed and operated as to reduce to a minimum the danger of fire or dust explosions.

(11) In lieu of a general ventilating system, exhaust or blower units may be installed on the dust or fume producing machine, provided the required protection is secured thereby.

(12) When proper ventilation is not provided, and temporary hazardous conditions are therefore encountered, the employer shall furnish approved respiratory and visual equipment: Provided, however, That the exposure to such hazard shall not be for more than two hours duration. Protective measures and equipment shall meet the requirements of the general occupational health standard, chapter ((296-62)) 296-842 WAC((Part E)).

(13) Provisions for the daily removal of refuse shall be made in all operations not required to have an exhaust system, or having refuse too heavy, or bulky, or otherwise unsuitable to be handled by an exhaust system.

**AMENDATORY SECTION** (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

**WAC 296-78-84005 Dry kilns.** (1) Transfer, kiln and dolly tracks shall be properly maintained at all times and shall

have a grade of not more than one and one-fourth percent. Bumpers or stops shall be installed at the ends of all tracks capable of stopping a normal load for which the track is installed. A means shall be provided for chocking or blocking cars.

(2) Doors.

(a) Main kiln doors. Main kiln doors shall be provided with a method of holding them open while kiln is being loaded.

(b) Counterweights on vertical lift doors shall be boxed or otherwise guarded.

(c) Means shall be provided to firmly secure main doors, when they are disengaged from carriers and hangers, to prevent toppling.

(3) Kilns whose operation requires inside inspection shall be maintained with not less than eighteen inches clearance between loaded cars and the walls of the kiln. The requirements for personal protective equipment specified in WAC 296-800-160, safety and health core rules, and chapter ((296-62)) 296-842 WAC, ((Part E-)) general occupational health standards, shall be complied with.

(4) Kiln loads shall be equipped or arranged for easy attachment and detachment of transfer cables. Means for stopping kiln cars shall be available at all times.

(5) Cars shall not be moved until tracks are clear and workers are out of the bight of transfer lines.

(6) When kiln or dolly loads of lumber are permitted to coast through or adjacent to any work area, audible warning shall be given.

(7) Stickers shall not be allowed to protrude more than two inches from the sides of kiln stacks.

(8) Yards and storage areas shall be kept reasonably free of debris and unnecessary obstruction. Warning signs shall be conspicuously posted wherever there is danger from moving vehicles or equipment.

**AMENDATORY SECTION** (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

**WAC 296-79-29007 Bleach plant.** (1) Work areas used for preparation and processing of bleaching mixtures must be equipped with properly designed exhaust ventilation systems capable of clearing the area of toxic gases. See chapters 296-62 and 296-841 WAC, ((Part H and)) Part L.

(2) Bleaching containers, such as cells, towers, etc., except the Bellmer type, must be completely covered on the top, with the exception of one small opening large enough to allow filling but too small to admit a person.

**AMENDATORY SECTION** (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

**WAC 296-155-160 Gases, vapors, fumes, dusts, and mists.** (1) Exposure of employees to inhalation, ingestion, skin absorption, or contact with any material or substance at a concentration above those specified in the general occupational health standards, WAC 296-62-07515 shall be avoided.

(2) To achieve compliance with subsection (1) of this section, administrative or engineering controls must first be implemented whenever feasible. When such controls are not

feasible to achieve full compliance, protective equipment or other protective measures shall be used to keep the exposure of employees to air contaminants within the limits prescribed in WAC 296-62-07515. Any equipment and technical measures used for this purpose must first 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 296-155-220.

(3) Whenever internal combustion equipment exhausts in enclosed spaces, tests shall be made and recorded to ensure 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 chapter 296-841 WAC, identifying and controlling respiratory hazards.

(4) Whenever any employee is exposed to asbestos, the provisions of the general occupational health standards, chapter 296-62 WAC shall apply.

(5) Subsections (1) and (2) of this section do not apply to the exposure of employees to formaldehyde. Whenever any employee is exposed to formaldehyde, the requirements of WAC 296-62-07540 shall apply.

**AMENDATORY SECTION** (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-155-17317 Respiratory protection.** (1) General. For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this section. Respirators must be used during:

- (a) Periods necessary to install or implement feasible engineering and work-practice controls.
- (b) Work operations, such as maintenance and repair activities and spray application processes, for which engineering and work-practice controls are not feasible.
- (c) Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce employee exposure to or below the PELs.
- (d) Emergencies.

(2) Respirator program. The employer must implement a respiratory protection program as required by chapter ((296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156))) 296-842 WAC, except WAC 296-842-13005 and 296-842-14005.

(3) Respirator selection.

(a) The employer must select the appropriate respirator from Table 1 of this section.

Table 1.—Respiratory Protection for MDA

Airborne concentration of MDA or condition of use	Respirator type
a. Less than or equal to 10xPEL	(1) Half-mask respirator with HEPA <sup>1</sup> cartridge. <sup>2</sup>
b. Less than or equal to 50xPEL	(1) Full facepiece respirator with HEPA <sup>1</sup> cartridge or canister. <sup>2</sup>
c. Less than or equal to 1000xPEL	(1) Full facepiece powered air-purifying respirator with HEPA <sup>1</sup> cartridges. <sup>2</sup>

Table 1.—Respiratory Protection for MDA

Airborne concentration of MDA or condition of use	Respirator type
d. Greater than 1000xPEL or unknown	(1) Self-contained breathing concentration apparatus with full facepiece in positive pressure mode; (2) Full facepiece positive-pressure demand supplied-air respirator with auxiliary self-contained air supply.
e. Escape	(1) Any full facepiece air-purifying respirator with HEPA <sup>1</sup> cartridges; <sup>2</sup> (2) Any positive pressure or continuous flow self-contained breathing apparatus with full facepiece or hood.
f. Fire fighting	(1) Full facepiece self-contained breathing apparatus in positive pressure mode.

Note: Respirators assigned for higher environmental concentration may be used at lower concentrations.

<sup>1</sup>High efficiency particulate in air filter (HEPA) means a filter that is at least 99.97 percent efficient against mono-dispersed particles of 0.3 micrometers or larger.

<sup>2</sup>Combination HEPA/organic vapor cartridges shall be used whenever MDA in liquid form or a process requiring heat is used.

(b) An employee who cannot use a negative-pressure respirator must be given the option of using a positive-pressure respirator, or a supplied-air respirator operated in the continuous-flow or pressure-demand mode.

**AMENDATORY SECTION** (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

**WAC 296-155-174 Cadmium.** (1) Scope. This standard applies to all occupational exposures to cadmium and cadmium compounds, in all forms, in all construction work where an employee may potentially be exposed to cadmium. Construction work is defined as work involving construction, alteration, and/or repair, including but not limited to the following:

- (a) Wrecking, demolition, or salvage of structures where cadmium or materials containing cadmium are present;
- (b) Use of cadmium containing-paints and cutting, brazing, burning, grinding, or welding on surfaces that were painted with cadmium-containing paints;
- (c) Construction, alteration, repair, maintenance, or renovation of structures, substrates, or portions thereof, that contain cadmium, or materials containing cadmium;
- (d) Cadmium welding; cutting and welding cadmium-plated steel; brazing or welding with cadmium alloys;
- (e) Installation of products containing cadmium;
- (f) Electrical grounding with cadmium-welding, or electrical work using cadmium-coated conduit;
- (g) Maintaining or retrofitting cadmium-coated equipment;
- (h) Cadmium contamination/emergency cleanup; and

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(i) Transportation, disposal, storage, or containment of cadmium or materials containing cadmium on the site or location at which construction activities are performed.

(2) Definitions.

(a) Action level (AL) is defined as an airborne concentration of cadmium of 2.5 micrograms per cubic meter of air ( $2.5 \mu\text{g}/\text{m}^3$ ), calculated as an 8-hour time-weighted average (TWA).

(b) Authorized person means any person authorized by the employer and required by work duties to be present in regulated areas or any person authorized by WISHA or regulations issued under it to be in regulated areas.

(c) Competent person, in accordance with WAC 296-155-012(4), means a person designated by the employer to act on the employer's behalf who is capable of identifying existing and potential cadmium hazards in the workplace and the proper methods to control them in order to protect workers, and has the authority necessary to take prompt corrective measures to eliminate or control such hazards. The duties of a competent person include at least the following: Determining prior to the performance of work whether cadmium is present in the workplace; establishing, where necessary, regulated areas and assuring that access to and from those areas is limited to authorized employees; assuring the adequacy of any employee exposure monitoring required by this standard; assuring that all employees exposed to air cadmium levels above the PEL wear appropriate personal protective equipment and are trained in the use of appropriate methods of exposure control; assuring that proper hygiene facilities are provided and that workers are trained to use those facilities; and assuring that the engineering controls required by this standard are implemented, maintained in proper operating condition, and functioning properly.

(d) Director means the director of the department of labor and industries or authorized representative.

(e) Employee exposure and similar language referring to the air cadmium level to which an employee is exposed means the exposure to airborne cadmium that would occur if the employee were not using respiratory protective equipment.

(f) Final medical determination is the written medical opinion of the employee's health status by the examining physician under subsection (12)(c) through (l) of this section or, if multiple physician review under subsection (12)(m) of this section or the alternative physician determination under subsection (12)(n) of this section is invoked, it is the final, written medical finding, recommendation or determination that emerges from that process.

(g) High-efficiency particulate air (HEPA) filter means a filter capable of trapping and retaining at least 99.97 percent of mono-dispersed particles of 0.3 micrometers in diameter.

(h) Regulated area means an area demarcated by the employer where an employee's exposure to airborne concentrations of cadmium exceeds, or can reasonably be expected to exceed the permissible exposure limit (PEL).

(i) This section means this cadmium standard.

(3) Permissible exposure limit (PEL). The employer shall assure that no employee is exposed to an airborne concentration of cadmium in excess of five micrograms per

cubic meter of air ( $5 \mu\text{g}/\text{m}^3$ ), calculated as an 8-hour time-weighted average exposure (TWA).

(4) Exposure monitoring

(a) General.

(i) Prior to the performance of any construction work where employees may be potentially exposed to cadmium, the employer shall establish the applicability of this standard by determining whether cadmium is present in the workplace and whether there is the possibility that employee exposures will be at or above the action level. The employer shall designate a competent person who shall make this determination. Investigation and material testing techniques shall be used, as appropriate, in the determination. Investigation shall include a review of relevant plans, past reports, material safety data sheets, and other available records, and consultations with the property owner and discussions with appropriate individuals and agencies.

(ii) Where cadmium has been determined to be present in the workplace, and it has been determined that there is a possibility the employee's exposure will be at or above the action level, the competent person shall identify employees potentially exposed to cadmium at or above the action level.

(iii) Determinations of employee exposure shall be made from breathing-zone air samples that reflect the monitored employee's regular, daily 8-hour TWA exposure to cadmium.

(iv) Eight-hour TWA exposures shall be determined for each employee on the basis of one or more personal breathing-zone air samples reflecting full shift exposure on each shift, for each job classification, in each work area. Where several employees perform the same job tasks, in the same job classification, on the same shift, in the same work area, and the length, duration, and level of cadmium exposures are similar, an employer may sample a representative fraction of the employees instead of all employees in order to meet this requirement. In representative sampling, the employer shall sample the employee(s) expected to have the highest cadmium exposures.

(b) Specific.

(i) Initial monitoring. Except as provided for in (b)(iii) of this subsection, where a determination conducted under (a)(i) of this subsection shows the possibility of employee exposure to cadmium at or above the action level, the employer shall conduct exposure monitoring as soon as practicable that is representative of the exposure for each employee in the workplace who is or may be exposed to cadmium at or above the action level.

(ii) In addition, if the employee periodically performs tasks that may expose the employee to a higher concentration of airborne cadmium, the employee shall be monitored while performing those tasks.

(iii) Where the employer has objective data, as defined in subsection (14)(b) of this section, demonstrating that employee exposure to cadmium will not exceed airborne concentrations at or above the action level under the expected conditions of processing, use, or handling, the employer may rely upon such data instead of implementing initial monitoring.

(iv) Where a determination conducted under (a) or (b) of this subsection is made that a potentially exposed employee is not exposed to airborne concentrations of cadmium at or

above the action level, the employer shall make a written record of such determination. The record shall include at least the monitoring data developed under (b)(i) through (iii) of this subsection, where applicable, and shall also include the date of determination, and the name and Social Security number of each employee.

(c) Monitoring frequency (periodic monitoring).

(i) If the initial monitoring or periodic monitoring reveals employee exposures to be at or above the action level, the employer shall monitor at a frequency and pattern needed to assure that the monitoring results reflect with reasonable accuracy the employee's typical exposure levels, given the variability in the tasks performed, work practices, and environmental conditions on the job site, and to assure the adequacy of respiratory selection and the effectiveness of engineering and work practice controls.

(ii) If the initial monitoring or the periodic monitoring indicates that employee exposures are below the action level and that result is confirmed by the results of another monitoring taken at least seven days later, the employer may discontinue the monitoring for those employees whose exposures are represented by such monitoring.

(d) Additional monitoring. The employer also shall institute the exposure monitoring required under (b)(i) and (c) of this subsection whenever there has been a change in the raw materials, equipment, personnel, work practices, or finished products that may result in additional employees being exposed to cadmium at or above the action level or in employees already exposed to cadmium at or above the action level being exposed above the PEL, or whenever the employer or competent person has any reason to suspect that any other change might result in such further exposure.

(e) Employee notification of monitoring results.

(i) No later than five working days after the receipt of the results of any monitoring performed under this section, the employer shall notify each affected employee individually in writing of the results. In addition, within the same time period, the employer shall post the results of the exposure monitoring in an appropriate location that is accessible to all affected employees.

(ii) Wherever monitoring results indicate that employee exposure exceeds the PEL, the employer shall include in the written notice a statement that the PEL has been exceeded and a description of the corrective action being taken by the employer to reduce employee exposure to or below the PEL.

(f) Accuracy of measurement. The employer shall use a method of monitoring and analysis that has an accuracy of not less than plus or minus 25 percent ( $\pm 25\%$ ), with a confidence level of 95 percent, for airborne concentrations of cadmium at or above the action level and the permissible exposure limit.

(5) Regulated areas.

(a) Establishment. The employer shall establish a regulated area wherever an employee's exposure to airborne concentrations of cadmium is, or can reasonably be expected to be in excess of the permissible exposure limit (PEL).

(b) Demarcation. Regulated areas shall be demarcated from the rest of the workplace in any manner that adequately establishes and alerts employees of the boundaries of the regulated area, including employees who are or may be incidentally

in the regulated areas, and that protects persons outside the area from exposure to airborne concentrations of cadmium in excess of the PEL.

(c) Access. Access to regulated areas shall be limited to authorized persons.

(d) Provision of respirators. Each person entering a regulated area shall be supplied with and required to use a respirator, selected in accordance with subsection (7)(b) of this section.

(e) Prohibited activities. The employer shall assure that employees do not eat, drink, smoke, chew tobacco or gum, or apply cosmetics in regulated areas, or carry the products associated with any of these activities into regulated areas or store such products in those areas.

(6) Methods of compliance.

(a) Compliance hierarchy.

(i) Except as specified in (a)(ii) of this subsection, the employer shall implement engineering and work practice controls to reduce and maintain employee exposure to cadmium at or below the PEL, except to the extent that the employer can demonstrate that such controls are not feasible.

(ii) The requirement to implement engineering controls to achieve the PEL does not apply where the employer demonstrates the following:

(A) The employee is only intermittently exposed; and

(B) The employee is not exposed above the PEL on 30 or more days per year (12 consecutive months).

(iii) Wherever engineering and work practice controls are not sufficient to reduce employee exposure to or below the PEL, the employer nonetheless shall implement such controls to reduce exposures to the lowest levels achievable. The employer shall supplement such controls with respiratory protection that complies with the requirements of subsection (7) of this section and the PEL.

(iv) The employer shall not use employee rotation as a method of compliance.

(b) Specific operations.

(i) Abrasive blasting. Abrasive blasting on cadmium or cadmium-containing materials shall be conducted in a manner that will provide adequate protection.

(ii) Heating cadmium and cadmium-containing materials. Welding, cutting, and other forms of heating of cadmium or cadmium-containing materials shall be conducted in accordance with the requirements of WAC 296-155-415 and 296-155-420, where applicable.

(c) Prohibitions.

(i) High speed abrasive disc saws and similar abrasive power equipment shall not be used for work on cadmium or cadmium-containing materials unless they are equipped with appropriate engineering controls to minimize emissions, if the exposure levels are above the PEL.

(ii) Materials containing cadmium shall not be applied by spray methods, if exposures are above the PEL, unless employees are protected with supplied-air respirators with full facepiece, hood, helmet, suit, operated in positive pressure mode and measures are instituted to limit overspray and prevent contamination of adjacent areas.

(d) Mechanical ventilation.

(i) When ventilation is used to control exposure, measurements that demonstrate the effectiveness of the system in



controlling exposure, such as capture velocity, duct velocity, or static pressure shall be made as necessary to maintain its effectiveness.

(ii) Measurements of the system's effectiveness in controlling exposure shall be made as necessary within five working days of any change in production, process, or control that might result in a significant increase in employee exposure to cadmium.

(iii) Recirculation of air. If air from exhaust ventilation is recirculated into the workplace, the system shall have a high efficiency filter and be monitored to assure effectiveness.

(iv) Procedures shall be developed and implemented to minimize employee exposure to cadmium when maintenance of ventilation systems and changing of filters is being conducted.

(e) Compliance program.

(i) Where employee exposure to cadmium exceeds the PEL and the employer is required under (a) of this subsection to implement controls to comply with the PEL, prior to the commencement of the job the employer shall establish and implement a written compliance program to reduce employee exposure to or below the PEL. To the extent that engineering and work practice controls cannot reduce exposures to or below the PEL, the employer shall include in the written compliance program the use of appropriate respiratory protection to achieve compliance with the PEL.

(ii) Written compliance programs shall be reviewed and updated as often and as promptly as necessary to reflect significant changes in the employer's compliance status or significant changes in the lowest air cadmium level that is technologically feasible.

(iii) A competent person shall review the comprehensive compliance program initially and after each change.

(iv) Written compliance programs shall be provided upon request for examination and copying to the director, or authorized representatives, affected employees, and designated employee representatives.

(7) Respirator protection.

(a) General. For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this section. Respirators must be used during:

(i) Periods necessary to install or implement feasible engineering and work-practice controls when employee exposures exceed the PEL.

(ii) Maintenance and repair activities, and brief or intermittent operations, for which employee exposures exceed the PEL and engineering and work-practice controls are not feasible or are not required.

(iii) Work operations in regulated areas specified in subsection (5) of this section.

(iv) Work operations for which the employer has implemented all feasible engineering and work-practice controls, and such controls are not sufficient to reduce exposures to or below the PEL.

(v) Emergencies.

(vi) Work operations for which an employee, who is exposed to cadmium at or above the action level, requests a respirator.

(vii) Work operations for which engineering controls are not required under (a)(ii) of this subsection to reduce employee exposures that exceed the PEL.

(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) and 296-62-07150 through 296-62-07156)))~~ 296-842 WAC, except WAC 296-842-13005 and 296-842-14005.

(ii) If an employee has breathing difficulty during fit testing or respirator use, the employer must provide the employee with a medical examination as required by subsection (12)(f)(ii) of this section to determine if the employee can use a respirator while performing the required duties.

(iii) No employees must use a respirator when, based on their recent medical examination, the examining physician determines that the employee will be unable to continue to function normally while using a respirator. If the physician determines the employee must be limited in, or removed from, their current job because of the employee's inability to use a respirator, the job limitation or removal must be conducted as required by (k) and (l) of this subsection.

(c) Respirator selection.

(i) The employer must select the appropriate respirator from Table 1 of this section.

Table 1  
Respiratory Protection for Cadmium

Airborne concentration or condition of use <sup>a</sup>	Required respirator type <sup>b</sup>
10 x or less	A half-mask, air-purifying respirator equipped with a HEPA <sup>c</sup> filter. <sup>d</sup>
25 x or less	A powered air-purifying respirator ("PAPR") with a loose-fitting hood or helmet equipped with a HEPA filter, or a supplied-air respirator with a loose-fitting hood or helmet facepiece operated in the continuous flow mode.
50 x or less	A full facepiece air-purifying respirator equipped with a HEPA filter, or a powered air-purifying respirator with a tight-fitting half-mask equipped with a HEPA filter, or a supplied air respirator with a tight-fitting half-mask operated in the continuous flow mode.
250 x or less	A powered air-purifying respirator with a tight-fitting full facepiece equipped with a HEPA filter, or a supplied-air respirator with a tight-fitting full facepiece operated in the continuous flow mode.

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Table 1  
Respiratory Protection for Cadmium

Airborne concentration or condition of use <sup>a</sup>	Required respirator type <sup>b</sup>
1000 x or less	A supplied-air respirator with half-mask or full facepiece operated in the pressure demand or other positive pressure mode.
>1000 x or unknown concentrations	A self-contained breathing apparatus with a full facepiece operated in the pressure demand or other positive pressure mode, or a supplied-air respirator with a full facepiece operated in the pressure demand or other positive pressure mode and equipped with an auxiliary escape type self-contained breathing apparatus operated in the pressure demand mode.
Fire fighting	A self-contained breathing apparatus with full facepiece operated in the pressure demand or other positive pressure mode.

Note: <sup>a</sup> Concentrations expressed as multiple of the PEL.

<sup>b</sup> Respirators assigned for higher environmental concentrations may be used at lower exposure levels. Quantitative fit testing is required for all tight-fitting air purifying respirators where airborne concentration of cadmium exceeds 10 times the TWA PEL ( $10 \times 5 \mu\text{g}/\text{m}^3 = 50 \mu\text{g}/\text{m}^3$ ). A full facepiece respirator is required when eye irritation is experienced.

<sup>c</sup> HEPA means High Efficiency Particulate Air.

<sup>d</sup> Fit testing, qualitative or quantitative, is required.

Source: Respiratory Decision Logic, NIOSH, 1987.

(ii) The employer shall provide a powered, air-purifying respirator (PAPR) instead of a negative-pressure respirator when an employee entitled to a respirator chooses to use this type of respirator and such a respirator will provide adequate protection to the employee.

(8) Emergency situations. The employer shall develop and implement a written plan for dealing with emergency situations involving substantial releases of airborne cadmium. The plan shall include provisions for the use of appropriate respirators and personal protective equipment. In addition, employees not essential to correcting the emergency situation shall be restricted from the area and normal operations halted in that area until the emergency is abated.

#### (9) Protective work clothing and equipment

(a) Provision and use. If an employee is exposed to airborne cadmium above the PEL or where skin or eye irritation is associated with cadmium exposure at any level, the employer shall provide at no cost to the employee, and assure that the employee uses, appropriate protective work clothing and equipment that prevents contamination of the employee

and the employee's garments. Protective work clothing and equipment includes, but is not limited to:

(i) Coveralls or similar full-body work clothing;

(ii) Gloves, head coverings, and boots or foot coverings; and

(iii) Face shields, vented goggles, or other appropriate protective equipment that complies with WAC 296-155-215.

(b) Removal and storage.

(i) The employer shall assure that employees remove all protective clothing and equipment contaminated with cadmium at the completion of the work shift and do so only in change rooms provided in accordance with subsection (10)(a) of this section.

(ii) The employer shall assure that no employee takes cadmium-contaminated protective clothing or equipment from the workplace, except for employees authorized to do so for purposes of laundering, cleaning, maintaining, or disposing of cadmium-contaminated protective clothing and equipment at an appropriate location or facility away from the workplace.

(iii) The employer shall assure that contaminated protective clothing and equipment, when removed for laundering, cleaning, maintenance, or disposal, is placed and stored in sealed, impermeable bags or other closed, impermeable containers that are designed to prevent dispersion of cadmium dust.

(iv) The employer shall assure that containers of contaminated protective clothing and equipment that are to be taken out of the change rooms or the workplace for laundering, cleaning, maintenance or disposal shall bear labels in accordance with subsection (13)(c) of this section.

(c) Cleaning, replacement, and disposal.

(i) The employer shall provide the protective clothing and equipment required by (a) of this subsection in a clean and dry condition as often as necessary to maintain its effectiveness, but in any event at least weekly. The employer is responsible for cleaning and laundering the protective clothing and equipment required by this subsection to maintain its effectiveness and is also responsible for disposing of such clothing and equipment.

(ii) The employer also is responsible for repairing or replacing required protective clothing and equipment as needed to maintain its effectiveness. When rips or tears are detected while an employee is working they shall be immediately mended, or the worksuit shall be immediately replaced.

(iii) The employer shall prohibit the removal of cadmium from protective clothing and equipment by blowing, shaking, or any other means that disperses cadmium into the air.

(iv) The employer shall assure that any laundering of contaminated clothing or cleaning of contaminated equipment in the workplace is done in a manner that prevents the release of airborne cadmium in excess of the permissible exposure limit prescribed in subsection (3) of this section.

(v) The employer shall inform any person who launders or cleans protective clothing or equipment contaminated with cadmium of the potentially harmful effects of exposure to cadmium, and that the clothing and equipment should be laundered or cleaned in a manner to effectively prevent the release of airborne cadmium in excess of the PEL.

(10) Hygiene areas and practices.

(a) General. For employees whose airborne exposure to cadmium is above the PEL, the employer shall provide clean change rooms, handwashing facilities, showers, and lunchroom facilities that comply with WAC 296-155-140.

(b) Change rooms. The employer shall assure that change rooms are equipped with separate storage facilities for street clothes and for protective clothing and equipment, which are designed to prevent dispersion of cadmium and contamination of the employee's street clothes.

(c) Showers and handwashing facilities.

(i) The employer shall assure that employees whose airborne exposure to cadmium is above the PEL shower during the end of the work shift.

(ii) The employer shall assure that employees who are exposed to cadmium above the PEL wash their hands and faces prior to eating, drinking, smoking, chewing tobacco or gum, or applying cosmetics.

(d) Lunchroom facilities.

(i) The employer shall assure that the lunchroom facilities are readily accessible to employees, that tables for eating are maintained free of cadmium, and that no employee in a lunchroom facility is exposed at any time to cadmium at or above a concentration of 2.5  $\mu\text{g}/\text{m}^3$ .

(ii) The employer shall assure that employees do not enter lunchroom facilities with protective work clothing or equipment unless surface cadmium has been removed from the clothing and equipment by HEPA vacuuming or some other method that removes cadmium dust without dispersing it.

(11) Housekeeping.

(a) All surfaces shall be maintained as free as practicable of accumulations of cadmium.

(b) All spills and sudden releases of material containing cadmium shall be cleaned up as soon as possible.

(c) Surfaces contaminated with cadmium shall, wherever possible, be cleaned by vacuuming or other methods that minimize the likelihood of cadmium becoming airborne.

(d) 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.

(e) 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.

(f) 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.

(g) Waste, scrap, debris, bags, containers, personal protective equipment, and clothing contaminated with cadmium and consigned for disposal shall be collected and disposed of in sealed impermeable bags or other closed, impermeable containers. These bags and containers shall be labeled in accordance with subsection (13)(b) of this section.

(12) Medical surveillance.

(a) General.

(i) Scope.

(A) Currently exposed—The employer shall institute a medical surveillance program for all employees who are or

may be exposed at or above the action level and all employees who perform the following tasks, operations, or jobs: Electrical grounding with cadmium-welding; cutting, brazing, burning, grinding, or welding on surfaces that were painted with cadmium-containing paints; electrical work using cadmium-coated conduit; use of cadmium containing paints; cutting and welding cadmium-plated steel; brazing or welding with cadmium alloys; fusing of reinforced steel by cadmium welding; maintaining or retrofitting cadmium-coated equipment; and, wrecking and demolition where cadmium is present. A medical surveillance program will not be required if the employer demonstrates that the employee:

(I) Is not currently exposed by the employer to airborne concentrations of cadmium at or above the action level on 30 or more days per year (twelve consecutive months); and

(II) Is not currently exposed by the employer in those tasks on 30 or more days per year (twelve consecutive months).

(B) Previously exposed—The employer shall also institute a medical surveillance program for all employees who might previously have been exposed to cadmium by the employer prior to the effective date of this section in tasks specified under (a)(i)(A) of this subsection, unless the employer demonstrates that the employee did not in the years prior to the effective date of this section work in those tasks for the employer with exposure to cadmium for an aggregated total of more than 12 months.

(ii) To determine an employee's fitness for using a respirator, the employer shall provide the limited medical examination specified in (f) of this subsection.

(iii) The employer shall assure that all medical examinations and procedures required by this section are performed by or under the supervision of a licensed physician, who has read and is familiar with the health effects WAC 296-62-07441, Appendix A, the regulatory text of this section, the protocol for sample handling and lab selection in WAC 296-62-07451, Appendix F, and the questionnaire of WAC 296-62-07447, Appendix D.

(iv) The employer shall provide the medical surveillance required by this section, including multiple physician review under (m) of this subsection without cost to employees, and at a time and place that is reasonable and convenient to employees.

(v) The employer shall assure that the collecting and handling of biological samples of cadmium in urine (CdU), cadmium in blood (CdB), and beta-2 microglobulin in urine (B<sub>2</sub>-M) taken from employees under this section is done in a manner that assures their reliability and that analysis of biological samples of cadmium in urine (CdU), cadmium in blood (CdB), and beta-2 microglobulin in urine (B<sub>2</sub>-M) taken from employees under this section is performed in laboratories with demonstrated proficiency to perform the particular analysis. (See WAC 296-62-07451, Appendix F.)

(b) Initial examination.

(i) For employees covered by medical surveillance under (a)(i) of this subsection, the employer shall provide an initial medical examination. The examination shall be provided to those employees within 30 days after initial assignment to a job with exposure to cadmium or no later than 90 days after the effective date of this section, whichever date is later.

(ii) The initial medical examination shall include:

(A) A detailed medical and work history, with emphasis on: Past, present, and anticipated future exposure to cadmium; any history of renal, cardiovascular, respiratory, hematopoietic, reproductive, and/or musculo-skeletal system dysfunction; current usage of medication with potential nephrotoxic side-effects; and smoking history and current status; and

(B) Biological monitoring that includes the following tests:

(I) Cadmium in urine (CdU), standardized to grams of creatinine (g/Cr);

(II) Beta-2 microglobulin in urine (B<sub>2</sub>-M), standardized to grams of creatinine (g/Cr), with pH specified, as described in WAC 296-62-07451, Appendix F; and

(III) Cadmium in blood (CdB), standardized to liters of whole blood (lwb).

(iii) Recent examination: An initial examination is not required to be provided if adequate records show that the employee has been examined in accordance with the requirements of (b)(ii) of this subsection within the past 12 months. In that case, such records shall be maintained as part of the employee's medical record and the prior exam shall be treated as if it were an initial examination for the purposes of (c) and (d) of this subsection.

(c) Actions triggered by initial biological monitoring.

(i) If the results of the biological monitoring tests in the initial examination show the employee's CdU level to be at or below 3 µg/g Cr, B<sub>2</sub>-M level to be at or below 300 µg/g Cr and CdB level to be at or below 5 µg/lwb, then:

(A) For employees who are subject to medical surveillance under (a)(i)(A) of this subsection because of current or anticipated exposure to cadmium, the employer shall provide the minimum level of periodic medical surveillance in accordance with the requirements in (d)(i) of this subsection; and

(B) For employees who are subject to medical surveillance under (a)(i)(B) of this subsection because of prior but not current exposure, the employer shall provide biological monitoring for CdU, B<sub>2</sub>-M, and CdB one year after the initial biological monitoring and then the employer shall comply with the requirements of (d)(vi) of this subsection.

(ii) For all employees who are subject to medical surveillance under (a)(i) of this subsection, if the results of the initial biological monitoring tests show the level of CdU to exceed 3 µg/g Cr, the level of B<sub>2</sub>-M to be in excess of 300 µg/g Cr, or the level of CdB to be in excess of 5 µg/lwb, the employer shall:

(A) Within two weeks after receipt of biological monitoring results, reassess the employee's occupational exposure to cadmium as follows:

(I) Reassess the employee's work practices and personal hygiene;

(II) Reevaluate the employee's respirator use, if any, and the respirator program;

(III) Review the hygiene facilities;

(IV) Reevaluate the maintenance and effectiveness of the relevant engineering controls;

(V) Assess the employee's smoking history and status;

(B) Within 30 days after the exposure reassessment, specified in (c)(ii)(A) of this subsection, take reasonable steps to correct any deficiencies found in the reassessment that may be responsible for the employee's excess exposure to cadmium; and

(C) Within 90 days after receipt of biological monitoring results, provide a full medical examination to the employee in accordance with the requirements of (d)(ii) of this subsection. After completing the medical examination, the examining physician shall determine in a written medical opinion whether to medically remove the employee. If the physician determines that medical removal is not necessary, then until the employee's CdU level falls to or below 3 µg/g Cr, B<sub>2</sub>-M level falls to or below 300 µg/g Cr and CdB level falls to or below 5 µg/lwb, the employer shall:

(I) Provide biological monitoring in accordance with (b)(ii)(B) of this subsection on a semiannual basis; and

(II) Provide annual medical examinations in accordance with (d)(ii) of this subsection.

(iii) For all employees who are subject to medical surveillance under (a)(i) of this subsection, if the results of the initial biological monitoring tests show the level of CdU to be in excess of 15 µg/g Cr, or the level of CdB to be in excess of 15 µg/lwb, or the level of B<sub>2</sub>-M to be in excess of 1,500 µg/g Cr, the employer shall comply with the requirements of (c)(ii)(A) and (B) of this subsection. Within 90 days after receipt of biological monitoring results, the employer shall provide a full medical examination to the employee in accordance with the requirements of (d)(ii) of this subsection. After completing the medical examination, the examining physician shall determine in a written medical opinion whether to medically remove the employee. However, if the initial biological monitoring results and the biological monitoring results obtained during the medical examination both show that: CdU exceeds 15 µg/g Cr; or CdB exceeds 15 µg/lwb; or B<sub>2</sub>-M exceeds 1500 µg/g Cr, and in addition CdU exceeds 3 µg/g Cr or CdB exceeds 5 µg/liter of whole blood, then the physician shall medically remove the employee from exposure to cadmium at or above the action level. If the second set of biological monitoring results obtained during the medical examination does not show that a mandatory removal trigger level has been exceeded, then the employee is not required to be removed by the mandatory provisions of this section. If the employee is not required to be removed by the mandatory provisions of this section or by the physician's determination, then until the employee's CdU level falls to or below 3 µg/g Cr, B<sub>2</sub>-M level falls to or below 300 µg/g Cr and CdB level falls to or below 5 µg/lwb, the employer shall:

(A) Periodically reassess the employee's occupational exposure to cadmium;

(B) Provide biological monitoring in accordance with (b)(ii)(B) of this subsection on a quarterly basis; and

(C) Provide semiannual medical examinations in accordance with (d)(ii) of this subsection.

(iv) For all employees to whom medical surveillance is provided, beginning on January 1, 1999, and in lieu of (c)(iii) of this subsection, whenever the results of initial biological monitoring tests show the employee's CdU level to be in excess of 7 µg/g Cr, or B<sub>2</sub>-M level to be in excess of 750 µg/g

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Cr, or CdB level to be in excess of 10 µg/lwb, the employer shall comply with the requirements of (c)(ii)(A) and (B) of this subsection. Within 90 days after receipt of biological monitoring results, the employer shall provide a full medical examination to the employee in accordance with the requirements of (d)(ii) of this subsection. After completing the medical examination, the examining physician shall determine in a written medical opinion whether to medically remove the employee. However, if the initial biological monitoring results and the biological monitoring results obtained during the medical examination both show that: CdU exceeds 7 µg/g Cr; or CdB exceeds 10 µg/lwb; or B<sub>2</sub>-M exceeds 750 µg/g Cr, and in addition CdU exceeds 3 µg/g Cr or CdB exceeds 5 µg/liter of whole blood, then the physician shall medically remove the employee from exposure to cadmium at or above the action level. If the second set of biological monitoring results obtained during the medical examination does not show that a mandatory removal trigger level has been exceeded, then the employee is not required to be removed by the mandatory provisions of this section. If the employee is not required to be removed by the mandatory provisions of this section or by the physician's determination, then until the employee's CdU level falls to or below 3 µg/g Cr, B<sub>2</sub>-M level falls to or below 300 µg/g Cr and CdB level falls to or below 5 µg/lwb, the employer shall:

(A) Periodically reassess the employee's occupational exposure to cadmium;

(B) Provide biological monitoring in accordance with (b)(ii)(B) of this subsection on a quarterly basis; and

(C) Provide semiannual medical examinations in accordance with (d)(ii) of this subsection.

(d) Periodic medical surveillance.

(i) For each employee who is covered by medical surveillance under (a)(i)(A) of this subsection because of current or anticipated exposure to cadmium, the employer shall provide at least the minimum level of periodic medical surveillance, which consists of periodic medical examinations and periodic biological monitoring. A periodic medical examination shall be provided within one year after the initial examination required by (b) of this subsection and thereafter at least biennially. Biological sampling shall be provided at least annually either as part of a periodic medical examination or separately as periodic biological monitoring.

(ii) The periodic medical examination shall include:

(A) A detailed medical and work history, or update thereof, with emphasis on: Past, present, and anticipated future exposure to cadmium; smoking history and current status; reproductive history; current use of medications with potential nephrotoxic side-effects; any history of renal, cardiovascular, respiratory, hematopoietic, and/or musculoskeletal system dysfunction; and as part of the medical and work history, for employees who wear respirators, questions 3 through 11 and 25 through 32 in WAC 296-62-07447, Appendix D;

(B) A complete physical examination with emphasis on: Blood pressure, the respiratory system, and the urinary system;

(C) A 14 inch by 17 inch, or a reasonably standard sized posterior-anterior chest X ray (after the initial X ray, the fre-

quency of chest X rays is to be determined by the examining physician);

(D) Pulmonary function tests, including forced vital capacity (FVC) and forced expiratory volume at 1 second (FEV1);

(E) Biological monitoring, as required in (b)(ii)(B) of this subsection;

(F) Blood analysis, in addition to the analysis required under (b)(ii)(B) of this subsection, including blood urea nitrogen, complete blood count, and serum creatinine;

(G) Urinalysis, in addition to the analysis required under (b)(ii)(B) of this subsection, including the determination of albumin, glucose, and total and low molecular weight proteins;

(H) For males over 40 years old, prostate palpation, or other at least as effective diagnostic test(s); and

(I) Any additional tests or procedures deemed appropriate by the examining physician.

(iii) Periodic biological monitoring shall be provided in accordance with (b)(ii)(B) of this subsection.

(iv) If the results of periodic biological monitoring or the results of biological monitoring performed as part of the periodic medical examination show the level of the employee's CdU, B<sub>2</sub>-M, or CdB to be in excess of the levels specified in (c)(ii) and (iii) of this subsection; or, beginning on January 1, 1999, in excess of the levels specified in (c)(ii) or (iv) of this subsection, the employer shall take the appropriate actions specified in (c)(ii) through (iv) of this subsection, respectively.

(v) For previously exposed employees under (a)(i)(B) of this subsection:

(A) If the employee's levels of CdU did not exceed 3 µg/g Cr, CdB did not exceed 5 µg/lwb, and B<sub>2</sub>-M did not exceed 300 µg/g Cr in the initial biological monitoring tests, and if the results of the follow-up biological monitoring required by (c)(i)(B) of this subsection one year after the initial examination confirm the previous results, the employer may discontinue all periodic medical surveillance for that employee.

(B) If the initial biological monitoring results for CdU, CdB, or B<sub>2</sub>-M were in excess of the levels specified in (c)(i) of this subsection, but subsequent biological monitoring results required by (c)(ii) through (iv) of this subsection show that the employee's CdU levels no longer exceed 3 µg/g Cr, CdB levels no longer exceed 5 µg/lwb, and B<sub>2</sub>-M levels no longer exceed 300 µg/g Cr, the employer shall provide biological monitoring for CdU, CdB, and B<sub>2</sub>-M one year after these most recent biological monitoring results. If the results of the follow-up biological monitoring specified in this section, confirm the previous results, the employer may discontinue all periodic medical surveillance for that employee.

(C) However, if the results of the follow-up tests specified in (d)(v)(A) or (B) of this subsection indicate that the level of the employee's CdU, B<sub>2</sub>-M, or CdB exceeds these same levels, the employer is required to provide annual medical examinations in accordance with the provisions of (d)(ii) of this subsection until the results of biological monitoring are consistently below these levels or the examining physician determines in a written medical opinion that further

medical surveillance is not required to protect the employee's health.

(vi) A routine, biennial medical examination is not required to be provided in accordance with (c)(i) and (d) of this subsection if adequate medical records show that the employee has been examined in accordance with the requirements of (d)(ii) of this subsection within the past 12 months. In that case, such records shall be maintained by the employer as part of the employee's medical record, and the next routine, periodic medical examination shall be made available to the employee within two years of the previous examination.

(e) Actions triggered by medical examinations. If the results of a medical examination carried out in accordance with this section indicate any laboratory or clinical finding consistent with cadmium toxicity that does not require employer action under (b), (c), or (d) of this subsection, the employer shall take the following steps and continue to take them until the physician determines that they are no longer necessary.

(i) Periodically reassess: The employee's work practices and personal hygiene; the employee's respirator use, if any; the employee's smoking history and status; the respiratory protection program; the hygiene facilities; the maintenance and effectiveness of the relevant engineering controls; and take all reasonable steps to correct the deficiencies found in the reassessment that may be responsible for the employee's excess exposure to cadmium.

(ii) Provide semiannual medical reexaminations to evaluate the abnormal clinical sign(s) of cadmium toxicity until the results are normal or the employee is medically removed; and

(iii) Where the results of tests for total proteins in urine are abnormal, provide a more detailed medical evaluation of the toxic effects of cadmium on the employee's renal system.

(f) Examination for respirator use.

(i) To determine an employee's fitness for respirator use, the employer shall provide a medical examination that includes the elements specified in (f)(i)(A) through (D) of this subsection. This examination shall be provided prior to the employee's being assigned to a job that requires the use of a respirator or no later than 90 days after this section goes into effect, whichever date is later, to any employee without a medical examination within the preceding 12 months that satisfies the requirements of this section.

(A) A detailed medical and work history, or update thereof, with emphasis on: Past exposure to cadmium; smoking history and current status; any history of renal, cardiovascular, respiratory, hematopoietic, and/or musculo-skeletal system dysfunction; a description of the job for which the respirator is required; and questions 3 through 11 and 25 through 32 in WAC 296-62-07447, Appendix D;

(B) A blood pressure test;

(C) Biological monitoring of the employee's levels of CdU, CdB and B<sub>2</sub>-M in accordance with the requirements of (b)(ii)(B) of this subsection, unless such results already have been obtained within the twelve months; and

(D) Any other test or procedure that the examining physician deems appropriate.

(ii) After reviewing all the information obtained from the medical examination required in (f)(i) of this subsection, the physician shall determine whether the employee is fit to wear a respirator.

(iii) Whenever an employee has exhibited difficulty in breathing during a respirator fit test or during use of a respirator, the employer, as soon as possible, shall provide the employee with a periodic medical examination in accordance with (d)(ii) of this subsection to determine the employee's fitness to wear a respirator.

(iv) Where the results of the examination required under (f)(i), (ii), or (iii) of this subsection are abnormal, medical limitation or prohibition of respirator use shall be considered. If the employee is allowed to wear a respirator, the employee's ability to continue to do so shall be periodically evaluated by a physician.

(g) Emergency examinations.

(i) In addition to the medical surveillance required in (b) through (f) of this subsection, the employer shall provide a medical examination as soon as possible to any employee who may have been acutely exposed to cadmium because of an emergency.

(ii) The examination shall include the requirements of (d)(ii), of this subsection, with emphasis on the respiratory system, other organ systems considered appropriate by the examining physician, and symptoms of acute overexposure, as identified in Appendix A, WAC 296-62-07441 (2)(b)(i) and (ii) and (4).

(h) Termination of employment examination.

(i) At termination of employment, the employer shall provide a medical examination in accordance with (d)(ii) of this subsection, including a chest X ray where necessary, to any employee to whom at any prior time the employer was required to provide medical surveillance under (a)(i) or (g) of this subsection. However, if the last examination satisfied the requirements of (d)(ii) of this subsection and was less than six months prior to the date of termination, no further examination is required unless otherwise specified in (c) or (e) of this subsection;

(ii) In addition, if the employer has discontinued all periodic medical surveillance under (d)(v) of this subsection, no termination of employment medical examination is required.

(i) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and appendices;

(ii) A description of the affected employee's former, current, and anticipated duties as they relate to the employee's occupational exposure to cadmium;

(iii) The employee's former, current, and anticipated future levels of occupational exposure to cadmium;

(iv) A description of any personal protective equipment, including respirators, used or to be used by the employee, including when and for how long the employee has used that equipment; and

(v) Relevant results of previous biological monitoring and medical examinations.

(j) Physician's written medical opinion.

(i) The employer shall promptly obtain a written, signed, medical opinion from the examining physician for each med-

ical examination performed on each employee. This written opinion shall contain:

(A) The physician's diagnosis for the employee;

(B) The physician's opinion as to whether the employee has any detected medical condition(s) that would place the employee at increased risk of material impairment to health from further exposure to cadmium, including any indications of potential cadmium toxicity;

(C) The results of any biological or other testing or related evaluations that directly assess the employee's absorption of cadmium;

(D) Any recommended removal from, or limitation on the activities or duties of the employee or on the employee's use of personal protective equipment, such as respirators;

(E) A statement that the physician has clearly and carefully explained to the employee the results of the medical examination, including all biological monitoring results and any medical conditions related to cadmium exposure that require further evaluation or treatment, and any limitation on the employee's diet or use of medications.

(ii) The employer shall promptly obtain a copy of the results of any biological monitoring provided by an employer to an employee independently of a medical examination under (b) and (d) of this subsection, and, in lieu of a written medical opinion, an explanation sheet explaining those results.

(iii) The employer shall instruct the physician not to reveal orally or in the written medical opinion given to the employer specific findings or diagnoses unrelated to occupational exposure to cadmium.

(k) Medical removal protection (MRP).

(i) General.

(A) The employer shall temporarily remove an employee from work where there is excess exposure to cadmium on each occasion that medical removal is required under (c), (d), or (f) of this subsection and on each occasion that a physician determines in a written medical opinion that the employee should be removed from such exposure. The physician's determination may be based on biological monitoring results, inability to wear a respirator, evidence of illness, other signs or symptoms of cadmium-related dysfunction or disease, or any other reason deemed medically sufficient by the physician.

(B) The employer shall medically remove an employee in accordance with (k) of this subsection regardless of whether at the time of removal a job is available into which the removed employee may be transferred.

(C) Whenever an employee is medically removed under (k) of this subsection, the employer shall transfer the removed employee to a job where the exposure to cadmium is within the permissible levels specified in subsection (12) of this section as soon as one becomes available.

(D) For any employee who is medically removed under the provisions of (k)(i) of this subsection, the employer shall provide follow-up medical examinations semiannually until, in a written medical opinion, the examining physician determines that either the employee may be returned to his/her former job status or the employee must be permanently removed from excess cadmium exposure.

(E) The employer may not return an employee who has been medically removed for any reason to his/her former job status until a physician determines in a written medical opinion that continued medical removal is no longer necessary to protect the employee's health.

(ii) Where an employee is found unfit to wear a respirator under (f)(ii) of this subsection, the employer shall remove the employee from work where exposure to cadmium is above the PEL.

(iii) Where removal is based upon any reason other than the employee's inability to wear a respirator, the employer shall remove the employee from work where exposure to cadmium is at or above the action level.

(iv) Except as specified in (k)(v) of this subsection, no employee who was removed because his/her level of CdU, CdB and/or B<sub>2</sub>-M exceeded the trigger levels in (c) or (d) of this subsection may be returned to work with exposure to cadmium at or above the action level until the employee's levels of CdU fall to or below 3 µg/g Cr, CdB fall to or below 5 µg/lwb, and B<sub>2</sub>-M fall to or below 300 µg/g Cr.

(v) However, when in the examining physician's opinion continued exposure to cadmium will not pose an increased risk to the employee's health and there are special circumstances that make continued medical removal an inappropriate remedy, the physician shall fully discuss these matters with the employee, and then in a written determination may return a worker to his/her former job status despite what would otherwise be unacceptably high biological monitoring results. Thereafter and until such time as the employee's biological monitoring results have decreased to levels where he/she could have been returned to his/her former job status, the returned employee shall continue medical surveillance as if he/she were still on medical removal. Until such time, the employee is no longer subject to mandatory medical removal. Subsequent questions regarding the employee's medical removal shall be decided solely by a final medical determination.

(vi) Where an employer, although not required by this section to do so, removes an employee from exposure to cadmium or otherwise places limitations on an employee due to the effects of cadmium exposure on the employee's medical condition, the employer shall provide the same medical removal protection benefits to that employee under (l) of this subsection as would have been provided had the removal been required under (k) of this subsection.

(l) Medical removal protection benefits.

(i) The employer shall provide medical removal protection benefits to an employee for up to a maximum of 18 months each time, and while the employee is temporarily medically removed under (k) of this subsection.

(ii) For purposes of this section, the requirement that the employer provide medical removal protection benefits means that the employer shall maintain the total normal earnings, seniority, and all other employee rights and benefits of the removed employee, including the employee's right to his/her former job status, as if the employee had not been removed from the employee's job or otherwise medically limited.

(iii) Where, after 18 months on medical removal because of elevated biological monitoring results, the employee's monitoring results have not declined to a low enough level to

permit the employee to be returned to his/her former job status:

(A) The employer shall make available to the employee a medical examination pursuant to this section in order to obtain a final medical determination as to whether the employee may be returned to his/her former job status or must be permanently removed from excess cadmium exposure; and

(B) The employer shall assure that the final medical determination indicates whether the employee may be returned to his/her former job status and what steps, if any, should be taken to protect the employee's health.

(iv) The employer may condition the provision of medical removal protection benefits upon the employee's participation in medical surveillance provided in accordance with this section.

(m) Multiple physician review.

(i) If the employer selects the initial physician to conduct any medical examination or consultation provided to an employee under this section, the employee may designate a second physician to:

(A) Review any findings, determinations, or recommendations of the initial physician; and

(B) Conduct such examinations, consultations, and laboratory tests as the second physician deems necessary 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 provided by the employer conducts a medical examination or consultation pursuant to this section. The employer may condition its participation in, and payment for, multiple physician review upon the employee doing the following within fifteen (15) days after receipt of this notice, or receipt of the initial physician's written opinion, whichever is later:

(A) Informing the employer that he or she intends to seek a medical opinion; and

(B) Initiating steps to make an appointment with a second physician.

(iii) 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 any disagreement.

(iv) If the two physicians have been unable to quickly resolve their disagreement, then the employer and the employee, through their respective physicians, shall designate a third physician to:

(A) Review any findings, determinations, or recommendations of the other two physicians; and

(B) Conduct such examinations, consultations, laboratory tests, and discussions with the other two physicians as the third physician deems necessary to resolve the disagreement among them.

(v) The employer shall act consistently with the findings, determinations, and recommendations of the third physician, unless the employer and the employee reach an agreement that is consistent with the recommendations of at least one of the other two physicians.

(n) Alternate physician determination. The employer and an employee or designated employee representative may agree upon the use of any alternate form of physician determination in lieu of the multiple physician review provided by (m) of this subsection, so long as the alternative is expeditious and at least as protective of the employee.

(o) Information the employer must provide the employee.

(i) The employer shall provide a copy of the physician's written medical opinion to the examined employee within five working days after receipt thereof.

(ii) The employer shall provide the employee with a copy of the employee's biological monitoring results and an explanation sheet explaining the results within five working days after receipt thereof.

(iii) Within 30 days after a request by an employee, the employer shall provide the employee with the information the employer is required to provide the examining physician under (i) of this subsection.

(p) Reporting. In addition to other medical events that are required to be reported on the OSHA Form No. 200, the employer shall report any abnormal condition or disorder caused by occupational exposure to cadmium associated with employment as specified in Chapter (V)(E) of the Bureau of Labor Statistics Recordkeeping Guidelines for Occupational Injuries and Illnesses.

(13) Communication of cadmium hazards to employees

(a) General. In communications concerning cadmium hazards, employers shall comply with the requirements of WISHA's Hazard Communication Standard, chapter 296-62 WAC, Part C, including but not limited to the requirements concerning warning signs and labels, material safety data sheets (MSDS), and employee information and training. In addition, employers shall comply with the following requirements:

(b) Warning signs.

(i) Warning signs shall be provided and displayed in regulated areas. In addition, warning signs shall be posted at all approaches to regulated areas so that an employee may read the signs and take necessary protective steps before entering the area.

(ii) Warning signs required by (b)(i) of this subsection shall bear the following information:

Danger, Cadmium, Cancer Hazard, Can Cause Lung and  
Kidney Disease, Authorized Personnel Only, Respirators  
Required in This Area

(iii) The employer shall assure that signs required by this section are illuminated, cleaned, and maintained as necessary so that the legend is readily visible.

(c) Warning labels.

(i) Shipping and storage containers containing cadmium, cadmium compounds, or cadmium contaminated clothing, equipment, waste, scrap, or debris shall bear appropriate warning labels, as specified in (c)(ii) of this subsection.

(ii) The warning labels shall include at least the following information:



Danger, Contains Cadmium, Cancer Hazard, Avoid Creating Dust, Can Cause Lung and Kidney Disease

(iii) Where feasible, installed cadmium products shall have a visible label or other indication that cadmium is present.

(d) Employee information and training.

(i) The employer shall institute a training program for all employees who are potentially exposed to cadmium, assure employee participation in the program, and maintain a record of the contents of such program.

(ii) Training shall be provided prior to or at the time of initial assignment to a job involving potential exposure to cadmium and at least annually thereafter.

(iii) The employer shall make the training program understandable to the employee and shall assure that each employee is informed of the following:

(A) The health hazards associated with cadmium exposure, with special attention to the information incorporated in WAC 296-62-07441, Appendix A;

(B) The quantity, location, manner of use, release, and storage of cadmium in the workplace and the specific nature of operations that could result in exposure to cadmium, especially exposures above the PEL;

(C) The engineering controls and work practices associated with the employee's job assignment;

(D) The measures employees can take to protect themselves from exposure to cadmium, including modification of such habits as smoking and personal hygiene, and specific procedures the employer has implemented to protect employees from exposure to cadmium such as appropriate work practices, emergency procedures, and the provision of personal protective equipment;

(E) The purpose, proper selection, fitting, proper use, and limitations of respirators and protective clothing;

(F) The purpose and a description of the medical surveillance program required by subsection (12) of this section;

(G) The contents of this section and its appendices; and

(H) The employee's rights of access to records under chapter 296-62 WAC, Part B.

(iv) Additional access to information and training program and materials.

(A) The employer shall make a copy of this section and its appendices readily available to all affected employees and shall provide a copy without cost if requested.

(B) Upon request, the employer shall provide to the director or authorized representative, all materials relating to the employee information and the training program.

(e) Multiemployer workplace. In a multiemployer workplace, an employer who produces, uses, or stores cadmium in a manner that may expose employees of other employers to cadmium shall notify those employers of the potential hazard in accordance with WAC 296-800-170 of the chemical hazard communication program standard.

(14) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and keep an accurate record of all air monitoring for cadmium in the workplace.

(ii) This record shall include at least the following information:

(A) The monitoring date, shift, duration, air volume, and results in terms of an 8-hour TWA of each sample taken, and if cadmium is not detected, the detection level;

(B) The name, Social Security number, and job classification of all employees monitored and of all other employees whose exposures the monitoring result is intended to represent, including, where applicable, a description of how it was determined that the employee's monitoring result could be taken to represent other employee's exposures;

(C) A description of the sampling and analytical methods used and evidence of their accuracy;

(D) The type of respiratory protective device, if any, worn by the monitored employee and by any other employee whose exposure the monitoring result is intended to represent;

(E) A notation of any other conditions that might have affected the monitoring results;

(F) Any exposure monitoring or objective data that were used and the levels.

(iii) The employer shall maintain this record for at least thirty (30) years, in accordance with chapter 296-802 WAC.

(iv) The employer shall also provide a copy of the results of an employee's air monitoring prescribed in subsection (4) of this section to an industry trade association and to the employee's union, if any, or, if either of such associations or unions do not exist, to another comparable organization that is competent to maintain such records and is reasonably accessible to employers and employees in the industry.

(b) Objective data for exemption from requirement for initial monitoring.

(i) For purposes of this section, objective data are information demonstrating that a particular product or material containing cadmium or a specific process, operation, or activity involving cadmium cannot release dust or fumes in concentrations at or above the action level even under the worst-case release conditions. Objective data can be obtained from an industry-wide study or from laboratory product test results from manufacturers of cadmium-containing products or materials. The data the employer uses from an industry-wide survey must be obtained under workplace conditions closely resembling the processes, types of material, control methods, work practices, and environmental conditions in the employer's current operations.

(ii) The employer shall maintain the record for at least 30 years of the objective data relied upon.

(c) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee covered by medical surveillance under (a)(i) of this subsection.

(ii) The record shall include at least the following information about the employee:

(A) Name, Social Security number, and description of duties;

(B) A copy of the physician's written opinions and of the explanation sheets for biological monitoring results;

(C) A copy of the medical history, and the results of any physical examination and all test results that are required to be provided by this section, including biological tests, X rays, pulmonary function tests, etc., or that have been obtained to



further evaluate any condition that might be related to cadmium exposure;

(D) The employee's medical symptoms that might be related to exposure to cadmium; and

(E) A copy of the information provided to the physician as required by subsection (12)(i) of this section.

(iii) The employer shall assure that this record is maintained for the duration of employment plus thirty (30) years, in accordance with chapter 296-802 WAC.

(iv) At the employee's request, the employer shall promptly provide a copy of the employee's medical record, or update as appropriate, to a medical doctor or a union specified by the employee.

(d) Training. The employer shall certify that employees have been trained by preparing a certification record which includes the identity of the person trained, the signature of the employer or the person who conducted the training, and the date the training was completed. The certification records shall be prepared at the completion of training and shall be maintained on file for one (1) year beyond the date of training of that employee.

(e) Availability.

(i) Except as otherwise provided for in this section, access to all records required to be maintained by (a) through (d) of this subsection shall be in accordance with the provisions of chapter 296-802 WAC.

(ii) Within 15 days after a request, the employer shall make an employee's medical records required to be kept by (c) of this subsection available for examination and copying to the subject employee, to designated representatives, to anyone having the specific written consent of the subject employee, and after the employee's death or incapacitation, to the employee's family members.

(f) Transfer of records. Whenever an employer ceases to do business and there is no successor employer or designated organization to receive and retain records for the prescribed period, the employer shall comply with the requirements concerning transfer of records set forth in chapter 296-802 WAC.

(15) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to cadmium.

(b) Observation procedures. When observation of monitoring requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with that clothing and equipment and shall assure that the observer uses such clothing and equipment and complies with all other applicable safety and health procedures.

(16) Appendices.

(a) Compliance with the fit testing requirements in WAC ((296-62-07201 through 296-62-07248, Appendices A-1, A-2 and A-3 of chapter 296-62 WAC, Part E,)) 296-842-15005 are mandatory.

(b) Except where portions of WAC 296-62-07441, 296-62-07443, 296-62-07447, 296-62-07449, and 296-62-07451, Appendices A, B, D, E, and F, respectively, to this section are expressly incorporated in requirements of this section, these appendices are purely informational and are not intended to

create any additional obligations not otherwise imposed or to detract from any existing obligations.

AMENDATORY SECTION (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-155-17613 Respiratory protection.** (1) General. For employees who use respirators required by WAC 296-155-176, the employer must provide respirators that comply with the requirements of this section. Respirators must be used during:

(a) Periods when an employee's exposure to lead exceeds the PEL.

(b) Work operations for which engineering controls and work-practices are not sufficient to reduce employee exposures to or below the PEL.

(c) Periods when an employee requests a respirator.

(d) Periods when respirators are required to provide interim protection of employees while they perform the operations as specified in WAC 296-155-17609(2).

(2) Respirator program.

(a) The employer must implement a respiratory protection program as required by chapter ((296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156))) 296-842 WAC, except WAC 296-842-13005 and 296-842-14005.

(b) If an employee has breathing difficulty during fit testing or respirator use, the employer must provide the employee with a medical examination as required by WAC 296-155-17621 (3)(a)(ii) to determine whether or not the employee can use a respirator while performing the required duty.

(3) Respirator selection.

(a) The employer must select the appropriate respirator or combination of respirators from Table I of this section.

(b) The employer must provide a powered air-purifying respirator when an employee chooses to use such a respirator and it will provide adequate protection to the employee.

Table I.— Respiratory Protection for Lead Aerosols

Airborne concentration of lead or condition of use	Required respirator <sup>a</sup>
Not in excess of 500 µg/m <sup>3</sup>	1/2 mask air purifying respirator with high efficiency filters. <sup>b, c</sup> 1/2 mask supplied air respirator operated in demand (negative pressure) mode.
Not in excess of 1,250 µg/m <sup>3</sup>	Loose fitting hood or helmet powered air purifying respirator with high efficiency filters. <sup>c</sup> Hood or helmet supplied air respirator operated in a continuous-flow mode— e.g., type CE abrasive blasting respirators operated in a continuous-flow mode.
Not in excess of 2,500 µg/m <sup>3</sup>	Full facepiece air purifying respirator with high efficiency filters. <sup>c</sup> Tight fitting powered air purifying respirator with high efficiency filters. <sup>c</sup> Full facepiece supplied air respirator operated in demand mode. 1/2 mask or full facepiece supplied air respirator operated in a continuous-flow mode.

EXPEDITED

Airborne concentration of lead or condition of use	Required respirator <sup>a</sup> Full facepiece self-contained breathing apparatus (SCBA) operated in demand mode.
Not in excess of 50,000 µg/m <sup>3</sup>	1/2 mask supplied air respirator operated in pressure demand or other positive-pressure mode.
Not in excess of 100,000 µg/m	Full facepiece supplied air respirator operated in pressure demand or other positive-pressure mode—e.g., type CE abrasive blasting respirators operated in a positive-pressure mode.
Greater than 100,000 µg/m <sup>3</sup> unknown concentration, or fire fighting	Full facepiece SCBA operated in pressure demand or other positive pressure mode.

<sup>a</sup> Respirators specified for higher concentrations can be used at lower concentrations of lead.

<sup>b</sup> Full facepiece is required if the lead aerosols cause eye or skin irritation at the use concentrations.

<sup>c</sup> A high efficiency particulate filter (HEPA) means a filter that is 99.97 percent efficient against particles of 0.3 micron size or larger.

**AMENDATORY SECTION** (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

**WAC 296-155-17625 Employee information and training.** (1) General.

(a) The employer shall communicate information concerning lead hazards according to the requirements of WISHA's Hazard Communication Standard for the construction industry, chapter 296-800 WAC, including but not limited to the requirements concerning warning signs and labels, material safety data sheets (MSDS), and employee information and training. In addition, employers shall comply with the following requirements:

(b) For all employees who are subject to exposure to lead at or above the action level on any day or who are subject to exposure to lead compounds which may cause skin or eye irritation (e.g., lead arsenate, lead azide), the employer shall provide a training program in accordance with subsection (2) of this section and assure employee participation.

(c) The employer shall provide the training program as initial training prior to the time of job assignment or prior to the start up date for this requirement, whichever comes last.

(d) The employer shall also provide the training program at least annually for each employee who is subject to lead exposure at or above the action level on any day.

(2) Training program. The employer shall assure that each employee is trained in the following:

(a) The content of this standard and its appendices;

(b) The specific nature of the operations which could result in exposure to lead above the action level;

(c) The training requirements for respiratory protection as required by chapter 296-62 WAC, Part E (see WAC ((296-62-07117)) 296-842-110, ((296-62-07172)) 296-842-19005, and ((WAC 296-62-07186 through 296-62-07190)) 296-842-16005);

(d) The purpose and a description of the medical surveillance program, and the medical removal protection program including information concerning the adverse health effects

associated with excessive exposure to lead (with particular attention to the adverse reproductive effects on both males and females and hazards to the fetus and additional precautions for employees who are pregnant);

(e) The engineering controls and work practices associated with the employee's job assignment including training of employees to follow relevant good work practices described in Appendix B, WAC 296-155-17652;

(f) The contents of any compliance plan in effect;

(g) Instructions to employees that chelating agents should not routinely be used to remove lead from their bodies and should not be used at all except under the direction of a licensed physician; and

(h) The employee's right of access to records under Part B, chapter 296-62 WAC and chapter 296-800 WAC.

(3) Access to information and training materials.

(a) The employer shall make readily available to all affected employees a copy of this standard and its appendices.

(b) The employer shall provide, upon request, all materials relating to the employee information and training program to affected employees and their designated representatives, and the director.

**AMENDATORY SECTION** (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-155-17652 Appendix B to WAC 296-155-176—Employee standard summary.** This appendix summarizes key provisions of the standard for lead in construction that you as a worker should become familiar with.

(1) Permissible exposure limit (PEL)—WAC 296-62-17607.

The standard sets a permissible exposure limit (PEL) of 50 micrograms of lead per cubic meter of air (50 µg/m<sup>3</sup>), averaged over an 8-hour workday which is referred to as a time-weighted average (TWA). This is the highest level of lead in air to which you may be permissibly exposed over an 8-hour workday. However, since this is an 8-hour average, short exposures above the PEL are permitted so long as for each 8-hour work day your average exposure does not exceed this level. This standard, however, takes into account the fact that your daily exposure to lead can extend beyond a typical 8-hour workday as the result of overtime or other alterations in your work schedule. To deal with this situation, the standard contains a formula which reduces your permissible exposure when you are exposed more than 8 hours. For example, if you are exposed to lead for 10 hours a day, the maximum permitted average exposure would be 40 µg/m<sup>3</sup>.

(2) Exposure assessment—WAC 296-155-17609.

If lead is present in your workplace in any quantity, your employer is required to make an initial determination of whether any employee's exposure to lead exceeds the action level (30 µg/m<sup>3</sup> averaged over an 8-hour day). Employee exposure is that exposure which would occur if the employee were not using a respirator. This initial determination requires your employer to monitor workers' exposures unless the employee has objective data which can demonstrate conclusively that no employee will be exposed to lead in excess of the action level. Where objective data is used in lieu of

actual monitoring the employer must establish and maintain an accurate record, documenting its relevancy in assessing exposure levels for current job conditions. If such objective data is available, the employer need proceed no further on employee exposure assessment until such time that conditions have changed and the determination is no longer valid.

Objective data may be compiled from various sources, e.g., insurance companies and trade associations and information from suppliers or exposure data collected from similar operations. Objective data may also comprise previously-collected sampling data including area monitoring. If it cannot be determined through using objective data that worker exposure is less than the action level, your employer must conduct monitoring or must rely on relevant previous personal sampling, if available. Where monitoring is required for the initial determination, it may be limited to a representative number of employees who are reasonably expected to have the highest exposure levels. If your employer has conducted appropriate air sampling for lead in the past 12 months, they may use these results, provided they are applicable to the same employee tasks and exposure conditions and meet the requirements for accuracy as specified in the standard. As with objective data, if such results are relied upon for the initial determination, your employer must establish and maintain a record as to the relevancy of such data to current job conditions.

If there have been any employee complaints of symptoms which may be attributable to exposure to lead or if there is any other information or observations which would indicate employee exposure to lead, this must also be considered as part of the initial determination. If this initial determination shows that a reasonable possibility exists that any employee may be exposed, without regard to respirator, over the action level, your employer must set up an air monitoring program to determine the exposure level representative of each employee exposed to lead at your workplace. In carrying out this air monitoring program, your employer is not required to monitor the exposure of every employee, but they must monitor a representative number of employees and job types. Enough sampling must be done to enable each employee's exposure level to be reasonably represent full shift exposure. In addition, these air samples must be taken under conditions which represent each employee's regular, daily exposure to lead. Sampling performed in the past 12 months may be used to determine exposures above the action level if such sampling was conducted during work activities essentially similar to present work conditions.

The standard lists certain tasks which may likely result in exposures to lead in excess of the PEL and, in some cases, exposures in excess of 50 times the PEL. If you are performing any of these tasks, your employer must provide you with appropriate respiratory protection, protective clothing and equipment, change areas, hand washing facilities, biological monitoring, and training until such time that an exposure assessment is conducted which demonstrates that your exposure level is below the PEL.

If you are exposed to lead and air sampling is performed, your employer is required to notify you in writing within 5 working days of the air monitoring results which represent your exposure. If the results indicate that your exposure

exceeds the PEL (without regard to your use of a respirator), then your employer must also notify you of this in writing, and provide you with a description of the corrective action that has been taken or will be taken to reduce your exposure.

Your exposure must be rechecked by monitoring, at least every six months if your exposure is at or over the action level but below the PEL. Your employer may discontinue monitoring for you if 2 consecutive measurements, taken at least 7 days apart, are at or below the action level. Air monitoring must be repeated every 3 months if you are exposed over the PEL. Your employer must continue monitoring for you at this frequency until 2 consecutive measurements, taken at least 7 days apart, are below the PEL but above the action level, at which time your employer must repeat monitoring of your exposure every six months and may discontinue monitoring only after your exposure drops to or below the action level. However, whenever there is a change of equipment, process, control, or personnel or a new type of job is added at your workplace which may result in new or additional exposure to lead, your employer must perform additional monitoring.

### (3) Methods of compliance—WAC 296-155-17611.

Your employer is required to assure that no employee is exposed to lead in excess of the PEL as an 8-hour TWA. The standard for lead in construction requires employers to institute engineering and work practice controls including administrative controls to the extent feasible to reduce employee exposure to lead. Where such controls are feasible but not adequate to reduce exposures below the PEL they must be used nonetheless to reduce exposures to the lowest level that can be accomplished by these means and then supplemented with appropriate respiratory protection.

Your employer is required to develop and implement a written compliance program prior to the commencement of any job where employee exposures may reach the PEL as an 8-hour TWA. The standard identifies the various elements that must be included in the plan. For example, employers are required to include a description of operations in which lead is emitted, detailing other relevant information about the operation such as the type of equipment used, the type of material involved, employee job responsibilities, operating procedures and maintenance practices. In addition, your employer's compliance plan must specify the means that will be used to achieve compliance and, where engineering controls are required, include any engineering plans or studies that have been used to select the control methods. If administrative controls involving job rotation are used to reduce employee exposure to lead, the job rotation schedule must be included in the compliance plan. The plan must also detail the type of protective clothing and equipment, including respirator, housekeeping and hygiene practices that will be used to protect you from the adverse effects of exposure to lead.

The written compliance program must be made available, upon request, to affected employees and their designated representatives, and the director.

Finally, the plan must be reviewed and updated at least every 6 months to assure it reflects the current status in exposure control.

### (4) Respiratory protection—WAC 296-155-17613.

Your employer is required to select respirator from the types listed in Table I of the Respiratory Protection section of the standard (see WAC 296-155-17613). Any respirator chosen must be certified by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 42 CFR part 84. This respirator selection table will enable your employer to choose a type of respirator that will give you a proper amount of protection based on your airborne lead exposure. Your employer may select a type of respirator that provides greater protection than that required by the standard; that is, one recommended for a higher concentration of lead than is present in your workplace. For example, a powered air-purifying respirator (PAPR) is much more protective than a typical negative pressure respirator, and may also be more comfortable to wear. A PAPR has a filter, cartridge, or canister to clean the air, and a power source which continuously blows filtered air into your breathing zone. Your employer might make a PAPR available to you to ease the burden of having to wear a respirator for long periods of time. The standard provides that you can obtain a PAPR upon request.

Your employer must also start a Respiratory Protection Program. This program must include written procedures for the proper selection, use, cleaning, storage, and maintenance of respirator.

Your employer must ensure that your respirator facepiece fits properly. Proper fit of a respirator facepiece is critical to your protection from airborne lead. Obtaining a proper fit on each employee may require your employer to make available several different types of respirator masks. To ensure that your respirator fits properly and that facepiece leakage is minimal, your employer must give you either a qualitative or quantitative fit test as specified in WAC ((296-62-07201 through 296-62-07248, Appendices A-1, A-2 and A-3 of chapter 296-62 WAC, Part E)) 296-842-15005.

(5) Protective work clothing and equipment—WAC 296-155-17615.

If you are exposed to lead above the PEL as an 8-hour TWA, without regard to your use of a respirator, or if you are exposed to lead compounds such as lead arsenate or lead azide which can cause skin and eye irritation, your employer must provide you with protective work clothing and equipment appropriate for the hazard. If work clothing is provided, it must be provided in a clean and dry condition at least weekly, and daily if your airborne exposure to lead is greater than 200  $\mu\text{g}/\text{m}^3$ . Appropriate protective work clothing and equipment can include coveralls or similar full-body work clothing, gloves, hats, shoes or disposable shoe coverlets, and face shields or vented goggles. Your employer is required to provide all such equipment at no cost to you. In addition, your employer is responsible for providing repairs and replacement as necessary, and also is responsible for the cleaning, laundering or disposal of protective clothing and equipment.

The standard requires that your employer assure that you follow good work practices when you are working in areas where your exposure to lead may exceed the PEL. With respect to protective clothing and equipment, where appropriate, the following procedures should be observed prior to beginning work:

- ◆ Change into work clothing and shoe covers in the clean section of the designated changing areas;
- ◆ Use work garments of appropriate protective gear, including respirator before entering the work area; and
- ◆ Store any clothing not worn under protective clothing in the designated changing area.

Workers should follow these procedures upon leaving the work area:

- ◆ HEPA vacuum heavily contaminated protective work clothing while it is still being worn. At no time may lead be removed from protective clothing by any means which result in uncontrolled dispersal of lead into the air;
- ◆ Remove shoe covers and leave them in the work area;
- ◆ Remove protective clothing and gear in the dirty area of the designated changing area. Remove protective coveralls by carefully rolling down the garment to reduce exposure to dust.
- ◆ Remove respirator last; and
- ◆ Wash hands and face.

Workers should follow these procedures upon finishing work for the day (in addition to procedures described above):

- ◆ Where applicable, place disposal coveralls and shoe covers with the abatement waste;
- ◆ Contaminated clothing which is to be cleaned, laundered or disposed of must be placed in closed containers in the change room.
- ◆ Clean protective gear, including respirator, according to standard procedures;
- ◆ Wash hands and face again.

If showers are available, take a shower and wash hair. If shower facilities are not available at the work site, shower immediately at home and wash hair.

(6) Housekeeping—WAC 296-155-17617.

Your employer must establish a housekeeping program sufficient to maintain all surfaces as free as practicable of accumulations of lead dust. Vacuuming is the preferred method of meeting this requirement, and the use of compressed air to clean floors and other surfaces is generally prohibited unless removal with compressed air is done in conjunction with ventilation systems designed to contain dispersal of the lead dust. Dry or wet sweeping, shoveling, or brushing may not be used except where vacuuming or other equally effective methods have been tried and do not work. Vacuums must be used equipped with a special filter called a high-efficiency particulate air (HEPA) filter and emptied in a manner which minimizes the reentry of lead into the workplace.

(7) Hygiene facilities and practices—WAC 296-155-17619.

The standard requires that hand washing facilities be provided where occupational exposure to lead occurs. In addition, change areas, showers (where feasible), and lunchrooms or eating areas are to be made available to workers exposed to lead above the PEL. Your employer must assure that except in these facilities, food and beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied, where airborne expo-

tures are above the PEL. Change rooms provided by your employer must be equipped with separate storage facilities for your protective clothing and equipment and street clothes to avoid cross-contamination. After showering, no required protective clothing or equipment worn during the shift may be worn home. It is important that contaminated clothing or equipment be removed in change areas and not be worn home or you will extend your exposure and expose your family since lead from your clothing can accumulate in your house, car, etc.

Lunchrooms or eating areas may not be entered with protective clothing or equipment unless surface dust has been removed by vacuuming, downdraft booth, or other cleaning method. Finally, workers exposed above the PEL must wash both their hands and faces prior to eating, drinking, smoking or applying cosmetics.

All of the facilities and hygiene practices just discussed are essential to minimize additional sources of lead absorption from inhalation or ingestion of lead that may accumulate on you, your clothes, or your possessions. Strict compliance with these provisions can virtually eliminate several sources of lead exposure which significantly contribute to excessive lead absorption.

(8) Medical surveillance—WAC 296-155-17621.

The medical surveillance program is part of the standard's comprehensive approach to the prevention of lead-related disease. Its purpose is to supplement the main thrust of the standard which is aimed at minimizing airborne concentrations of lead and sources of ingestion. Only medical surveillance can determine if the other provisions of the standard have affectively protected you as an individual. Compliance with the standard's provision will protect most workers from the adverse effects of lead exposure, but may not be satisfactory to protect individual workers:

- ◆ Who have high body burdens of lead acquired over past years,
- ◆ Who have additional uncontrolled sources of nonoccupational lead exposure,
- ◆ Who exhibit unusual variations in lead absorption rates, or
- ◆ Who have specific nonwork related medical conditions which could be aggravated by lead exposure (e.g., renal disease, anemia).

In addition, control systems may fail, or hygiene and respirator programs may be inadequate. Periodic medical surveillance of individual workers will help detect those failures. Medical surveillance will also be important to protect your reproductive ability—regardless of whether you are a man or woman.

All medical surveillance required by the standard must be performed by or under the supervision of a licensed physician. The employer must provide required medical surveillance without cost to employees and at a reasonable time and place. The standard's medical surveillance program has two parts—periodic biological monitoring and medical examinations. Your employer's obligation to offer you medical surveillance is triggered by the results of the air monitoring program. Full medical surveillance must be made available to all employees who are or may be exposed to lead in excess of the action level for more than 30 days a year and whose blood

lead level exceeds 40 µg/dl. Initial medical surveillance consisting of blood sampling and analysis for lead and zinc protoporphyrin must be provided to all employees exposed at any time (1 day) above the action level.

Biological monitoring under the standard must be provided at least every 2 months for the first 6 months and every 6 months thereafter until your blood lead level is below 40 µg/dl. A zinc protoporphyrin (ZPP) test is a very useful blood test which measures an adverse metabolic effect of lead on your body and is therefore an indicator of lead toxicity.

If your BLL exceeds 40 µg/dl the monitoring frequency must be increased from every 6 months to at least every 2 months and not reduced until two consecutive BLLs indicate a blood lead level below 40 µg/dl. Each time your BLL is determined to be over 40 µg/dl, your employer must notify you of this in writing within five working days of their receipt of the test results. The employer must also inform you that the standard requires temporary medical removal with economic protection when your BLL exceeds 50 µg/dl. (See Discussion of medical removal protection—WAC 296-155-17623.) Anytime your BLL exceeds 50 µg/dl your employer must make available to you within two weeks of receipt of these test results a second follow-up BLL test to confirm your BLL. If the two tests both exceed 50 µg/dl, and you are temporarily removed, then your employer must make successive BLL tests available to you on a monthly basis during the period of your removal.

Medical examinations beyond the initial one must be made available on an annual basis if your blood lead level exceeds 40 µg/dl at any time during the preceding year and you are being exposed above the airborne action level of 30 µg/m<sup>3</sup> for 30 or more days per year. The initial examination will provide information to establish a baseline to which subsequent data can be compared.

An initial medical examination to consist of blood sampling and analysis for lead and zinc protoporphyrin must also be made available (prior to assignment) for each employee being assigned for the first time to an area where the airborne concentration of lead equals or exceeds the action level at any time. In addition, a medical examination or consultation must be made available as soon as possible if you notify your employer that you are experiencing signs or symptoms commonly associated with lead poisoning or that you have difficulty breathing while wearing a respirator or during a respirator fit test. You must also be provided a medical examination or consultation if you notify your employer that you desire medical advice concerning the effects of current or past exposure to lead on your ability to procreate a healthy child.

Finally, appropriate follow-up medical examinations or consultations may also be provided for employees who have been temporarily removed from exposure under the medical removal protection provisions of the standard. (See subsection (9), below.)

The standard specifies the minimum content of pre-assignment and annual medical examinations. The content of other types of medical examinations and consultations is left up to the sound discretion of the examining physician. Pre-assignment and annual medical examinations must include:

- ◆ A detailed work history and medical history;
- ◆ A thorough physical examination, including an evaluation of your pulmonary status if you will be required to use a respirator;
- ◆ A blood pressure measurement; and
- ◆ A series of laboratory tests designed to check your blood chemistry and your kidney function.

In addition, at any time upon your request, a laboratory evaluation of male fertility will be made (microscopic examination of a sperm sample), or a pregnancy test will be given.

The standard does not require that you participate in any of the medical procedures, tests, etc. which your employer is required to make available to you. Medical surveillance can, however, play a very important role in protecting your health. You are strongly encouraged, therefore, to participate in a meaningful fashion. The standard contains a multiple physician review mechanism which will give you a chance to have a physician of your choice directly participate in the medical surveillance program. If you are dissatisfied with an examination by a physician chosen by your employer, you can select a second physician to conduct an independent analysis. The two doctors would attempt to resolve any differences of opinion, and select a third physician to resolve any firm dispute. Generally your employer will choose the physician who conducts medical surveillance under the lead standard—unless you and your employer can agree on the choice of a physician or physicians. Some companies and unions have agreed in advance, for example, to use certain independent medical laboratories or panels of physicians. Any of these arrangements are acceptable so long as required medical surveillance is made available to workers.

The standard requires your employer to provide certain information to a physician to aid in their examination of you. This information includes:

- ◆ The standard and its appendices,
- ◆ A description of your duties as they relate to occupational lead exposure,
- ◆ Your exposure level or anticipated exposure level,
- ◆ A description of any personal protective equipment you wear,
- ◆ Prior blood lead level results, and
- ◆ Prior written medical opinions concerning you that the employer has.

After a medical examination or consultation the physician must prepare a written report which must contain:

- ◆ The physician's opinion as to whether you have any medical condition which places you at increased risk of material impairment to health from exposure to lead,
- ◆ Any recommended special protective measures to be provided to you,
- ◆ Any blood lead level determinations, and
- ◆ Any recommended limitation on your use of respirator.

This last element must include a determination of whether you can wear a powered air purifying respirator (PAPR) if you are found unable to wear a negative pressure respirator.

The medical surveillance program of the lead standard may at some point in time serve to notify certain workers that they have acquired a disease or other adverse medical condition as a result of occupational lead exposure. If this is true, these workers might have legal rights to compensation from public agencies, their employers, firms that supply hazardous products to their employers, or other persons. Some states have laws, including worker compensation laws, that disallow a worker who learns of a job-related health impairment to sue, unless the worker sues within a short period of time after learning of the impairment. (This period of time may be a matter of months or years.) An attorney can be consulted about these possibilities. It should be stressed that WISHA is in no way trying to either encourage or discourage claims or lawsuits. However, since results of the standard's medical surveillance program can significantly affect the legal remedies of a worker who has acquired a job-related disease or impairment, it is proper for WISHA to make you aware of this.

The medical surveillance section of the standard also contains provisions dealing with chelation. Chelation is the use of certain drugs (administered in pill form or injected into the body) to reduce the amount of lead absorbed in body tissues. Experience accumulated by the medical and scientific communities has largely confirmed the effectiveness of this type of therapy for the treatment of very severe lead poisoning. On the other hand, it has also been established that there can be a long list of extremely harmful side effects associated with the use of chelating agents. The medical community has balanced the advantages and disadvantages resulting from the use of chelating agents in various circumstances and has established when the use of these agents is acceptable. The standard includes these accepted limitations due to a history of abuse of chelation therapy by some lead companies. The most widely used chelating agents are calcium disodium EDTA, (Ca Na<sub>2</sub> EDTA), Calcium Disodium Versenate (Versenate), and d-penicillamine (penicillamine or Cupramine).

The standard prohibits "prophylactic chelation" of any employee by any person the employer retains, supervises or controls. "Prophylactic chelation" is the routine use of chelating or similarly acting drugs to prevent elevated blood levels in workers who are occupationally exposed to lead, or the use of these drugs to routinely lower blood lead levels to pre-designated concentrations believed to be "safe." It should be emphasized that where an employer takes a worker who has no symptoms of lead poisoning and has chelation carried out by a physician (either inside or outside of a hospital) solely to reduce the worker's blood lead level, that will generally be considered prophylactic chelation. The use of a hospital and a physician does not mean that prophylactic chelation is not being performed. Routine chelation to prevent increased or reduce current blood lead levels is unacceptable whatever the setting.

The standard allows the use of "therapeutic" or "diagnostic" chelation if administered under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring. Therapeutic chelation responds to severe lead poisoning where there are marked symptoms. Diagnostic chelation involved giving a patient a

dose of the drug then collecting all urine excreted for some period of time as an aid to the diagnosis of lead poisoning.

In cases where the examining physician determines that chelation is appropriate, you must be notified in writing of this fact before such treatment. This will inform you of a potentially harmful treatment, and allow you to obtain a second opinion.

(9) Medical removal protection—WAC 296-155-17623.

Excessive lead absorption subjects you to increased risk of disease. Medical removal protection (MRP) is a means of protecting you when, for whatever reasons, other methods, such as engineering controls, work practices, and respirator, have failed to provide the protection you need. MRP involves the temporary removal of a worker from their regular job to a place of significantly lower exposure without any loss of earnings, seniority, or other employment rights or benefits. The purpose of this program is to cease further lead absorption and allow your body to naturally excrete lead which has previously been absorbed. Temporary medical removal can result from an elevated blood lead level, or a medical opinion. For up to 18 months, or for as long as the job the employee was removed from lasts, protection is provided as a result of either form of removal. The vast majority of removed workers, however, will return to their former jobs long before this eighteen month period expires.

You may also be removed from exposure even if your blood lead level is below 50 µdl if a final medical determination indicates that you temporarily need reduced lead exposure for medical reasons. If the physician who is implementing your employers medical program makes a final written opinion recommending your removal or other special protective measures, your employer must implement the physician's recommendation. If you are removed in this manner, you may only be returned when the doctor indicates that it is safe for you to do so.

The standard does not give specific instructions dealing with what an employer must do with a removed worker. Your job assignment upon removal is a matter for you, your employer and your union (if any) to work out consistent with existing procedures for job assignments. Each removal must be accomplished in a manner consistent with existing collective bargaining relationships. Your employer is given broad discretion to implement temporary removals so long as no attempt is made to override existing agreements. Similarly, a removed worker is provided no right to veto an employer's choice which satisfies the standard.

In most cases, employers will likely transfer removed employees to other jobs with sufficiently low lead exposure. Alternatively, a worker's hours may be reduced so that the time weighted average exposure is reduced, or they may be temporarily laid off if no other alternative is feasible.

In all of these situation, MRP benefits must be provided during the period of removal—i.e., you continue to receive the same earnings, seniority, and other rights and benefits you would have had if you had not been removed. Earnings includes more than just your base wage; it includes overtime, shift differentials, incentives, and other compensation you would have earned if you had not been removed. During the period of removal you must also be provided with appropriate follow-up medical surveillance. If you were removed

because your blood lead level was too high, you must be provided with a monthly blood test. If a medical opinion caused your removal, you must be provided medical tests or examinations that the doctor believes to be appropriate. If you do not participate in this follow up medical surveillance, you may lose your eligibility for MRP benefits.

When you are medically eligible to return to your former job, your employer must return you to your "former job status." This means that you are entitled to the position, wages, benefits, etc., you would have had if you had not been removed. If you would still be in your old job if no removal had occurred that is where you go back. If not, you are returned consistent with whatever job assignment discretion your employer would have had if no removal had occurred. MRP only seeks to maintain your rights, not expand them or diminish them.

If you are removed under MRP and you are also eligible for worker compensation or other compensation for lost wages, your employer's MRP benefits obligation is reduced by the amount that you actually receive from these other sources. This is also true if you obtain other employment during the time you are laid off with MRP benefits.

The standard also covers situations where an employer voluntarily removes a worker from exposure to lead due to the effects of lead on the employee's medical condition, even though the standard does not require removal. In these situations MRP benefits must still be provided as though the standard required removal. Finally, it is important to note that in all cases where removal is required, respirator cannot be used as a substitute. Respirator may be used before removal becomes necessary, but not as an alternative to a transfer to a low exposure job, or to a lay-off with MRP benefits.

(10) Employee information and training—WAC 296-155-17625.

Your employer is required to provide an information and training program for all employees exposed to lead above the action level or who may suffer skin or eye irritation from lead compounds such as lead arsenate or lead azide. The program must train these employees regarding the specific hazards associated with their work environment, protective measures which can be taken, including the contents of any compliance plan in effect, the danger of lead to their bodies (including their reproductive systems), and their rights under the standard. All employees must be trained prior to initial assignment to areas where there is a possibility of exposure over the action level.

This training program must also be provided at least annually thereafter unless further exposure above the action level will not occur.

(11) Signs—WAC 296-155-17627.

The standard requires that the following warning sign be posted in work areas where the exposure to lead exceeds the PEL:



WARNING  
LEAD WORK AREA  
POISON  
NO SMOKING OR EATING

These signs are to be posted and maintained in a manner which assures that the legend is readily visible.

(12) Recordkeeping—WAC 296-155-17629.

Your employer is required to keep all records of exposure monitoring for airborne lead. These records must include the name and job classification of employees measured, details of the sampling and analytical techniques, the results of this sampling, and the type of respiratory protection being worn by the person sampled. Such records are to be retained for at least 30 years. Your employer is also required to keep all records of biological monitoring and medical examination results. These records must include the names of the employees, the physician's written opinion, and a copy of the results of the examination. Medical records must be preserved and maintained for the duration of employment plus 30 years. However, if the employee's duration of employment is less than one year, the employer need not retain that employee's medical records beyond the period of employment if they are provided to the employee upon termination of employment.

Recordkeeping is also required if you are temporarily removed from your job under the medical removal protection program. This record must include your name and Social Security number, the date of your removal and return, how the removal was or is being accomplished, and whether or not the reason for the removal was an elevated blood lead level. Your employer is required to keep each medical removal record only for as long as the duration of an employee's employment.

The standard requires that if you request to see or copy environmental monitoring, blood lead level monitoring, or medical removal records, they must be made available to you or to a representative that you authorize. Your union also has access to these records. Medical records other than BLL's must also be provided upon request to you, to your physician or to any other person whom you may specifically designate. Your union does not have access to your personal medical records unless you authorize their access.

(13) Observation of monitoring—WAC 296-155-17631.

When air monitoring for lead is performed at your workplace as required by this standard, your employer must allow you or someone you designate to act as an observer of the monitoring. Observers are entitled to an explanation of the measurement procedure, and to record the results obtained. Since results will not normally be available at the time of the monitoring, observers are entitled to record or receive the results of the monitoring when returned by the laboratory. Your employer is required to provide the observer with any personal protective devices required to be worn by employees working in the area that is being monitored. The employer must require the observer to wear all such equipment and to comply with all other applicable safety and health procedures.

(14) Startup date—WAC 296-155-17635.

Employer obligations under the standard begin as of that date with full implementation of engineering controls as soon

as possible but no later than within 4 months, and all other provisions completed as soon as possible, but no later than within 2 months from the effective date.

(15) For additional information.

(a) A copy of the standard for lead in construction can be obtained free of charge by calling or writing to the department of labor and industries, Post Office Box 44620, Mailstop 44620, Olympia, Washington 98504-4620: Telephone (360) 956-5527.

(b) Additional information about the standard, its enforcement, and your employer's compliance can be obtained from the nearest office listed in your telephone directory under the state of Washington, department of labor and industries.

**AMENDATORY SECTION** (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

**WAC 296-155-20301 Definitions. Confined space** means a space that:

(1) Is large enough and so configured that an employee can bodily enter and perform assigned work; and  
(2) 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

(3) Is not designed for continuous employee occupancy.

**"Corrosives"** means substances which in contact with living tissue cause destruction of the tissue by chemical action.

**"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:

(1) Flammable gas, vapor, or mist in excess of ten percent of its lower flammable limit (LFL);

(2) 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 (1.52m) or less.

(3) Atmospheric oxygen concentration below 19.5 percent or above 23.5 percent;

(4) Atmospheric concentration of any substance for which a dose or a permissible exposure limit is published in chapter 296-62 WAC, general occupational health standards, or chapter 296-841 WAC, identifying and controlling respiratory hazards, and which could result in employee exposure in excess of its dose or permissible exposure limit;

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.

(5) 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 Chemical Hazard Communication Standard, WAC 296-



800-170, published information, and internal documents can provide guidance in establishing acceptable atmospheric conditions.

**"Irritants"** means substances which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

**"Oxygen deficient atmospheres"** means atmospheres at sea level having less than 19.5% oxygen by volume or having a partial pressure of 148 millimeters of mercury or less. This may deviate when working at higher altitudes and should be determined for an individual location. Factors such as acclimatization, physical condition of persons involved, etc., must be considered for such circumstances and conditions. (See chapter 296-62 WAC, Part M, permit-required confined spaces.)

**"Toxicants"** means substances which have the inherent capacity to produce personal injury or illness to persons by absorption through any body surface.

**AMENDATORY SECTION** (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-155-220 Respiratory protection.** The respiratory protection requirements applicable to construction work under this section are identical to those set forth in chapter ((296-62)) 296-842 WAC((,-Part E)).

**AMENDATORY SECTION** (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-155-367 Masonry saws.** (1) Guarding.

(a) Masonry saws shall be guarded by semicircular enclosures over the blade.

(b) A method for retaining blade fragments shall be incorporated into the design of the semicircular enclosure.

(2) Safety latch. A safety latch shall be installed on notched saws to prevent the motor and cutting head assembly from lifting out of the notches.

(3) Blade speed. Blade speed shall be maintained in accordance with the manufacturer's specifications.

(4) Exhaust and eye protection.

(a) All table mounted masonry saws shall be equipped with a mechanical means of exhausting dust into a covered receptacle or be provided with water on the saw blade for dust control. The operator and any nearby worker shall wear appropriate eye protection in accordance with WAC 296-155-215.

(b) All portable hand-held masonry saw operators shall wear appropriate eye and respiratory protection in accordance with WAC 296-155-215 and chapter ((296-62)) 296-842 WAC((,-Part E)).

(5) Grounding. The motor frames of all stationary saws shall be grounded through conduit, water pipe, or a driven ground. Portable saws shall be grounded through three-pole cords attached to grounded electrical systems.

(6) Inspection. Masonry saws shall be inspected at regular intervals and maintained in safe operating condition.

**AMENDATORY SECTION** (Amending WSR 02-12-098, filed 6/5/02, effective 8/1/02)

**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 (bogies)** - 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 create 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, suit-

able 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))~~ chapter 296-841 WAC, identifying and controlling respiratory hazards.)

(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 automatic 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 must be instituted for transmitting signals to the operator. Standard hand signals for crane operations 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 must be used. (See WAC 296-155-525 (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 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.

EXPEDITED



(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 WSR 99-17-094, filed 8/17/99, effective 12/1/99)

**WAC 296-155-655 General protection requirements.**

(1) Surface encumbrances. All surface encumbrances that are located so as to create a hazard to employees shall be removed or supported, as necessary, to safeguard employees.

(2) Underground installations.

(a) The location of utility installations, such as sewer, telephone, fuel, electric, water lines, or any other underground installations that reasonably may be expected to be encountered during excavation work, shall be located prior to opening an excavation.

(b) Utility companies or owners shall be contacted within established or customary local response times, advised of the proposed work, and asked to locate the underground utility installation prior to the start of actual excavation.

(c) When excavation operations approach the location of underground installations, the exact location of the installations shall be determined by safe and acceptable means.

(d) While the excavation is open, underground installations shall be protected, supported, or removed as necessary to safeguard employees.

(3) Access and egress.

(a) Structural ramps.

(i) Structural ramps that are used solely by employees as a means of access or egress from excavations shall be designed by a competent person. Structural ramps used for access or egress of equipment shall be designed by a competent person qualified in structural design, and shall be constructed in accordance with the design.

(ii) Ramps and runways constructed of two or more structural members shall have the structural members connected together to prevent displacement.

(iii) Structural members used for ramps and runways shall be of uniform thickness.

(iv) Cleats or other appropriate means used to connect runway structural members shall be attached to the bottom of the runway or shall be attached in a manner to prevent tripping.

(v) Structural ramps used in lieu of steps shall be provided with cleats or other surface treatments on the top surface to prevent slipping.

(b) Means of egress from trench excavations. A stairway, ladder, ramp or other safe means of egress shall be located in trench excavations that are 4 feet (1.22 m) or more in depth so as to require no more than 25 feet (7.62 m) of lateral travel for employees.

(4) Exposure to vehicular traffic. Employees exposed to public vehicular traffic shall be provided with, and shall wear, warning vests or other suitable garments marked with or made of reflectorized or high-visibility material.

(5) Exposure to falling loads. No employee shall be permitted underneath loads handled by lifting or digging equipment. Employees shall be required to stand away from any vehicle being loaded or unloaded to avoid being struck by any spillage or falling materials. Operators may remain in the cabs of vehicles being loaded or unloaded when the vehicles are equipped, in accordance with WAC 296-155-610 (2)(g), to provide adequate protection for the operator during loading and unloading operations.

(6) Warning system for mobile equipment. When mobile equipment is operated adjacent to an excavation, or when such equipment is required to approach the edge of an excavation, and the operator does not have a clear and direct view of the edge of the excavation, a warning system shall be utilized such as barricades, hand or mechanical signals, or stop logs. If possible, the grade should be away from the excavation.

(7) Hazardous atmospheres.

(a) Testing and controls. In addition to the requirements set forth in parts B-1, C, and C-1 of this chapter (296-155 WAC) to prevent exposure to harmful levels of atmospheric contaminants and to assure acceptable atmospheric conditions, the following requirements shall apply:

(i) Where oxygen deficiency (atmospheres containing less than 19.5 percent oxygen) or a hazardous atmosphere exists or could reasonably be expected to exist, such as in excavations in landfill areas or excavations in areas where hazardous substances are stored nearby, the atmospheres in the excavation shall be tested before employees enter excavations greater than 4 feet (1.22 m) in depth.

(ii) Adequate precautions shall be taken to prevent employee exposure to atmospheres containing less than 19.5 percent oxygen and other hazardous atmospheres. These precautions include providing proper respiratory protection or ventilation (~~(in accordance with parts [as required by chapter 296-62 WAC, part E and by part B-1 [and C] of this chapter [respectively])~~) in accordance with chapter 296-842 WAC.

(iii) Adequate precaution shall be taken such as providing ventilation, to prevent employee exposure to an atmosphere containing a concentration of a flammable gas in excess of 10 percent of the lower flammable limit of the gas.

(iv) When controls are used that are intended to reduce the level of atmospheric contaminants to acceptable levels, testing shall be conducted as often as necessary to ensure that the atmosphere remains safe.

(b) Emergency rescue equipment.

(i) Emergency rescue equipment, such as breathing apparatus, a safety harness and line, or a basket stretcher, shall be readily available where hazardous atmospheric conditions exist or may reasonably be expected to develop dur-



ing work in an excavation. This equipment shall be attended when in use.

(ii) Employees entering bell-bottom pier holes, or other similar deep and confined footing excavations, shall wear a harness with a lifeline securely attached to it. The lifeline shall be separate from any line used to handle materials, and shall be individually attended at all times while the employee wearing the lifeline is in the excavation.

Note: See chapter 296-62 WAC, Part M for additional requirements applicable to confined space operations.

(8) Protection from hazards associated with water accumulation.

(a) Employees shall not work in excavations in which there is accumulated water, or in excavations in which water is accumulating, unless adequate precautions have been taken to protect employees against the hazards posed by water accumulation. The precautions necessary to protect employees adequately vary with each situation, but could include special support or shield systems to protect from cave-ins, water removal to control the level of accumulating water, or use of a safety harness and lifeline.

(b) If water is controlled or prevented from accumulating by the use of water removal equipment, the water removal equipment and operations shall be monitored by a competent person to ensure proper operation.

(c) If excavation work interrupts the natural drainage of surface water (such as streams), diversion ditches, dikes, or other suitable means shall be used to prevent surface water from entering the excavation and to provide adequate drainage of the area adjacent to the excavation. Excavations subject to runoff from heavy rains will require an inspection by a competent person and compliance with subdivisions (a) and (b) of this subsection.

(9) Stability of adjacent structures.

(a) Where the stability of adjoining buildings, walls, or other structures is endangered by excavation operations, support systems such as shoring, bracing, or underpinning shall be provided to ensure the stability of such structures for the protection of employees.

(b) Excavation below the level of the base or footing of any foundation or retaining wall that could be reasonably expected to pose a hazard to employees shall not be permitted except when:

(i) A support system, such as underpinning, is provided to ensure the safety of employees and the stability of the structure; or

(ii) The excavation is in stable rock; or

(iii) A registered professional engineer has approved the determination that the structure is sufficiently removed from the excavation so as to be unaffected by the excavation activity; or

(iv) A registered professional engineer has approved the determination that such excavation work will not pose a hazard to employees.

(c) Sidewalks, pavements, and appurtenant structure shall not be undermined unless a support system or another method of protection is provided to protect employees from the possible collapse of such structures.

(10) Protection of employees from loose rock or soil.

(a) Adequate protection shall be provided to protect employees from loose rock or soil that could pose a hazard by falling or rolling from an excavation face. Such protection shall consist of scaling to remove loose material; installation of protective barricades at intervals as necessary on the face to stop and contain falling material; or other means that provide equivalent protection.

(b) Employees shall be protected from excavated or other materials or equipment that could pose a hazard by falling or rolling into excavations. Protection shall be provided by placing and keeping such materials or equipment at least 2 feet (.61 m) from the edge of excavations, or by the use of retaining devices that are sufficient to prevent materials or equipment from falling or rolling into excavations, or by a combination of both if necessary.

(11) Inspections.

(a) Daily inspections of excavations, the adjacent areas, and protective systems shall be made by a competent person for evidence of a situation that could result in possible cave-ins, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions. An inspection shall be conducted by the competent person prior to the start of work and as needed throughout the shift. Inspections shall also be made after every rainstorm or other hazard increasing occurrence. These inspections are only required when employee exposure can be reasonably anticipated.

(b) Where the competent person finds evidence of a situation that could result in a possible cave-in, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions, exposed employees shall be removed from the hazardous area until the necessary precautions have been taken to ensure their safety.

(12) Fall protection.

(a) Walkways shall be provided where employees or equipment are required or permitted to cross over excavations. Guardrails which comply with chapter 296-155 WAC, Part K shall be provided where walkways are 4 feet or more above lower levels.

(b) Adequate barrier physical protection shall be provided at all remotely located excavations. All wells, pits, shafts, etc., shall be barricaded or covered. Upon completion of exploration and similar operations, temporary wells, pits, shafts, etc., shall be backfilled.

**AMENDATORY SECTION** (Amending WSR 01-17-033, filed 8/8/01, effective 9/1/01)

**WAC 296-155-730 Tunnels and shafts.** (1) Scope and application.

(a) This section applies to the construction of underground tunnels, shafts, chambers, and passageways. This section also applies to cut-and-cover excavations which are both physically connected to ongoing underground construction operations within the scope of this section, and covered in such a manner as to create conditions characteristic of underground construction.

(b) This section does not apply to excavation and trenching operations covered by Part N of this chapter, such as foundation operations for above-ground structures that are

not physically connected to underground construction operations, and surface excavation.

(c) The employer shall comply with the requirements of this part and chapter in addition to applicable requirements of chapter 296-36 WAC, Safety standards—Compressed air work.

(2) Access and egress.

(a) Each operation shall have a check-in/check-out system that will provide positive identification of every employee underground. An accurate record of identification and location of the employees shall be kept on the surface. This procedure is not required when the construction of underground facilities designed for human occupancy has been sufficiently completed so that the permanent environmental controls are effective, and when the remaining construction activity will not cause any environmental hazard, or structural failure within the facilities.

(b) The employer shall provide and maintain safe means of access and egress to all work stations.

(c) The employer shall provide access and egress in such a manner that employees are protected from being struck by excavators, haulage machines, trains, and other mobile equipment.

(d) The employer shall control access to all openings to prevent unauthorized entry underground. Unused chutes, manways, or other openings shall be tightly covered, bulkheaded, or fenced off, and shall be posted with warning signs indicating "keep out" or similar language. Completed or unused sections of the underground facility shall be barricaded.

(3) Safety instruction. All employees shall be instructed in the recognition and avoidance of hazards associated with underground construction activities including, where appropriate, the following subjects:

- (a) Air monitoring;
- (b) Ventilation;
- (c) Confined space entry procedures;
- (d) Permit-required confined space entry procedures;
- (e) Illumination;
- (f) Communications;
- (g) Flood control;
- (h) Mechanical equipment;
- (i) Personal protective equipment;
- (j) Explosives;
- (k) Fire prevention and protection; and
- (l) Emergency procedures, including evacuation plans and check-in/check-out systems.

(4) Notification.

(a) Oncoming shifts shall be informed of any hazardous occurrences or conditions that have affected, or might affect employee safety, including liberation of gas, equipment failures, earth or rock slides, cave-ins, floodings, fire(s), or explosions.

(b) Information specified in (a) of this subsection shall be recorded in a shift journal which shall be current prior to the end of each shift, and shall be located aboveground.

(c) Oncoming supervisory personnel shall read the notification prior to going underground, and shall signify their understanding of the contents by affixing their respective initials to the log.

(d) The hazard notification log shall be retained on the site until the completion of the project.

(e) The employer shall establish and maintain direct communications for coordination of activities with other employers whose operations at the jobsite affect or may affect the safety of employees underground.

(5) Communications.

(a) When natural unassisted voice communication is ineffective, a power-assisted means of voice communication shall be used to provide communication between the work face, the bottom of the shaft, and the surface.

(b) Two effective means of communication, at least one of which shall be voice communication, shall be provided in all shafts which are being developed or used either for personnel access or for hoisting. Additional requirements for hoist operator communication are contained in subsection (22)(c)(xv) of this section.

(c) Powered communication systems shall operate on an independent power supply, and shall be installed so that the use of or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.

(d) Communication systems shall be tested upon initial entry of each shift to the underground, and as often as necessary at later times, to ensure that they are in working order.

(e) Any employee working alone underground in a hazardous location, who is both out of the range of natural unassisted voice communication and not under observation by other persons, shall be provided with an effective means of obtaining assistance in an emergency.

(6) Emergency provisions. Hoisting capability. When a shaft is used as a means of egress, the employer shall make advance arrangements for power-assisted hoisting capability to be readily available in an emergency, unless the regular hoisting means can continue to function in the event of an electrical power failure at the jobsite. Such hoisting means shall be designed so that the load hoist drum is powered in both directions of rotation and so that the brake is automatically applied upon power release or failure.

(7) Self-rescuers. The employer must provide self-rescuers certified by the National Institute for Occupational Safety and Health under 42 CFR part 84. The respirators must be immediately available to all employees at work stations in underground areas where employees might be trapped by smoke or gas. The selection, issuance, use, and care of respirators must be in accordance with the requirements of chapter ((296-62)) 296-842 WAC((,-Part E)).

(8) Designated person. At least one designated person shall be on duty aboveground whenever any employee is working underground. This designated person shall be responsible for securing immediate aid and keeping an accurate record of the number, identification, and location of employees who are underground in case of emergency. The designated person must not be so busy with other responsibilities that the personnel counting and identification function is encumbered.

(9) Emergency lighting. Each employee underground shall have an acceptable portable hand lamp or cap lamp in his or her work area for emergency use, unless natural light or

an emergency lighting system provides adequate illumination for escape.

(10) Rescue teams.

(a) On jobsites where 25 or more employees work underground at one time, the employer shall provide (or make arrangements in advance with locally available rescue services to provide) at least two 5-person rescue teams, one on the jobsite or within one-half hour travel time from the entry point, and the other within 2 hours travel time.

(b) On jobsites where less than 25 employees work underground at one time, the employer shall provide (or make arrangements in advance with locally available rescue services to provide) at least one 5-person rescue team to be either on the jobsite or within one-half hour travel time from the entry point.

(c) Rescue team members shall be qualified in rescue procedures, the use and limitations of breathing apparatus, and the use of fire fighting equipment. Qualifications shall be reviewed not less than annually.

(d) On jobsites where flammable or noxious gases are encountered or anticipated in hazardous quantities, rescue team members shall practice donning and using pressure demand mode, self-contained breathing apparatuses monthly.

(e) The employer shall ensure that rescue teams are familiar with conditions at the jobsite.

(11) Hazardous classifications.

(a) Potentially gassy operations. Underground construction operations shall be classified as potentially gassy if either:

(i) Air monitoring discloses 10 percent or more of the lower explosive limit for methane or other flammable gases measured at 12 inches (304.8 mm) +/- 0.25 inch (6.35 mm) from the roof, face, floor, or walls in any underground work area for more than a 24-hour period; or

(ii) The history of the geographical area or geological formation indicates that 10 percent or more of the lower explosive limit for methane or other flammable gases is likely to be encountered in such underground operations.

(b) Gassy operations. Underground construction operations shall be classified as gassy if:

(i) Air monitoring discloses 10 percent or more of the lower explosive limit for methane or other flammable gases measured at 12 inches (304.8 mm) +/- 0.25 inch (6.35 mm) from the roof, face, floor, or walls in any underground work area for three consecutive days; or

(ii) There has been an ignition of methane or of other flammable gases emanating from the strata that indicates the presence of such gases; or

(iii) The underground construction operation is both connected to an underground work area which is currently classified as gassy and is also subject to a continuous course of air containing the flammable gas concentration.

(c) Declassification to potentially gassy operations. Underground construction gassy operations may be declassified to potentially gassy when air monitoring results remain under 10 percent of the lower explosive limit for methane or other flammable gases for three consecutive days.

(12) Gassy operations—Additional requirements. Only acceptable equipment, maintained in suitable condition, shall be used in gassy operations.

(a) Mobile diesel-powered equipment used in gassy operations shall be either approved in accordance with the requirements of 30 CFR Part 36 (formerly Schedule 31) by MSHA, or shall be demonstrated by the employer to be fully equivalent to such MSHA-approved equipment, and shall be operated in accordance with that part.

(b) Each entrance to a gassy operation shall be prominently posted with signs notifying all entrants of the gassy classification.

(c) Smoking shall be prohibited in all gassy operations and the employer shall be responsible for collecting all personal sources of ignition, such as matches and lighters, from all persons entering a gassy operation.

(d) A fire watch as described in chapter 296-155 WAC, Part H, shall be maintained when hot work is performed.

(e) Once an operation has met the criteria in subsection (11)(a)(i) of this section, warranting classification as gassy, all operations in the affected area, except the following, shall be discontinued until the operation either is in compliance with all of the gassy operation requirements or has been declassified in accordance with (c) of this subsection:

(i) Operations related to the control of the gas concentration;

(ii) Installation of new equipment, or conversion of existing equipment, to comply with this subsection; and

(iii) Installation of above-ground controls for reversing the air flow.

(13) Air quality and monitoring.

(a) General. Air quality limits and control requirements specified in chapter ((296-62)) 296-841 WAC((,-Part H,)) shall apply except as modified by this subsection.

(b) The employer shall assign a competent person who shall perform all air monitoring required by this section.

(c) Where this section requires monitoring of airborne contaminants "as often as necessary," the competent person shall make a reasonable determination as to which substances to monitor and how frequently to monitor, considering at least the following factors:

(i) Location of jobsite: Proximity to fuel tanks, sewers, gas lines, old landfills, coal deposits, and swamps;

(ii) Geology: Geological studies of the jobsite, particularly involving the soil type and its permeability;

(iii) History: Presence of air contaminants in nearby jobsites, changes in levels of substances monitored on the prior shift; and

(iv) Work practices and jobsite conditions: The use of diesel engines, use of explosives, use of fuel gas, volume and flow of ventilation, visible atmospheric conditions, decompression of the atmosphere, welding, cutting and hot work, and employees' physical reactions to working underground.

(d) The employer shall provide testing and monitoring instruments which are capable of achieving compliance with the provisions of this subsection, and:

(i) Shall maintain the testing and monitoring instruments in good condition;

(ii) Shall calibrate the instruments on a frequency not to exceed 6 months.

(e) Exposure to airborne contaminants shall not exceed the levels established by chapter ((296-62)) 296-841 WAC((,-Part H,)).

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(f) Respirators shall not be substituted for environmental control measures. However, where environmental controls have not yet been developed, or when necessary by the nature of the work involved (for example, welding, sand blasting, lead burning), an employee may work for short periods of time in concentrations of airborne contaminants which exceed the limit of permissible exposure referred to in (d) of this subsection, if the employee wears a respiratory protective device certified by MSHA-NIOSH for protection against the particular hazards involved, and the selection and use of respirators complies with the provisions of chapter ((296-62)) 296-842 WAC(, Part E).

(g) Employees shall be withdrawn from areas in which there is a concentration of an airborne contaminant which exceeds the permissible exposure limit listed for that contaminant, except as modified in (t)(i) and (ii) of this subsection.

(h) The atmosphere in all underground work areas shall be tested as often as necessary to assure that the atmosphere at normal atmospheric pressure contains at least 19.5 percent oxygen and no more than 22 percent oxygen.

(i) Tests for oxygen content shall be made before tests for air contaminants.

(j) Field-type oxygen analyzers, or other suitable devices, shall be used to test for oxygen deficiency.

(k) The atmosphere in all underground work areas shall be tested quantitatively for carbon monoxide, nitrogen dioxide, hydrogen sulfide, and other toxic gases, dust, vapors, mists, and fumes as often as necessary to ensure that the permissible exposure limits prescribed in chapter 296-62 WAC, Part H, are not exceeded.

(l) The atmosphere in all underground work areas shall be tested quantitatively for methane and other flammable gases as often as necessary to determine:

(i) Whether action is to be taken under (q), (r), and (s) of this subsection; and

(ii) Whether an operation is to be classified potentially gassy or gassy under subsection (11) of this section.

(m) If diesel-engine or gasoline-engine driven ventilating fans or compressors are used, an initial test shall be made of the inlet air of the fan or compressor, with the engines operating, to ensure that the air supply is not contaminated by engine exhaust.

(n) Testing shall be performed as often as necessary to ensure that the ventilation requirements of subsection (15) of this section are met.

(o) When rapid excavation machines are used, a continuous flammable gas monitor shall be operated at the face with the sensor(s) placed as high and close to the front of the machine's cutter head as practicable.

(p) Whenever air monitoring indicates the presence of 5 ppm or more of hydrogen sulfide, a test shall be conducted in the affected underground work area(s), at least at the beginning and midpoint of each shift, until the concentration of hydrogen sulfide has been less than 5 ppm for 3 consecutive days.

(i) Whenever hydrogen sulfide is detected in an amount exceeding 10 ppm, a continuous sampling and indicating hydrogen sulfide monitor shall be used to monitor the affected work area.

(ii) Employees shall be informed when a concentration of 10 ppm hydrogen sulfide is exceeded.

(iii) The continuous sampling and indicating hydrogen sulfide monitor shall be designed, installed, and maintained to provide a visual and aural alarm when the hydrogen sulfide concentration reaches 15 ppm to signal that additional measures, such as respirator use, increased ventilation, or evacuation, might be necessary to maintain hydrogen sulfide exposure below the permissible exposure limit.

(q) When the competent person determines, on the basis of air monitoring results or other information, that air contaminants may be present in sufficient quantity to be dangerous to life, the employer shall:

(i) Prominently post a notice at all entrances to the underground jobsite to inform all entrants of the hazardous condition; and

(ii) Immediately increase sampling frequency levels to insure workers are not exposed to identified contaminants in excess of the permissible exposure limit(s); and

(iii) Ensure that all necessary precautions are taken to comply with pertinent requirements of this section, and chapter 296-62 WAC.

(r) Whenever five percent or more of the lower explosive limit for methane or other flammable gases is detected in any underground work area(s) or in the air return, steps shall be taken to increase ventilation air volume or otherwise control the gas concentration, unless the employer is operating in accordance with the potentially gassy or gassy operation requirements. Such additional ventilation controls may be discontinued when gas concentrations are reduced below five percent of the lower explosive limit, but shall be reinstated whenever the five percent level is exceeded.

(s) Whenever 10 percent or more of the lower explosive limit for methane or other flammable gases is detected in the vicinity of welding, cutting, or other hot work, such work shall be suspended until the concentration of such flammable gas is reduced to less than 10 percent of the lower explosive limit.

(t) Whenever 20 percent or more of the lower explosive limit for methane or other flammable gases is detected in any underground work area(s) or in the air return:

(i) All employees, except those necessary to eliminate the hazard, shall be immediately withdrawn to a safe location above ground; and

(ii) Employees who remain underground to correct or eliminate the hazard described in (t) above shall be equipped with approved, pressure demand mode, self-contained breathing apparatus, and shall have received adequate training in the proper use of that equipment.

(iii) Electrical power, except for acceptable pumping and ventilation equipment, shall be cut off to the area endangered by the flammable gas until the concentration of such gas is reduced to less than 20 percent of the lower explosive limit.

(14) Additional monitoring for potentially gassy and gassy operations. Operations which meet the criteria for potentially gassy and gassy operations set forth in subsection (13) of this section shall be subject to the additional monitoring requirements of this subsection.

(a) A test for oxygen content shall be conducted in the affected underground work areas and work areas immedi-

ately adjacent to such areas at least at the beginning and midpoint of each shift.

(b) When using rapid excavation machines, continuous automatic flammable gas monitoring equipment shall be used to monitor the air at the heading, on the rib, and in the return air duct. The continuous monitor shall signal the heading, and shut down electric power in the affected underground work area, except for acceptable pumping and ventilation equipment, when 20 percent or more of the lower explosive limit for methane or other flammable gases is encountered.

(i) A manual flammable gas monitor shall be used as needed, but at least at the beginning and midpoint of each shift, to ensure that the limits prescribed in subsections (11) and (13) of this section are not exceeded. In addition, a manual electrical shut down control shall be provided near the heading.

(ii) Local gas tests shall be made prior to and continuously during any welding, cutting, or other hot work.

(iii) In underground operations driven by drill-and-blast methods, the air in the affected area shall be tested for flammable gas prior to re-entry after blasting, and continuously when employees are working underground.

(c) Recordkeeping. A record of all air quality tests shall be maintained above ground at the worksite and be made available to the director or his/her representatives upon request. The record shall include the location, date, time, substance and amount monitored. Records of exposures to toxic substances shall be retained in accordance with Part B, chapter 296-62 WAC. All other air quality test records shall be retained until completion of the project.

(15) Ventilation.

(a)(i) Fresh air shall be supplied to all underground work areas in sufficient quantities to prevent dangerous or harmful accumulation of dust, fumes, mists, vapors, or gases.

(ii) Mechanical ventilation shall be provided in all underground work areas except when the employer can demonstrate that natural ventilation provides the necessary air quality through sufficient air volume and air flow.

(b) A minimum of 200 cubic feet (5.7 m<sup>3</sup>) of fresh air per minute shall be supplied for each employee underground.

(c) The linear velocity of air flow in the tunnel bore, in shafts, and in all other underground work areas shall be at least 30 feet (9.15 m) per minute where blasting or rock drilling is conducted, or where other conditions likely to produce dust, fumes, mists, vapors, or gases in harmful or explosive quantities are present.

(d) The direction of mechanical air flow shall be reversible.

(e) Air that has passed through underground oil or fuel-storage areas shall not be used to ventilate working areas.

(f) Following blasting, ventilation systems shall exhaust smoke and fumes to the outside atmosphere before work is resumed in affected areas.

(g) Ventilation doors shall be designed and installed so that they remain closed when in use, regardless of the direction of the air flow.

(h) When ventilation has been reduced to the extent that hazardous levels of methane or flammable gas may have accumulated, a competent person shall test all affected areas after ventilation has been restored and shall determine

whether the atmosphere is within flammable limits before any power, other than for acceptable equipment, is restored or work is resumed.

(i) Whenever the ventilation system has been shut down with all employees out of the underground area, only competent persons authorized to test for air contaminants shall be allowed underground until the ventilation has been restored and all affected areas have been tested for air contaminants and declared safe.

(j) When drilling rock or concrete, appropriate dust control measures shall be taken to maintain dust levels within limits set in chapter 296-155 WAC, Part B-1. Such measures may include, but are not limited to, wet drilling, the use of vacuum collectors, and water mix spray systems.

(k)(i) Internal combustion engines, except diesel-powered engines on mobile equipment, are prohibited underground.

(ii) Mobile diesel-powered equipment used underground in atmospheres other than gassy operations shall be either approved by MSHA in accordance with the provisions of 30 CFR Part 32 (formerly Schedule 24), or shall be demonstrated by the employer to be fully equivalent to such MSHA-approved equipment, and shall be operated in accordance with that Part. (Each brake horsepower of a diesel engine requires at least 100 cubic feet (28.32 m<sup>3</sup>) of air per minute for suitable operation in addition to the air requirements for personnel. Some engines may require a greater amount of air to ensure that the allowable levels of carbon monoxide, nitric oxide, and nitrogen dioxide are not exceeded.)

(iii) Application shall be made to the mining/explosives section, department of labor and industries, for permission to use specified diesel equipment in a specified underground area and shall include the following:

(A) The type of construction and complete identification data and specifications including analysis of the undiluted exhaust gases of the diesel equipment.

(B) The location where the diesel equipment is to be used.

(C) Before the diesel equipment is taken underground, written permission shall be obtained from the department of labor and industries or its duly authorized representative. A satisfactory test on surface, to show that the exhaust gases do not exceed the maximum percentage of carbon monoxide permitted, shall be required.

(D) Diesel equipment shall only be used underground where the ventilation is controlled by mechanical means and shall not be operated if the ventilating current is less than 100 CFM per horsepower based on the maximum brake horsepower of the engines.

(E) Air measurements shall be made at least once daily in the diesel engine working area and the measurements entered in the Underground Diesel Engine Record Book. Permissible maximum amounts of noxious gases are as follows:

At engine exhaust ports	Carbon Monoxide	.10%	1,000 ppm <sup>3</sup>
Next to equipment	Carbon Monoxide	.0035%	35 ppm
General atmosphere	Carbon Monoxide	.0035%	35 ppm
General atmosphere	Nitrogen Dioxide	.0001%	1 ppm
General atmosphere	Aldehydes	.0002%	2 ppm

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<sup>3</sup> Parts of vapor or gas per million parts of contaminated air by volume at 25°C and 760 mm Hg. pressure.

(l) Potentially gassy or gassy operations shall have ventilation systems installed which shall:

- (i) Be constructed of fire-resistant materials; and
- (ii) Have acceptable electrical systems, including fan motors.

(m) Gassy operations shall be provided with controls located aboveground for reversing the air flow of ventilation systems.

(n) In potentially gassy or gassy operations, wherever mine-type ventilation systems using an offset main fan installed on the surface are used, they shall be equipped with explosion-doors or a weak-wall having an area at least equivalent to the cross-sectional area of the airway.

(16) Illumination.

(a) Sufficient lighting shall be provided, in accordance with the requirements of chapter 296-155 WAC, Part B-1, to permit safe operations at the face as well as in the general tunnel or shaft area and at the employees' workplace.

(b) Only acceptable portable lighting shall be used within 50 feet (15.24 m) of any underground heading during explosive handling.

(17) Fire prevention and control. Fire prevention and protection requirements applicable to underground construction operations are found in Part D of this chapter except as modified by the following additional standards.

(a) Open flames and fires are prohibited in all underground construction operations except as permitted for welding, cutting, and other hot work operations.

(i) Smoking may be allowed only in areas free of fire and explosion hazards.

(ii) Readily visible signs prohibiting smoking and open flames shall be posted in areas having fire or explosion hazards.

(iii) The carrying of matches, lighters, or other flame-producing smoking materials shall be prohibited in all underground operations where fire or explosion hazards exist.

(b) The employer may store underground no more than a 24-hour supply of diesel fuel for the underground equipment used at the worksite.

(c) The piping of diesel fuel from the surface to an underground location is permitted only if:

(i) Diesel fuel is contained at the surface in a tank whose maximum capacity is no more than the amount of fuel required to supply for a 24-hour period the equipment serviced by the underground fueling station; and

(ii) The surface tank is connected to the underground fueling station by an acceptable pipe or hose system that is controlled at the surface by a valve, and at the shaft bottom by a hose nozzle; and

(iii) The pipe is empty at all times except when transferring diesel fuel from the surface tank to a piece of equipment in use underground; and

(iv) Hoisting operations in the shaft are suspended during refueling operations if the supply piping in the shaft is not protected from damage.

(d)(i) Gasoline shall not be carried, stored, or used underground.

(ii) Acetylene, liquefied petroleum gas, and methylacetylene propadiene stabilized gas may be used underground only for welding, cutting and other hot work, and only in accordance with Part H of this chapter and subsections (13), (15), (17), and (18) of this section.

(e) Oil, grease, and diesel fuel stored underground shall be kept in tightly sealed containers in fire-resistant areas at least 300 feet (91.44 m) from underground explosive magazines, and at least 100 feet (30.48 m) from shaft stations and steeply inclined passageways. Storage areas shall be positioned or diked so that the contents of ruptured or overturned containers will not flow from the storage area.

(f) Flammable or combustible materials shall not be stored above ground within 100 feet (30.48 m) of any access opening to any underground operation. Where this is not feasible because of space limitations at the jobsite, such materials may be located within the 100-foot limit, provided that:

(i) They are located as far as practicable from the opening; and

(ii) Either a fire-resistant barrier of not less than one-hour rating is placed between the stored material and the opening, or additional precautions are taken which will protect the materials from ignition sources.

(g) Fire-resistant hydraulic fluids shall be used in hydraulically-actuated underground machinery and equipment unless such equipment is protected by a fire suppression system or by multipurpose fire extinguisher(s) rated at a sufficient capacity for the type and size of hydraulic equipment involved, but rated at least 4A:4OB:C.

(h)(i) Electrical installations in underground areas where oil, grease, or diesel fuel are stored shall be used only for lighting fixtures.

(ii) Lighting fixtures in storage areas, or within 25 feet (7.62 m) of underground areas where oil, grease, or diesel fuel are stored, shall be approved for Class I, Division 2 locations, in accordance with Part I of this chapter.

(i) Leaks and spills of flammable or combustible fluids shall be cleaned up immediately.

(j) A fire extinguisher of at least 4A:4OB:C rating or other equivalent extinguishing means shall be provided at the head pulley and at the tail pulley of underground belt conveyors, and at 300-foot intervals along the belt.

(k) Any structure located underground or within 100 feet (30.48 m) of an opening to the underground shall be constructed of material having a fire-resistance rating of at least one hour.

(18) Welding, cutting, and other hot work. In addition to the requirements of Part H of this chapter, the following requirements shall apply to underground welding, cutting, and other hot work.

(a) No more than the amount of fuel gas and oxygen cylinders necessary to perform welding, cutting, or other hot work during the next 24-hour period shall be permitted underground.

(b) Noncombustible barriers shall be installed below welding, cutting, or other hot work being done in or over a shaft or raise.

(19) Ground support.

(a) In tunnels (other than hard rock) timber sets, steel rings, steel frames, concrete liners, or other engineered tunnel

support systems shall be used. Every tunnel support system shall be designed by a licensed professional engineer. Design specifications shall be available at the worksite.

(b) Portal areas. Portal openings and access areas shall be guarded by shoring, fencing, head walls, shotcreting, or other equivalent protection to ensure safe access of employees and equipment. Adjacent areas shall be scaled or otherwise secured to prevent loose soil, rock, or fractured materials from endangering the portal and access area.

(c) Subsidence areas. The employer shall ensure ground stability in hazardous subsidence areas by shoring, by filling in, or by erecting barricades and posting warning signs to prevent entry.

(d) Underground areas.

(i)(A) A competent person shall inspect the roof, face, and walls of the work area at the start of each shift and as often as necessary to determine ground stability.

(B) Competent persons conducting such inspections shall be protected from loose ground by location, ground support, or equivalent means.

(ii) Ground conditions along haulageways and travelways shall be inspected as frequently as necessary to ensure safe passage.

(iii) Loose ground that might be hazardous to employees shall be taken down, scaled, or supported.

(iv) Torque wrenches shall be used wherever bolts that depend on torsionally applied force are used for ground support.

(v) A competent person shall determine whether rock bolts meet the necessary torque, and shall determine the testing frequency in light of the bolt system, ground conditions, and the distance from vibration sources.

(vi) Suitable protection shall be provided for employees exposed to the hazard of loose ground while installing ground support systems.

(vii) Support sets shall be installed so that the bottoms have sufficient anchorage to prevent ground pressures from dislodging the support base of the sets. Lateral bracing (collar bracing, tie rods, or spreaders) shall be provided between immediately adjacent sets to ensure added stability.

(viii) Damaged or dislodged ground supports that create a hazardous condition shall be promptly repaired or replaced. When replacing supports, the new supports shall be installed before the damaged supports are removed.

(ix) A shield or other type of support shall be used to maintain a safe travelway for employees working in dead-end areas ahead of any support replacement operation.

(e) Shafts.

(i) Shafts and wells over 4 feet (1.219 m) in depth that employees must enter shall be supported by a steel casing, concrete pipe, timber, solid rock, or other suitable material.

(ii)(A) The full depth of the shaft shall be supported by casing or bracing except where the shaft penetrates into solid rock having characteristics that will not change as a result of exposure. Where the shaft passes through earth into solid rock, or through solid rock into earth, and where there is potential for shear, the casing or bracing shall extend at least 5 feet (1.53 m) into the solid rock. When the shaft terminates in solid rock, the casing or bracing shall extend to the end of

the shaft or 5 feet (1.53 m) into the solid rock, whichever is less.

(B) The casing or bracing shall extend 42 inches (1.07 m) plus or minus 3 inches (8 cm) above ground level, except that the minimum casing height may be reduced to 12 inches (0.3 m), provided that a standard railing is installed; that the ground adjacent to the top of the shaft is sloped away from the shaft collar to prevent entry of liquids; and that effective barriers are used to prevent mobile equipment operating near the shaft from jumping over the 12-inch (0.3 m) barrier.

(iii) After blasting operations in shafts, a competent person shall determine if the walls, ladders, timbers, blocking, or wedges have loosened. If so, necessary repairs shall be made before employees other than those assigned to make the repairs are allowed in or below the affected areas.

(f) Blasting. This subsection applies in addition to the requirements for blasting and explosives operations, including handling of misfires, which are found in chapter 296-52 WAC.

(i) Blasting wires shall be kept clear of electrical lines, pipes, rails, and other conductive material, excluding earth, to prevent explosives initiation or employee exposure to electric current.

(ii) Following blasting, an employee shall not enter a work area until the air quality meets the requirements of subsection (13) of this section.

(g) Drilling.

(i) A competent person shall inspect all drilling and associated equipment prior to each use. Equipment defects affecting safety shall be corrected before the equipment is used.

(ii) The drilling area shall be inspected for hazards before the drilling operation is started.

(iii) Employees shall not be allowed on a drill mast while the drill bit is in operation or the drill machine is being moved.

(iv) When a drill machine is being moved from one drilling area to another, drill steel, tools, and other equipment shall be secured and the mast shall be placed in a safe position.

(v) Receptacles or racks shall be provided for storing drill steel located on jumbos.

(vi) Employees working below jumbo decks shall be warned whenever drilling is about to begin.

(vii) Drills on columns shall be anchored firmly before starting drilling, and shall be retightened as necessary thereafter.

(viii) The employer shall provide mechanical means on the top deck of a jumbo for lifting unwieldy or heavy material.

(ix) When jumbo decks are over 10 feet (3.05 m) in height, the employer shall install stairs wide enough for two persons.

(x) Jumbo decks more than 10 feet (3.05 m) in height shall be equipped with guardrails on all open sides, excluding access openings of platforms, unless an adjacent surface provides equivalent fall protection.

(xi) Only employees assisting the operator shall be allowed to ride on jumbos, unless the jumbo meets the requirements of subsection (20)(e) of this section.

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Note: For additional requirements relating to portable fire extinguishers see WAC 296-800-300.

(xii) Jumbos shall be chocked to prevent movement while employees are working on them.

(xiii) Walking and working surfaces of jumbos shall be maintained to prevent the hazards of slipping, tripping, and falling.

(xiv) Jumbo decks and stair treads shall be designed to be slip-resistant and secured to prevent accidental displacement.

(xv) Scaling bars shall be available at scaling operations and shall be maintained in good condition at all times. Blunted or severely worn bars shall not be used.

(xvi) Before commencing the drill cycle, the face and lifters shall be examined for misfires (residual explosives) and, if found, they shall be removed before drilling commences at the face. Blasting holes shall not be drilled through blasted rock (muck) or water.

(xvii) Employees in a shaft shall be protected either by location or by suitable barrier(s) if powered mechanical loading equipment is used to remove muck containing unfired explosives.

(xviii) A caution sign reading "buried line," or similar wording shall be posted where air lines are buried or otherwise hidden by water or debris.

#### (20) Haulage.

(a) A competent person shall inspect haulage equipment before each shift.

(i) Equipment defects affecting safety and health shall be corrected before the equipment is used.

(ii) Powered mobile haulage equipment shall be provided with adequate brakes.

(iii) Power mobile haulage equipment, including trains, shall have audible warning devices to warn employees to stay clear. The operator shall sound the warning device before moving the equipment and whenever necessary during travel.

(iv) The operator shall assure that lights which are visible to employees at both ends of any mobile equipment, including a train, are turned on whenever the equipment is operating.

(v) In those cabs where glazing is used, the glass shall be safety glass, or its equivalent, and shall be maintained and cleaned so that vision is not obstructed.

(b) Antirollback devices or brakes shall be installed on inclined conveyor drive units to prevent conveyors from inadvertently running in reverse. Employees shall not be permitted to ride a power-driven chain, belt, or bucket conveyor unless the conveyor is specifically designed for the transportation of persons.

(c) Endless belt-type manlifts are prohibited in underground construction.

(d) General requirements also applicable to underground construction for use of conveyors in construction are found in chapter 296-155 WAC, Part L.

(e) No employee shall ride haulage equipment unless it is equipped with seating for each passenger and protects passengers from being struck, crushed, or caught between other equipment or surfaces. Members of train crews may ride on a locomotive if it is equipped with handholds and nonslip steps or footboards. Requirements applicable to underground con-

struction for motor vehicle transportation of employees are found in chapter 296-155 WAC, Part M.

(f) Conveyor lockout.

(i) Conveyors shall be de-energized and locked out with a padlock, and tagged out with a "Do Not Operate" tag at any time repair, maintenance, or clean-up work is being performed on the conveyor.

(ii) Tags or push button stops are not acceptable.

(iii) Persons shall not be allowed to walk on conveyors except for emergency purposes and then only after the conveyor has been deenergized and locked out in accordance with (f) above, and persons can do so safely.

(g) Powered mobile haulage equipment, including trains, shall not be left unattended unless the master switch or motor is turned off; operating controls are in neutral or park position; and the brakes are set, or equivalent precautions are taken to prevent rolling.

(h) Whenever rails serve as a return for a trolley circuit, both rails shall be bonded at every joint and crossbonded every 200 feet (60.96 m).

(i) When dumping cars by hand, the car dumps shall have tiedown chains, bumper blocks, or other locking or holding devices to prevent the cars from overturning.

(j) Rocker-bottom or bottom-dump cars shall be equipped with positive locking devices to prevent unintended dumping.

(k) Equipment to be hauled shall be loaded and secured to prevent sliding or dislodgement.

(l)(i) Mobile equipment, including rail-mounted equipment, shall be stopped for manual connecting or service work, and;

(ii) Employees shall not reach between moving cars during coupling operations.

(iii) Couplings shall not be aligned, shifted, or cleaned on moving cars or locomotives.

(iv) Safety chains or other connections shall be used in addition to couplers to connect person cars or powder cars whenever the locomotive is uphill of the cars.

(v) When the grade exceeds one percent and there is a potential for runaway cars, safety chains or other connections shall be used in addition to couplers to connect haulage cars or, as an alternative, the locomotive must be downhill of the train.

(vi) Such safety chains or other connections shall be capable of maintaining connection between cars in the event of either coupler disconnect, failure or breakage.

(m) Parked rail equipment shall be chocked, blocked, or have brakes set to prevent inadvertent movement.

(n) Berms, bumper blocks, safety hooks, or equivalent means shall be provided to prevent overtravel and overturning of haulage equipment at dumping locations.

(o) Bumper blocks or equivalent stopping devices shall be provided at all track dead ends.

(p)(i) Only small handtools, lunch pails, or similar small items may be transported with employees in person cars, or on top of a locomotive.

(ii) When small hand tools or other small items are carried on top of a locomotive, the top shall be designed or modified to retain them while traveling.



(q)(i) Where switching facilities are available, occupied personnel cars shall be pulled, not pushed. If personnel cars must be pushed and visibility of the track ahead is hampered, then a qualified person shall be stationed in the lead car to give signals to the locomotive operator.

(ii) Crew trips shall consist of personnel loads only.

(21) Electrical safety. This subsection applies in addition to the general requirements for electrical safety which are found in Part I of this chapter.

(a) Electric power lines shall be insulated or located away from water lines, telephone lines, air lines, or other conductive materials so that a damaged circuit will not energize the other systems.

(b) Lighting circuits shall be located so that movement of personnel or equipment will not damage the circuits or disrupt service.

(c) Oil-filled transformers shall not be used underground unless they are located in a fire-resistant enclosure suitably vented to the outside and surrounded by a dike to retain the contents of the transformers in the event of rupture.

(22) Hoisting unique to underground construction except as modified by this section, the following provisions of chapter 296-155 WAC, Part L apply: Requirements for cranes are found in WAC 296-155-525. WAC 296-155-528 contains rules applicable to crane hoisting of personnel, except, that the limitations imposed by WAC 296-155-528(2) do not apply to the routine access of employees to the underground via a shaft. Requirements for personnel hoists, material hoists, and elevators are found in WAC 296-155-530 and in this subsection.

(a) General requirements for cranes and hoists.

(i) Materials, tools, and supplies being raised or lowered, whether within a cage or otherwise, shall be secured or stacked in a manner to prevent the load from shifting, snagging, or falling into the shaft.

(ii) A warning light suitably located to warn employees at the shaft bottom and subsurface shaft entrances shall flash whenever a load is above the shaft bottom or subsurface entrances, or the load is being moved in the shaft. This subsection does not apply to fully enclosed hoistways.

(iii) Whenever a hoistway is not fully enclosed and employees are at the shaft bottom, conveyances or equipment shall be stopped at least 15 feet (4.57 m) above the bottom of the shaft and held there until the signalperson at the bottom of the shaft directs the operator to continue lowering the load, except that the load may be lowered without stopping if the load or conveyance is within full view of a bottom signalperson who is in constant voice communication with the operator.

(iv)(A) Before maintenance, repairs, or other work is commenced in the shaft served by a cage, skip, or bucket, the operator and other employees in the area shall be informed and given suitable instructions.

(B) A sign warning that work is being done in the shaft shall be installed at the shaft collar, at the operator's station, and at each underground landing.

(v) Any connection between the hoisting rope and the cage or skip shall be compatible with the type of wire rope used for hoisting.

(vi) Spin-type connections, where used, shall be maintained in a clean condition and protected from foreign matter that could affect their operation.

(vii) Cage, skip, and load connections to the hoist rope shall be made so that the force of the hoist pull, vibration, misalignment, release of lift force, or impact will not disengage the connection. Only closed shackles shall be used for cage and skip rigging.

(viii) When using wire rope wedge sockets, means shall be provided to prevent wedge escapement and to ensure that the wedge is properly seated.

(b) Additional requirements for cranes. Cranes shall be equipped with a limit switch to prevent overtravel at the boom tip. Limit switches are to be used only to limit travel of loads when operational controls malfunction and shall not be used as a substitute for other operational controls.

(c) Additional requirements for hoists.

(i) Hoists shall be designed so that the load hoist drum is powered in both directions of rotation, and so that brakes are automatically applied upon power release or failure.

(ii) Control levers shall be of the "deadman type" which return automatically to their center (neutral) position upon release.

(iii) When a hoist is used for both personnel hoisting and material hoisting, load and speed ratings for personnel and for materials shall be assigned to the equipment.

(iv) Hoist machines with cast metal parts shall not be used.

(v) Material hoisting may be performed at speeds higher than the rated speed for personnel hoisting if the hoist and components have been designed for such higher speeds and if shaft conditions permit.

(vi) Employees shall not ride on top of any cage, skip, or bucket except when necessary to perform inspection or maintenance of the hoisting system, in which case they shall be protected by a body belt/harness system to prevent falling.

(vii) Personnel and materials (other than small tools and supplies secured in a manner that will not create a hazard to employees) shall not be hoisted together in the same conveyance. However, if the operator is protected from the shifting of materials, then the operator may ride with materials in cages or skips which are designed to be controlled by an operator within the cage or skip.

(viii) Line speed shall not exceed the design limitations of the systems.

(ix) Hoists shall be equipped with landing level indicators at the operator's station. Marking of the hoist rope does not satisfy this requirement.

(x) Whenever glazing is used in the hoist house, it shall be safety glass, or its equivalent, and be free of distortions and obstructions.

(xi) A fire extinguisher that is rated at least 2A:10B:C (multipurpose, dry chemical) shall be mounted in each hoist house.

(xii) Hoist controls shall be arranged so that the operator can perform all operating cycle functions and reach the emergency power cutoff without having to reach beyond the operator's normal operating position.

(xiii) Hoists shall be equipped with limit switches to prevent overtravel at the top and bottom of the hoistway.

(xiv) Limit switches are to be used only to limit travel of loads when operational controls malfunction and shall not be used as a substitute for other operational controls.

(xv) Hoist operators shall be provided with a closed-circuit voice communication system to each landing station, with speaker-microphones so located that the operator can communicate with individual landing stations during hoist use.

(xvi) When sinking shafts 75 feet (22.86 m) or less in depth, cages, skips, and buckets that may swing, bump, or snag against shaft sides or other structural protrusions shall be guided by fenders, rails, ropes, or a combination of those means.

(xvii) When sinking shafts more than 75 feet (22.86 m) in depth, all cages, skips, and buckets shall be rope or rail-guided to within a rail length from the sinking operation.

(xviii) Cages, skips, and buckets in all completed shafts, or in all shafts being used as completed shafts, shall be rope or rail-guided for the full length of their travel.

(xix) Wire rope used in load lines of material hoists shall be capable of supporting, without failure, at least five times the maximum intended load or the factor recommended by the rope manufacturer, whichever is greater. Refer to chapter 296-155 WAC, Part L, for design factors for wire rope used in personnel hoists. The design factors shall be calculated by dividing the breaking strength of wire rope, as reported in the manufacturer's rating tables, by the total static load, including the weight of the wire rope in the shaft when fully extended.

(xx) A competent person shall visually check all hoisting machinery, equipment, anchorages, and hoisting rope at the beginning of each shift and during hoist use, as necessary.

(xxi) Each safety device shall be checked by a competent person at least weekly during hoist use to ensure suitable operation and safe condition.

(xxii) In order to ensure suitable operation and safe condition of all functions and safety devices, each hoist assembly shall be inspected and load-tested to 100 percent of its rated capacity: At the time of installation; after any repairs or alterations affecting its structural integrity; after the operation of any safety device; and annually when in use. The employer shall prepare a certification record which includes the date each inspection and load-test was performed; the signature of the person who performed the inspection and test; and a serial number or other identifier for the hoist that was inspected and tested. The most recent certification record shall be maintained on file until completion of the project.

(xxiii) Before hoisting personnel or material, the operator shall perform a test run of any cage or skip whenever it has been out of service for one complete shift, and whenever the assembly or components have been repaired or adjusted.

(xiv) Unsafe conditions shall be corrected before using the equipment.

(d) Additional requirements for personnel hoists.

(i) Hoist drum systems shall be equipped with at least two means of stopping the load, each of which shall be capable of stopping and holding 150 percent of the hoist's rated line pull. A broken-rope safety, safety catch, or arrestment device is not a permissible means of stopping under this subsection.

(ii) The operator shall remain within sight and sound of the signals at the operator's station.

(iii) All sides of personnel cages shall be enclosed by one-half inch (12.70 mm) wire mesh (not less than No. 14 gauge or equivalent) to a height of not less than 6 feet (1.83 m). However, when the cage or skip is being used as a work platform, its sides may be reduced in height to 42 inches (1.07 m) when the conveyance is not in motion.

(iv) All personnel cages shall be provided with a positive locking door that does not open outward.

(v) All personnel cages shall be provided with a protective canopy. The canopy shall be made of steel plate, at least 3/16-inch (4.763 mm) in thickness, or material of equivalent strength and impact resistance. The canopy shall be sloped to the outside, and so designed that a section may be readily pushed upward to afford emergency egress. The canopy shall cover the top in such a manner as to protect those inside from objects falling in the shaft.

(vi) Personnel platforms operating on guide rails or guide ropes shall be equipped with broken-rope safety devices, safety catches, or arrestment devices that will stop and hold 150 percent of the weight of the personnel platform and its maximum rated load.

(vii) During sinking operations in shafts where guides and safeties are not yet used, the travel speed of the personnel platform shall not exceed 200 feet (60.96 m) per minute. Governor controls set for 200 feet (60.96 m) per minute shall be installed in the control system and shall be used during personnel hoisting.

(viii) The personnel platform may travel over the controlled length of the hoistway at rated speeds up to 600 feet (182.88 m) per minute during sinking operations in shafts where guides and safeties are used.

(ix) The personnel platform may travel at rated speeds greater than 600 feet (182.88 m) per minute in complete shafts.

**AMENDATORY SECTION** (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

**WAC 296-301-220 Personal protective equipment.**

(1) Personal protective equipment. Workers engaged in handling acids or caustics in bulk, repairing pipe lines containing acids or caustics, etc., shall be provided with personal protective equipment to conform to the requirements of WAC 296-800-160.

(2) Respiratory protection. Employers must provide respiratory protection as required in chapter ((296-62)) 296-842 WAC((,-Part E)).

**AMENDATORY SECTION** (Amending WSR 95-22-015, filed 10/20/95, effective 1/16/96)

**WAC 296-304-02003 Precautions and the order of testing before entering confined and enclosed spaces and other dangerous atmospheres.** The employer shall ensure that atmospheric testing is performed in the following sequence: Oxygen content, flammability, toxicity.

(1) Oxygen content.

(a) The employer shall ensure that the following spaces are visually inspected and tested by a competent person to

determine the atmosphere's oxygen content prior to initial entry into the space by an employee:

(i) Spaces that have been sealed, such as, but not limited to, spaces that have been coated and closed up, and nonventilated spaces that have been freshly painted;

(ii) Spaces and adjacent spaces that contain or have contained combustible or flammable liquids or gases;

(iii) Spaces and adjacent spaces that contain or have contained liquids, gases, or solids that are toxic, corrosive, or irritant;

(iv) Spaces and adjacent spaces that have been fumigated; and

(v) Spaces containing materials or residues of materials that create an oxygen-deficient atmosphere.

(b) If the space to be entered contains an oxygen deficient atmosphere, the space shall be labeled "not safe for workers" or, if oxygen-enriched, "not safe for workers—not safe for hot work." If an oxygen-deficient or oxygen-enriched atmosphere is found, ventilation shall be provided at volumes and flow rates sufficient to ensure that the oxygen content is maintained at or above 19.5 percent and below 22.0 percent by volume. The warning label may be removed when the oxygen content is equal to or greater than 19.5 and less than 22.0 percent by volume.

(c) An employee may not enter a space where the oxygen content, by volume, is below 19.5 percent or above 22.0 percent.

Exception: An employee may enter for emergency rescue or for a short duration for installation of ventilation equipment necessary to start work in the space provided:

(i) The atmosphere in the space is monitored for oxygen content, by volume, continuously; and

(ii) Respiratory protection and other appropriate personal protective equipment and clothing are provided in accordance with WAC 296-304-090 through 296-304-09007.

Note to (a): Other provisions for work in IDLH atmospheres are located in WAC 296-304-090 through 296-304-09007.

## (2) Flammable atmospheres.

(a) The employer shall ensure that spaces and adjacent spaces that contain or have contained combustible or flammable liquids or gases are:

(i) Inspected visually by the competent person to determine the presence of combustible or flammable liquids; and

(ii) Tested by a competent person prior to entry by an employee to determine the concentration of flammable vapors and gases within the space.

(b) If the concentration of flammable vapors or gases in the space to be entered is equal to or greater than 10 percent of the lower explosive limit, the space shall be labeled "not safe for workers" and "not safe for hot work." Ventilation shall be provided at volumes and flow rates sufficient to ensure that the concentration of flammable vapors is maintained below 10 percent of the lower explosive limit. The warning labels may be removed when the concentration of flammable vapors is below 10 percent of the lower explosive limit.

(c) An employee may not enter a space where the concentration of flammable vapors or gases is equal to or greater than 10 percent of the lower explosive limit.

Exception: An employee may enter for emergency rescue or for a short duration for installation of ventilation equipment necessary to start work in the space, provided:

(i) No ignition sources are present;

(ii) The atmosphere in the space is monitored continuously;

(iii) Atmospheres at or above the upper explosive limit are maintained; and

(iv) Respiratory protection and other appropriate personal protective equipment and clothing are provided in accordance with WAC 296-304-090 through 296-304-09007.

Note 1 to (2): Additional provisions for work in IDLH atmospheres are located in WAC 296-304-090 through 296-304-09007.

Note 2 to (2): Additional provisions for work in spaces containing a flammable substance which also has a permissible exposure limit, are located in subsection (3) of this section and chapter ((296-62)) 296-841 WAC((Part H)).

(3) Toxic, corrosive, irritant or fumigated atmospheres and residues.

(a) The employer shall ensure that spaces or adjacent spaces that contain or have contained liquids, gases, or solids that are toxic, corrosive or irritant are:

(i) Inspected visually by the competent person to determine the presence of toxic, corrosive, or irritant residue contaminants; and

(ii) Tested by a competent person prior to initial entry by an employee to determine the air concentration of toxics, corrosives, or irritants within the space.

(b) If a space contains an air concentration of a material which exceeds a chapter ((296-62)) 296-841 WAC, ((Part H)) permissible exposure limit (PEL) or is IDLH, the space shall be labeled "not safe for workers." Ventilation shall be provided at volumes and flow rates which will ensure that air concentrations are maintained within the PEL or, in the case of contaminants for which there is no established PEL, below the IDLH. The warning label may be removed when the concentration of contaminants is maintained within the PEL or below IDLH level.

(c) If a space cannot be ventilated to within the PELs or is IDLH, a marine chemist or CIH must re-test until the space can be certified "enter with restrictions" or "safe for workers."

(d) An employee may not enter a space whose atmosphere exceeds a PEL or is IDLH.

Exception: An employee may enter for emergency rescue, or for a short duration for installation of ventilation equipment provided:

(i) The atmosphere in the space is monitored continuously;

(ii) Respiratory protection and other necessary and appropriate personal protective equipment and clothing are provided in accordance with WAC 296-304-090 through 296-304-09007.

Note to (3): Other provisions for work in IDLH atmospheres are located in WAC 296-304-090 through 296-304-9007.

(4) Training of employees entering confined and enclosed spaces or other dangerous atmospheres.

EXPEDITED

(a) The employer shall ensure that each employee that enters a confined or enclosed space and other areas with dangerous atmospheres is trained to perform all required duties safely.

(b) The employer shall ensure that each employee who enters a confined space, enclosed space, or other areas with dangerous atmospheres is trained to:

- (i) Recognize the characteristics of the confined space;
- (ii) Anticipate and be aware of the hazards that may be faced during entry;
- (iii) Recognize the adverse health effects that may be caused by the exposure to a hazard;
- (iv) Understand the physical signs and reactions related to exposures to such hazards;
- (v) Know what personal protective equipment is needed for safe entry into and exit from the space;
- (vi) Use personal protective equipment; and
- (vii) Where necessary, be aware of the presence and proper use of barriers that may be needed to protect an entrant from hazards.

(c) The employer shall ensure that each entrant into confined or enclosed spaces or other dangerous atmospheres is trained to exit the space or dangerous atmosphere whenever:

- (i) The employer or his or her representative orders evacuation;
  - (ii) An evacuation signal such as an alarm is activated; or
  - (iii) The entrant perceives that he or she is in danger.
- (d) The employer shall provide each employee with training:

- (i) Before the entrant begins work addressed by this chapter; and
- (ii) Whenever there is a change in operations or in an employee's duties that presents a hazard about which the employee has not previously been trained.

(e) The employer shall certify that the training required by (a) through (d) of this subsection has been accomplished.

(i) The certification shall contain the employee's name, the name of the certifier, and the date(s) of the certification.

(ii) The certification shall be available for inspection by the director, employees, and their representatives.

(5) Rescue teams. The employer shall either establish a shipyard rescue team or arrange for an outside rescue team which will respond promptly to a request for rescue service.

(a) Shipyard rescue teams shall meet the following criteria:

(i) Each employee assigned to the shipyard team shall be provided with and trained to use the personal protective equipment he or she will need, including respirators and any rescue equipment necessary for making rescues from confined and enclosed spaces and other dangerous atmospheres.

(ii) Each employee assigned to the shipyard rescue team shall be trained to perform his or her rescue functions including confined and enclosed and other dangerous atmosphere entry.

(iii) Shipyard rescue teams shall practice their skills at least once every 12 months. Practice drills shall include the use of mannequins and rescue equipment during simulated rescue operations involving physical facilities that approximate closely those facilities from which rescue may be needed.

Note to (5)(a)(iii): If the team performs an actual rescue during the 12 month period, an additional practice drill for that type of rescue is not required.

(iv) At least one person on each rescue team shall maintain current certification in basic first aid which includes maintenance of an airway, control of bleeding, maintenance of circulation and cardiopulmonary resuscitation (CPR) skills.

(b) The employer shall inform outside rescue teams of the hazards that the team may encounter when called to perform confined and enclosed space or other dangerous atmosphere rescue at the employer's facility so that the rescue team can be trained and equipped.

Note to (5): The criteria for in-house rescue, listed in (5)(a) can be used by the employer in evaluating outside rescue services.

(6) Exchanging hazard information between employers. Each employer whose employees work in confined and enclosed spaces or other dangerous atmospheres shall ensure that all available information on the hazards, safety rules, and emergency procedures concerning those spaces and atmospheres is exchanged with any other employer whose employees may enter the same spaces.

**AMENDATORY SECTION** (Amending WSR 98-02-006, filed 12/26/97, effective 3/1/98)

**WAC 296-304-03001 Toxic cleaning solvents.** (1) When toxic solvents are used, the employer shall employ one or more of the following measures to safeguard the health of employees exposed to these solvents.

(a) The cleaning operation shall be completely enclosed to prevent the escape of vapor into the working space.

(b) Either natural ventilation or mechanical exhaust ventilation shall be used to remove the vapor at the source and to dilute the concentration of vapors in the working space to a concentration which is safe for the entire work period.

(c) The employer must ensure that employees are protected against:

- Toxic vapors by suitable respiratory protective equipment that meets the requirements of chapter ((296-62)) 296-842 WAC((,Part E)); and

- Exposure of skin and eyes to contact with toxic solvents and their vapors by suitable clothing and equipment.

(2) The principles in the threshold limit values to which attention is directed in WAC 296-304-02005 and applicable sections in chapters 296-62 and 296-841 WAC will be used by the department of labor and industries in enforcement proceedings in defining a safe concentration of air contaminants.

(3) When flammable solvents are used, precautions shall be taken in accordance with the requirements of WAC 296-304-03009.

**AMENDATORY SECTION** (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-304-03005 Mechanical paint removers.** (1) Power tools.

(a) The employer must ensure that employees engaged in the removal of paints, preservatives, rusts or other coatings

by means of power tools are protected against eye injury by goggles or face shields that meets the requirements of WAC 296-304-09005 (1) and (2).

(b) All portable rotating tools used for the removal of paints, preservatives, rusts or other coatings shall be adequately guarded to protect both the operator and nearby workers from flying missiles.

(c) Portable electric tools shall be grounded in accordance with the requirements of WAC 296-304-08003 (1) and (2).

(d) In a confined space, the employer must provide mechanical exhaust ventilation sufficient to keep the dust concentration to a minimum, or must protect employees by respiratory protective equipment that meets the requirements of chapter ((296-62)) 296-842 WAC((,-Part-E)).

(2) Flame removal.

(a) The employer must ensure that when hardened preservative coatings are removed by flame in enclosed spaces, the employees exposed to fumes are protected by air line respirators that meet the requirements of chapter ((296-62)) 296-842 WAC((,-Part-E)). Employees performing this operation in the open air, and those exposed to the resulting fumes, must be protected by a fume filter respirator that meets the requirements of WAC 296-62-071.

(b) Flame or heat shall not be used to remove soft and greasy preservative coatings.

(3) Abrasive blasting.

(a) Equipment. Hoses and fittings used for abrasive blasting shall meet the following requirements:

(i) Hoses. Hose of a type to prevent shocks from static electricity shall be used.

(ii) Hose couplings. Hose lengths shall be joined by metal couplings secured to the outside of the hose to avoid erosion and weakening of the couplings.

(iii) Nozzles. Nozzles shall be attached to the hose by fittings that will prevent the nozzle from unintentionally becoming disengaged. Nozzle attachments shall be of metal and shall fit onto the hose externally.

(iv) Dead man control. A dead man control device shall be provided at the nozzle end of the blasting hose either to provide direct cutoff or to signal the pot tender by means of a visual and audible signal to cut off the flow, in the event the blaster loses control of the hose. The pot tender shall be available at all times to respond immediately to the signal.

(b) Replacement. Hoses and all fittings used for abrasive blasting shall be inspected frequently to insure timely replacement before an unsafe amount of wear has occurred.

(c) Personal protective equipment.

(i) The employer must ensure that abrasive blasters working in enclosed spaces are protected by abrasive blasting respirators that meet the requirements of WAC 296-24-675 and chapter ((296-62)) 296-842 WAC((,-Part-E)).

(ii) The employer must ensure that abrasive blasters working in the open are protected as required in subsection (1) of this section.

Exception: When synthetic abrasives containing less than one percent free silica are used, the employer may substitute particulate or dust filter respirators that are approved by the National Institute of Safety and Health (NIOSH) and used according to ((WAC 296-62-074)) chapter 296-842 WAC.

(iii) The employer must ensure that employees, including machine tenders and abrasive recovery workers, working in areas where unsafe concentrations of abrasive materials and dusts are present are protected by eye and respiratory protective equipment that meets the requirements of WAC 296-304-09005 (1) and (2) and chapter ((296-62)) 296-842 WAC((,-Part-E)).

Exception: This requirement does not apply to blasters.

(iv) The employer must ensure that a blaster is protected against injury from exposure to the blast by appropriate protective clothing, including gloves that meet the requirements of WAC 296-304-09015(1).

(v) A surge from a drop in pressure in the hose line can throw a blaster off the staging. To protect against this hazard, the employer must ensure that a blaster is protected by a personal fall arrest system, that meets the requirements of WAC 296-304-09021. The personal fall arrest system must be tied off to the ship or other structure during blasting from elevations where adequate fall protection cannot be provided by railings.

AMENDATORY SECTION (Amending WSR 03-04-099, filed 2/4/03, effective 8/1/03)

**WAC 296-304-03007 Painting.** All respirators required by this section must meet the requirements of chapter ((296-62)) 296-842 WAC((,-Part-E)).

(1) Paints mixed with toxic vehicles or solvents.

(a) When employees spray paints mixed with toxic vehicles or solvents, the employer must ensure that the following conditions are met:

(i) In confined spaces, employees continuously exposed to spraying are protected by air line respirators.

(ii) In tanks or compartments, employees continuously exposed to spraying are protected by air line respirators. Where mechanical ventilation is provided, employees are protected by respirators.

(iii) In large and well ventilated areas, employees exposed to spraying are protected by respirators.

(b) The employer must ensure that where employees apply by brush paints with toxic solvents in confined spaces or other areas where lack of ventilation creates a hazard, the employees are protected by filter respirators.

(c) When flammable paints or vehicles are used, precautions shall be taken in accordance with the requirements of WAC 296-304-03009.

(d) The metallic parts of air moving devices, including fans, blowers, and jet-type air movers, and all duct work shall be electrically bonded to the vessel's structure.

(2) Paints and tank coatings dissolved in highly volatile, toxic and flammable solvents. Several organic coatings, adhesives and resins are dissolved in highly toxic, flammable and explosive solvents with flash points below 80°F. Work involving such materials shall be done only when all of the following special precautions have been taken:

(a) Sufficient exhaust ventilation shall be provided to keep the concentration of solvent vapors below ten percent of the lower explosive limit. Frequent tests shall be made by a competent person to ascertain the concentration.

(b) If the ventilation fails or if the concentration of solvent vapors reaches or exceeds ten percent of the lower explosive limit, painting shall be stopped and the compartment shall be evacuated until the concentration again falls below ten percent of the lower explosive limit. If the concentration does not fall when painting is stopped, additional ventilation to bring the concentration down to ten percent of the lower explosive limit shall be provided.

(c) Ventilation shall be continued after the completion of painting until the space or compartment is gas free. The final determination as to whether the space or compartment is gas free shall be made after the ventilating equipment has been shut off for a least ten minutes.

(d) Exhaust ducts shall discharge clear of working areas and away from sources of possible ignition. Periodic tests shall be made to ensure that the exhausted vapors are not accumulating in other areas within or around the vessel or dry dock.

(e) All motors and control equipment shall be of the explosion-proof type. Fans shall have nonferrous blades. Portable air ducts shall also be of nonferrous materials. All motors and associated control equipment shall be properly maintained and grounded.

(f) Only nonsparking paint buckets, spray guns and tools shall be used. Metal parts of paint brushes and rollers shall be insulated. Staging shall be erected in a manner which ensures that it is nonsparking.

(g) Only explosion proof lights, approved by the Underwriters' Laboratories for use in Class I, Group D atmospheres, or approved as permissible by the U.S. Bureau of Mines or the U.S. Coast Guard, shall be used.

(h) A competent person shall inspect all power and lighting cables to ensure that the insulation is in excellent condition, free of all cracks and worn spots, that there are no connections within fifty feet of the operation, that lines are not overloaded, and that they are suspended with sufficient slack to prevent undue stress or chafing.

(i) The face, eyes, head, hands and all other exposed parts of the bodies of employees handling highly volatile paints must be protected according to WAC 296-304-090. All footwear must be nonsparking, such as rubbers, rubber boots or rubber soled shoes without nails. Coveralls or other outer clothing must be made of cotton. Rubber gloves, instead of plastic gloves, must be used to protect against the danger of static sparks.

(j) No matches, lighted cigarettes, cigars, or pipes, and no cigarette lighters or ferrous articles shall be taken into the area where work is being done.

(k) All solvent drums taken into the compartment shall be placed on nonferrous surfaces and shall be grounded to the vessel. Metallic contact shall be maintained between containers and drums when materials are being transferred from one to another.

(l) Spray guns, paint pots, and metallic parts of connecting tubing shall be electrically bonded, and the bonded assembly shall be grounded to the vessel.

(m) The employer must ensure that all employees continuously in a compartment in which such painting is performed, are protected by air line respirators and by suitable protective clothing. Employees entering such compartments

for a limited time must be protected by filter cartridge type respirators.

(n) The employer must ensure that all employees doing exterior paint spraying with such paints are protected by suitable filter cartridge type respirators and by suitable protective clothing.

**AMENDATORY SECTION** (Amending WSR 03-04-099, filed 2/4/03, effective 8/1/03)

**WAC 296-304-04001 Ventilation and protection in welding, cutting and heating.** (1) Mechanical ventilation requirements.

(a) For the purposes of this section, mechanical ventilation shall meet the following requirements:

(i) Mechanical ventilation shall consist of either general mechanical ventilation systems or local exhaust systems.

(ii) General mechanical ventilation shall be of sufficient capacity and so arranged as to produce the number of air changes necessary to maintain welding fumes and smoke within safe limits.

(iii) Local exhaust ventilation shall consist of freely movable hoods intended to be placed by the welder or burner as close as practicable to the work. This system shall be of sufficient capacity and so arranged as to remove fumes and smoke at the source and keep the concentration of them in the breathing zone within safe limits.

(iv) Contaminated air exhausted from a working space shall be discharged into the open air or otherwise clear of the source of intake air.

(v) All air replacing that withdrawn shall be clean and respirable.

(vi) Oxygen shall not be used for ventilation purposes, comfort cooling, blowing dust or dirt from clothing, or for cleaning the work area.

(2) Welding, cutting and heating in confined spaces.

(a) Except as provided in WAC 296-304-04001 (2)(c) and (3)(b), either general mechanical or local exhaust ventilation meeting the requirements of (1) of this section shall be provided whenever welding, cutting or heating is performed in a confined space.

(b) The means of access shall be provided to a confined space and ventilation ducts to this space shall be arranged in accordance with WAC 296-304-05011 (2)(a) and (b).

(c) When sufficient ventilation cannot be obtained without blocking the means of access, employees in the confined space shall be protected by air line respirators in accordance with the requirements of chapter ((296-62)) 296-842 WAC, ((Part E-)) and an employee on the outside of such a confined space shall be assigned to maintain communication with those working within it and to aid them in an emergency.

(3) Welding, cutting or heating of metals of toxic significance.

(a) Welding, cutting or heating in any enclosed spaces aboard the vessel involving the metals specified in this subsection shall be performed with either general mechanical or local exhaust ventilation meeting the requirements of (1) of this section.

(i) Zinc-bearing base or filler metals or metals coated with zinc-bearing materials.

(ii) Lead base metals.

(iii) Cadmium-bearing filler materials.

(iv) Chromium-bearing metals or metals coated with chromium-bearing materials.

(b) Welding, cutting, or heating in any enclosed spaces aboard the vessel involving the metals specified in this subsection shall be performed with local exhaust ventilation in accordance with the requirements of (1) of this section or employees shall be protected by air line respirators in accordance with the requirements of chapter ((296-62)) 296-842 WAC((,Part E)).

(i) Metals containing lead, other than as an impurity, or metals coated with lead-bearing materials.

(ii) Cadmium-bearing or cadmium coated base metals.

(iii) Metals coated with mercury-bearing metals.

(iv) Beryllium-containing base or filler metals. Because of its high toxicity, work involving beryllium shall be done with both local exhaust ventilation and air line respirators.

(c) Employees performing such operations in the open air shall be protected by filter type respirators in accordance with the requirements of WAC 296-304-09003, except that employees performing such operations on beryllium-containing base or filler metals shall be protected by air line respirators in accordance with the requirements of chapter ((296-62)) 296-842 WAC((,Part E)).

(d) Other employees exposed to the same atmosphere as the welders or burners shall be protected in the same manner as the welder or burner.

(4) Inert-gas metal-arc welding.

(a) Since the inert-gas metal-arc welding process involves the production of ultraviolet radiation of intensities of 5 to 30 times that produced during shielded metal-arc welding, the decomposition of chlorinated solvents by ultraviolet rays, and the liberation of toxic fumes and gases, employees shall not be permitted to engage in, or be exposed to the process until the following special precautions have been taken:

(i) The use of chlorinated solvents shall be kept at least two hundred feet from the exposed arc, and surfaces prepared with chlorinated solvents shall be thoroughly dry before welding is permitted on such surfaces.

(ii) Helpers and other employees in the area not protected from the arc by screening as provided in WAC 206-304-04011(5) shall be protected by filter lenses meeting the requirements of Tables I-1A and B (see below). When two or more welders are exposed to each other's arc, filter lens goggles of a suitable type meeting the requirements of WAC 296-304-09001 (1) and (3) shall be worn under welding helmets or hand shields to protect the welder against flashes and radiant energy when either the helmet is lifted or the shield is removed.

(iii) Welders and other employees who are exposed to radiation shall be suitably protected so that the skin is covered completely to prevent burns and other damage by ultraviolet rays. Welding helmets and hand shields shall be free of leaks and openings, and free of highly reflective surfaces.

(iv) When inert-gas metal-arc welding is being performed on stainless steel, the requirements of (3)(b) of this section shall be met to protect against dangerous concentrations of nitrogen dioxide.

(5) General welding, cutting and heating.

(a) Welding, cutting and heating not involving conditions or materials described in (2), (3) or (4) of this section may normally be done without mechanical ventilation or respiratory protective equipment, but where, because of unusual physical or atmospheric conditions, an unsafe accumulation of contaminants exists, suitable mechanical ventilation or respiratory protective equipment shall be provided.

(b) Employees performing any type of welding, cutting or heating shall be protected by suitable eye protective equipment in accordance with the requirements of Tables I-1A and B (see below).

(6) Residues and cargos of metallic ores.

Residues and cargos of metallic ores of toxic significance shall be removed from the area or protected from the heat before welding, cutting or heating is begun.

**TABLE I-1A**  
FILTER LENSES FOR PROTECTION AGAINST  
RADIANT ENERGY

OPERATIONS	ELECTRODE SIZE 1/32 IN	ARC CURRENT	MINIMUM PROTECTIVE SHADE
Shielded metal arc welding	Less than 3	Less than 60	7
	3-5	60-160	8
	5-8	160-250	10
	More than 8	250-550	11
Gas metal arc welding and flux cored arc welding		Less than 60	7
		60-160	10
		160-250	10
		250-550	10
Gas Tungsten arc welding		Less than 50	8
		50-150	8
		150-500	10
Air carbon arc cutting	(Light)	Less than 500	10
	(Heavy)	500-1000	11
Plasma arc welding		Less than 20	6
		20-100	8
		100-400	10
		400-800	11
Plasma arc cutting	(Light)**	Less than 300	8
	(Medium)**	300-400	9
	(Heavy)**	400-800	10
Torch brazing	—	—	3
Torch soldering	—	—	2
Carbon Arc welding	—	—	14

\*\*These values apply where the actual arc is clearly seen. Lighter filters may be used when the arc is hidden by the workplace.

**TABLE I-1B**  
FILTER LENSES FOR PROTECTION AGAINST  
RADIANT ENERGY

OPERATIONS	PLATE THICKNESS... INCHES	PLATE THICKNESS... MM	MINIMUM* PROTECTIVE SHADE
Gas welding			
Light	Under 1/8	Under 3.2	4
Medium	1/8 - 1/2	3.2 - 12.7	5
Heavy	Over 1/2	Over 12.7	6
Oxygen cutting			

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OPERATIONS	PLATE THICKNESS... INCHES	PLATE THICKNESS... MM	MINIMUM* PROTECTIVE SHADE
Light	Under 1	Under 25	3
Medium	1 - 6	25 - 100	4
Heavy	Over 6	Over 150	5

\*As rule of thumb, start with a shade that is too dark to see the weld zone. Then go to a lighter shade which gives sufficient view of the weld zone without going below the minimum. In oxyfuel gas welding or cutting where the torch produces a high yellow light, it is desirable to use a filter lens that absorbs the yellow or sodium line in the viable light of the (spectrum) operation.

**AMENDATORY SECTION** (Amending WSR 98-02-006, filed 12/26/97, effective 3/1/98)

**WAC 296-304-09007 Respiratory protection.** The employer must provide respiratory protection that meets the requirements of the general occupational health standards, chapter ((296-62)) 296-842 WAC((~~Part E~~)).

**AMENDATORY SECTION** (Amending WSR 04-10-026, filed 4/27/04, effective 8/1/04)

**WAC 296-305-02501 Emergency medical protection.**  
(1) Fire fighters who perform emergency medical care or otherwise may be exposed to blood or other body fluids shall be provided with emergency medical face protection devices, and emergency medical garments that meet the applicable requirements of NAPA, Standard on Protective Clothing for Emergency Medical Operations 1999, 1992 edition.

Note: Prior to purchase, fire departments should request the technical data package required in NAPA 1999, 1992 edition, in order to compare glove and garment performance data. Departments reviewing these packages should ensure a relative ranking of the performance data before they purchase in order to provide the best performance of the EMS personal protective clothing.

(2) Fire fighters shall don emergency medical gloves prior to initiating any emergency patient care.

(3) Fire fighters shall don emergency medical garments and emergency medical face protection devices prior to any patient care during which splashes of body fluids can occur such as situations involving spurting blood or childbirth.

Note: Fire fighter turnout gear and gloves with vapor barriers may be used in lieu of emergency medical gloves and garments.

(4) Contaminated emergency medical garments, emergency medical face protection, gloves, devices, and emergency medical gloves shall be cleaned and disinfected, or disposed of, in accordance with chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.

(5) Fire departments shall establish a designated infection (exposure) control officer who shall ensure that an adequate infection control plan is developed and all personnel are trained and supervised on the plan.

(6) The infection control officer shall be responsible for establishing personnel exposure protocols so that a process for dealing with exposures is in writing and available to all personnel.

(7) The infection control officer or his/her designee will function as a liaison between area hospitals and fire department members to provide notification that a communicable disease exposure is suspected or has been determined by hospital medical personnel. The department infection control officer will institute the established exposure protocols immediately after report of an exposure. The infection control officer shall follow the confidentiality requirements of chapter 246-100 WAC and the medical protocol requirements of chapter 296-802 WAC.

(8) Fire departments shall have a written infection (exposure) control plan which clearly explains the intent, benefits, and purpose of the plan. The written document must cover the standards of exposure control such as establishing the infection control officer and all members affected; education and training; HB. vaccination requirements; documentation and record keeping; cleaning/disinfection of personnel and equipment; and exposure protocols.

(9) Policy statements and standard operating procedure guidelines shall provide general guidance and specific regulation of daily activities. Procedures shall include delegation of specific roles and responsibilities, such as regulation of infection control, as well as procedural guidelines for all required tasks and functions.

(10) Fire departments shall establish a records system for members health and training.

(11) Fire fighters shall be trained in the proper use of P.E., exposure protection, post exposure protocols, disease modes of transmission as it related to infectious diseases.

(12) Infectious disease programs shall have a process for monitoring fire fighters compliance with established guidelines and a means for correcting noncompliance.

(13) Fire department members shall be required to annually review the infectious disease plan, updates, protocols, and equipment used in the program.

(14) Fire departments shall comply with chapter 296-823 WAC, Occupational exposure to bloodborne pathogens, in its entirety.

(15) Tuberculosis (TB) exposure and respiratory protection requirements.

(a) Fire fighters shall wear a particulate respirator (PR) when entering areas occupied by individuals with suspected or confirmed TB, when performing high risk procedures on such individuals or when transporting individuals with suspected or confirmed TB in a closed vehicle.

(b) A NOSH-approved, 95% efficient particulate air respirator is the minimum acceptable level of respiratory protection.

(i) Fit tests are required.

(ii) Fit tests shall be done in accordance with chapter ((296-62)) 296-842 WAC((~~Part E~~)).

Note 1: Emergency-response personnel should be routinely screened for tuberculosis at regular intervals. The tuberculin skin test is the only method currently available that demonstrates infection with Mycobacterium tuberculosis (M. tuberculosis) in the absence of active tuberculosis.

Note 2: If possible, the rear windows of a vehicle transporting patients with confirmed, suspected, or active tuberculosis should be kept open, and the heater or air conditioner set on a noncirculating cycle.

Additional References:



Chapter 296-823 WAC, Occupational exposure to bloodborne pathogens.

WAC 296-62-08001(3), Exposure Control.

**AMENDATORY SECTION** (Amending WSR 02-12-098, filed 6/5/02, effective 8/1/02)

**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)) 296-842 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)) 296-842 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)) 296-842 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 ((296-62-07170 Respiratory Sealing Problems)) 296-842-18005.)

(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 296-62-07162, 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 296-62-07170(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

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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)) 296-842 WAC((,Part E)).

**AMENDATORY SECTION** (Amending WSR 03-11-060, filed 5/19/03, effective 8/1/03)

**WAC 296-305-05503 Summary of training requirements.** (1) Training on noise must conform to chapter 296-817 WAC, Hearing loss prevention (noise), and WAC 296-305-02005.

(2) Training on medical procedures shall conform to WAC 296-305-02501.

(3) Training on respiratory equipment shall conform to chapter ((296-62)) 296-842 WAC, ((Part E,)) Respiratory protection, and WAC 296-305-04001.

(4) Training on employee right-to-know procedures shall conform to WAC 296-800-170, chemical hazard communication program.

(5) Training on overhaul procedures and operations shall conform to WAC 296-305-05001.

(6) Training on wildland fires shall conform to WAC 296-305-07001 through 296-305-07019.

(7) Training on confined space entry and/or rescue shall conform to chapter 296-62 WAC, Part M, Permit-required confined spaces and WAC 296-305-05003.

(8) Live fire training in structures shall conform to NFPA 1403 and this section.

(9) The employer shall provide training and education for all members commensurate with those duties and functions that members are expected to perform. Such training and education shall be provided to members before they perform emergency activities. Fire service leaders and training instructors shall be provided with training and education which is more comprehensive than that provided to the general membership of the fire department.

(10) The employer shall assure that training and education is conducted frequently enough to assure that each member is able to perform the member's assigned duties and functions satisfactorily and in a safe manner so as not to endanger members or other employees. All members shall be provided with training at least annually. In addition, members who are expected to perform interior structural fire fighting shall be provided with an education session or training at least quarterly.

**AMENDATORY SECTION** (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

**WAC 296-800-160 Summary.** Your responsibility: To make sure that your employees have, use, and care for the appropriate personal protective equipment (PPE).

PPE is an item or items used to protect the eyes, face, head, body, arms, hands, legs, and feet such as goggles, helmets, head covers, gloves, rubber slickers, disposable coveralls, safety shoes, protective shields, and barriers.

You must:

Do a hazard assessment for PPE.

WAC 296-800-16005.

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Document your hazard assessment for PPE.

WAC 296-800-16010.

Select appropriate PPE for your employees.

WAC 296-800-16015.

Provide PPE to your employees.

WAC 296-800-16020.

Train your employees to use PPE.

WAC 296-800-16025.

Retrain employees to use PPE, if necessary.

WAC 296-800-16030.

Document PPE training.

WAC 296-800-16035.

Require your employees to use necessary PPE on the job.

WAC 296-800-16040.

Keep your PPE safe and in good condition.

WAC 296-800-16045.

Make sure your employees use appropriate face and eye protection.

WAC 296-800-16050.

Make sure your employees use appropriate head protection.

WAC 296-800-16055.

Make sure your employees use appropriate foot protection.

WAC 296-800-16060.

Make sure your employees use appropriate hand protection.

WAC 296-800-16065.

Make sure your employees are protected from drowning.

WAC 296-800-16070.

Exemption: • WAC 296-800-16015, 296-800-16025, 296-800-16030, and 296-800-16035 do not apply to electrical protective equipment or respiratory protection. See chapters 296-24 WAC, Part L and chapter ((296-62)) 296-842 WAC, ((Part E,)) for rules about these types of protective equipment.

**AMENDATORY SECTION** (Amending WSR 02-20-034, filed 9/24/02, effective 10/1/02)

**WAC 296-824-20005 Develop an emergency response plan.**

**Note:** • You may already have an emergency response plan, such as required by chapter 296-62 WAC, Part P, Hazardous waste operations and treatment, storage and disposal facilities or by state and locally coordinated response efforts (Section 303 of Superfund Amendments and Reauthorization Act (SARA), Title III). You may use those plans to comply with this section, if they include the items listed below.  
• Before a written emergency response plan can be developed, you will need to anticipate the types of uncontrolled releases that employees could encounter in your workplace(s).

**You must:**

(1) Make sure your plan is written and adequately addresses, as a minimum, all of the following:

- Preemergency planning and coordination with additional responders (including personnel from other employers such as: Fire departments, law enforcement agencies, emergency medical services, and state or federal agencies).

• Personnel roles, (See Table 1) and lines of authority and communications for all affected parties including responders

• Employee training (see WAC 296-824-30005 for more detail):

- Note:**
- Responders' level of training depends on the duties or roles the employer assigns.
  - Training for the employees' role should address the competencies specified in Tables 3 through 6.
  - Training on specific substances may be appropriate depending on the number and characteristics of hazardous substances expected to be encountered. For example, if employees may only respond to one substance, you could provide training (covering the knowledge and skills specified in Tables 3 through 6) on that single substance. If employees might respond to a range of hazardous substances, training may be required to cover categories of hazardous substances.
  - Videos and automated training methods (for example: Interactive computer-based programs) may be used in training; however, instructors must be readily available to:
    - Encourage and provide responses to questions for the benefit of the group.
    - Evaluate employee understanding of the material.
    - Provide other instructional interaction to the group.

- Emergency recognition
- Immediate emergency procedures including:
  - Methods of alerting employees (see WAC 296-800-310, exit routes and employee alarm systems) and outside responders
  - Procedures for limited action (emergency prevention)

**Note:** *Limited action* includes shutting down processes, closing emergency valves and other critical actions to secure the operation, or prevent the incident from increasing in severity.

<b>Limited Action and Employee Roles</b>	
<b>If . . .</b>	<b>Then employees involved would be:</b>
Limited action could be conducted in the danger area	Considered emergency responders
Limited action will not be conducted in the danger area	Considered evacuees, not emergency responders

- Details of who will evacuate immediately and who will remain behind for limited action
- Evacuation routes and procedures
- How to establish safe distances and places of refuge (for example, during emergency response the incident commander (IC) decides to make changes based on new developments, i.e., changes in the wind direction).
  - Methods of securing and controlling access to the site
  - Emergency medical treatment and first aid
  - A complete personal protective equipment (PPE) program that addresses:
    - Selection of PPE including selection criteria to be used and the identification, specified use and limitations of the PPE selected.
    - Training on proper use of PPE (including maintenance).
    - Hazards created by wearing PPE including heat stress during temperature extremes, and/or other appropriate medical considerations.

- Criteria used for determining the proper fit of PPE.
- Procedures covering proper use of PPE including procedures for inspection, putting it on (donning) and removing it (doffing).
- Maintenance of PPE including procedures for decontamination, disposal and storage.
- Methods used to evaluate the effectiveness of your PPE program.

**Note:**

- If a manufacturer's printed information or WISHA rule adequately addresses procedural requirements (such as donning or doffing for PPE), it is not necessary to rewrite this into your program; simply attach the printed information.
- You may use written procedures provided by the equipment manufacturer when they meet the requirements of other chapters, including chapter ((296-62)) 296-842 WAC, ((Part E, Respiratory protection)) Respirators.

- Emergency equipment
- Emergency response procedures
- Decontamination procedures determined by a hazardous materials specialist or other qualified individual
- Methods to critically assess the response and conduct appropriate follow-up

**You must:**

(2) Make your written emergency response plan available to employees, their representatives, and WISHA personnel for inspecting or copying.

**Note:** In situations where multiple employers could respond to an incident, all plans should consistently address:

- Who will be designated as the incident commander (IC) AND
- If, when, and how transfer of the incident commander (IC) position will take place.

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<b>Table 1 Roles and Duties of Emergency Responders</b>	
<b>If the employee's role is:</b>	<b>Then all of the following apply. They:</b>
First responder at the awareness level	<ul style="list-style-type: none"> <li>• Are likely to witness or discover a hazardous substance release</li> <li>• Are trained to initiate an emergency response by notifying the proper authorities of the release</li> <li>• Take no further action beyond notifying the authorities</li> </ul>
First responder at the operations level	<ul style="list-style-type: none"> <li>• Respond to actual or potential releases in order to protect nearby persons, property, and/or the environment from the effects of the release</li> <li>• Are trained to respond defensively, without trying to stop the release</li> <li>• May try to:                             <ul style="list-style-type: none"> <li>- Confine the release from a safe distance</li> <li>- Keep it from spreading</li> <li>- Protect others from hazardous exposures</li> </ul> </li> </ul>
Hazardous materials technician	<ul style="list-style-type: none"> <li>• Respond to releases or potential releases, with the intent of stopping the release</li> <li>• Are trained to approach the point of release offensively in order to, either:                             <ul style="list-style-type: none"> <li>- Plug</li> <li>- Patch</li> <li>- Stop the release using other methods</li> </ul> </li> </ul>
Hazardous materials specialist	<ul style="list-style-type: none"> <li>• Respond along with, and provide support to, hazardous materials technicians</li> <li>• Are required to have more specific knowledge of hazardous substances than a hazardous materials technician</li> <li>• Act as the site activity liaison when federal, state, local, and other government authorities participate</li> </ul>
Incident commander	<ul style="list-style-type: none"> <li>• Have ultimate responsibility for:                             <ul style="list-style-type: none"> <li>- Direction</li> <li>- Control</li> <li>- Coordination of the response effort</li> <li>- Will assume control of the incident beyond the first responder awareness level</li> </ul> </li> </ul>
Specialist employee	<ul style="list-style-type: none"> <li>• Are a technical, medical, environmental, or other type of expert</li> <li>• May represent a hazardous substance manufacturer, shipper, or a government agency</li> <li>• May be present at the scene or may assist from an off-site location</li> <li>• Regularly work with specific hazardous substances</li> <li>• Are trained in the hazards of specific substances</li> </ul>

<b>Table 1 Roles and Duties of Emergency Responders</b>	
<b>If the employee's role is:</b>	<b>Then all of the following apply. They:</b>
	<ul style="list-style-type: none"> <li>• Are expected to give technical advice or assistance to the incident commander or incident safety officer, when requested</li> </ul>
Skilled support personnel	<ul style="list-style-type: none"> <li>• Are needed to perform an immediate, specific emergency support task at the site</li> <li>• Are skilled in the operation of equipment including:                             <ul style="list-style-type: none"> <li>– Earth moving equipment</li> <li>– Cranes</li> <li>– Hoisting equipment</li> </ul> </li> </ul>
Incident safety officer	<ul style="list-style-type: none"> <li>• Are designated by the incident commander</li> <li>• Are knowledgeable in operations being implemented at the site</li> <li>• Have specific responsibility to:                             <ul style="list-style-type: none"> <li>– Identify and evaluate hazards</li> <li>– Provide direction on employee safety matters</li> </ul> </li> </ul>

**EXPEDITED**

**AMENDATORY SECTION** (Amending WSR 02-20-034, filed 9/24/02, effective 10/1/02)

**WAC 296-824-40005 Provide medical surveillance to employees.**

**You must:**

(1) Provide medical surveillance for employees to comply with Tables 7 and 8, and the following:

- Make medical surveillance available at:
  - Reasonable times and places.
  - No cost to employees, including travel associated costs such as mileage, gas or bus fare if the employee is required to travel off site

**AND**

- Wages for additional time spent outside of employees normal work hours.
- Make sure a licensed physician performs or supervises exams and procedures.
- Give complete information to the examining physician including:
  - A copy of this chapter.
  - A description of the employee's duties that relate to hazardous substance exposure.
  - The hazardous substance exposure levels anticipated for the employee.
  - A description of the personal protective equipment (PPE) the employee could use.
  - Information available from previous medical examinations.
  - The medical evaluation information required by chapter ((296-62)) 296-842 WAC, ((Part E, Respiratory protection)) **Respirators**.

- Medical exams must include, at a minimum:
  - A medical history
  - A work history (or updated history if on file)
  - A special emphasis on:

■ Assessment of symptoms related to handling hazardous substances

■ Health hazards

■ Evaluation of fitness for duty (including the ability to wear any personal protective equipment (PPE) or other conditions that may be expected at the workplace)

– Other content as determined by the examining physician.

**Note:** The physician should consult the *Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities* and the *Medical Management Guidelines for Acute Chemical Exposure* (search OSHA website: <http://www.osha.gov>).

(2) Obtain the physician's written opinion and give a copy to the employee that includes:

- A statement of whether or not medical conditions were found which would increase the employee's risk for impairment during emergency response work or respirator use.
  - Do not include specific findings or diagnoses unrelated to occupational exposures.
- Limitations recommended to the employee's assigned work, if any.
- Exam and test results if the employee requests this information.
- A statement that affirms the employee has been confidentially informed of medical exam results (including medical conditions requiring follow-up).

**Table 7  
Medical Surveillance for Employee Categories**

If the employee is covered by this chapter and is:	Then you must:
<ul style="list-style-type: none"> <li>• Exposed for at least 30 days a year to health hazards or hazardous substances at or above the permissible exposure limit or published exposure levels (even when respirators are used), <b>OR</b></li> <li>• Required to wear a respirator for at least 30 days a year.*</li> </ul>	<ul style="list-style-type: none"> <li>• Offer standard medical surveillance as specified in Table 8.*</li> </ul>
<ul style="list-style-type: none"> <li>• A hazardous materials (HAZMAT) team member</li> <li>• A hazardous materials specialist</li> </ul>	<ul style="list-style-type: none"> <li>• Provide standard medical surveillance as specified in Table 8.</li> </ul>
<ul style="list-style-type: none"> <li>• An emergency responder who shows immediate or delayed signs or symptoms possibly resulting from exposure to hazardous substances during an incident.</li> </ul>	<ul style="list-style-type: none"> <li>• Provide incident-specific medical surveillance as specified in Table 8.</li> </ul>
<ul style="list-style-type: none"> <li>• Not an emergency responder and:                             <ul style="list-style-type: none"> <li>– May be injured</li> <li>– Shows immediate or delayed signs or symptoms possibly resulting from exposure to hazardous substances</li> <li>– May have been exposed to hazardous substances at concentrations above the permissible exposure limits (PELs) or the published exposure levels without appropriate PPE.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Offer incident-specific medical surveillance as specified in Table 8.</li> </ul>

**\*Note:** A medical evaluation for respirator use is required by chapter ((296-62)) 296-842 WAC, ((Part E, Respiratory protection)) Respirators, for those employees who have not been cleared for respirator use during medical surveillance activities.

**Table 8  
Frequency of Exams and Consultations**

If the employee is covered by:	Then medical surveillance must include:
<ul style="list-style-type: none"> <li>• Standard medical surveillance</li> </ul>	<ul style="list-style-type: none"> <li>• Exams and consultations:                             <ul style="list-style-type: none"> <li>– Before assignment.</li> <li><b>Note:</b> If the employee is a hazardous materials (HAZMAT) team member or a hazardous materials specialist, the employee must receive a baseline physical examination.</li> <li>– At least once every 12 months after their initial assignment unless the physician believes a shorter, or longer interval (but no more than 24 months) is appropriate.</li> <li>– Whenever employees are reassigned to an area where they will no longer be covered by medical surveillance and they have not been examined within the past 6 months.</li> <li>– As soon as possible after an employee reports:                                     <ul style="list-style-type: none"> <li>◆ Signs or symptoms of possible overexposure to hazardous substances or health hazards</li> <li>◆ Injury</li> <li>◆ Exposure above the permissible exposure limits or published exposure levels</li> </ul> </li> <li>– At the termination of their employment unless they were examined within the past 6 months.</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Incident-specific medical surveillance</li> </ul>	<ul style="list-style-type: none"> <li>• Medical consultations and exams:                             <ul style="list-style-type: none"> <li>– As soon as possible following the incident or development of signs or symptoms.</li> <li>– At additional times, if the physician determines follow-up is medically necessary.</li> </ul> </li> </ul>

EXPEDITED

**AMENDATORY SECTION** (Amending WSR 02-20-034, filed 9/24/02, effective 10/1/02)

**WAC 296-824-60005 Personal protective equipment.**  
Use appropriate personal protective equipment (PPE).

- Note:**
- Only properly trained employees should select PPE. Hazardous materials technicians and hazardous materials specialists can select PPE within the competencies specified in Table 4.
  - Selection requirements in other PPE rules also apply, including:
    - WAC 296-800-160, Personal protective equipment.
    - Chapter ((296-62)) 296-842 WAC, ((Part E, Respiratory protection)) Respirators.
    - WAC 296-24-58505, Fire brigades.
    - Chapter 296-305 WAC, Safety standards for fire fighting.

**You must:**

- Provide employees with appropriate PPE and make sure it is used if hazards could be present.

– Select PPE (such as respirators, gloves, protective suits and other PPE) based on:

- ◆ An evaluation of the performance characteristics (such as breakthrough time and hazardous substance-specificity of the material or item) relevant to the requirements and limitations of the site.
- ◆ Task-specific conditions and durations.
- ◆ The hazards and potential hazards of the site (see Table 9, Selecting PPE for Specific Hazards).
  - Select totally encapsulating chemical protective (TECP) suits, as specified in Table 9, that:
    - ◆ Maintain positive air pressure.
    - ◆ Prevent inward test gas leakage of more than 0.5 percent.

**Note:** Follow the manufacturer's recommended procedure for testing a TECP suit's ability to maintain positive air pressure and prevent inward gas leakage. Other established test protocols for these suits, for example NFPA 1991 and ASTM F1052-97, may also be used.

<b>Table 9</b> <b>Selecting PPE for Specific Hazards</b>	
<b>If:</b>	<b>Then:</b>
<ul style="list-style-type: none"> <li>• Inhalation hazards could be present.</li> </ul>	<ul style="list-style-type: none"> <li>• Positive-pressure (pressure-demand) self-contained breathing apparatus (SCBA)</li> <li>OR</li> <li>• A decreased level of respiratory protection only when the incident commander determines, from air monitoring results, that employees will be adequately protected.</li> </ul>
Chemical exposure levels will create a substantial possibility of: <ul style="list-style-type: none"> <li>• Immediate death.</li> <li>• Immediate serious illness or injury.</li> <li>• Reduced ability to escape.</li> </ul>	Either positive-pressure (pressure-demand): <ul style="list-style-type: none"> <li>• SCBA</li> <li>• Air-line respirators equipped with an escape air supply.</li> </ul>
Skin absorption of a hazardous substance may result in a substantial possibility of: <ul style="list-style-type: none"> <li>• Immediate death.</li> <li>• Immediate serious illness or injury.</li> <li>• Reduced ability to escape.</li> </ul>	Protection equivalent to Level A including a totally encapsulating chemical protective (TECP) suit.

**AMENDATORY SECTION** (Amending WSR 02-20-034, filed 9/24/02, effective 10/1/02)

**WAC 296-824-70005 Follow the appropriate post-emergency response requirements.**

**Important:**

- Postemergency response is the stage of the emergency response where the immediate threat from the release has been stabilized or eliminated, and cleanup of the site has started.

• When cleanup is done by the employees who were part of the initial emergency response, the employees are not covered by this section (however, training, PPE and other requirements in WAC 296-824-20005 through 296-824-60015 apply to these employees).

**You must:**

- (1) Follow Table 10 to determine which requirements apply to your postemergency response activities.
- (2) Maintain clean-up equipment as specified in Table 10.

<b>Table 10</b> <b>Rules that Apply to Postemergency Response Activities</b>	
<b>When postemergency response cleanup is performed by employees who were not part of the initial emergency response and:</b>	<b>The following rules or requirements apply:</b>
It is necessary to remove hazardous substances, health hazards and contaminated materials (example: Soil) from the site	Chapter 296-62 WAC, Part P, Hazardous waste operations and treatment, storage and disposal facilities.

EXPEDITED

**Table 10**

**Rules that Apply to Postemergency Response Activities**

<p><b>When postemergency response cleanup is performed by employees who were not part of the initial emergency response and:</b></p>	<p><b>The following rules or requirements apply:</b></p>
<p>Cleanup is done on plant property using plant or workplace employees  <b>AND</b>                  It is not necessary to remove hazardous substances, health hazards and contaminated materials from the site.</p>	<p>For training:</p> <ul style="list-style-type: none"> <li>• WAC 296-24-567(1), Employee emergency action plans</li> <li>• Chapter ((296-62)) <u>296-842</u> WAC, ((Part E, Respiratory protection)) <u>Respirators</u></li> <li>• WAC 296-800-170, Employer chemical hazard communication</li> <li>• Other appropriate training requirements relevant to personal protective equipment (PPE) and decontamination</li> </ul> <p>For equipment:</p> <ul style="list-style-type: none"> <li>• Make sure that all equipment used for clean-up work is serviced and inspected before use.</li> </ul>

**EXPEDITED**

**AMENDATORY SECTION** (Amending WSR 02-20-034, filed 9/24/02, effective 10/1/02)

**WAC 296-824-800 Definitions.** The following definitions are specific to this chapter:

**Annually**

Any twelve-month cycle.

**Buddy system**

A system of organizing employees (who enter or stand by danger areas) into work groups, so each employee can be observed by at least one other member of the group. The purpose of this system is to provide rapid assistance to employees in an emergency.

**Clean-up operation(s)**

An operation where hazardous substances are removed, contained, incinerated, neutralized, stabilized, cleared up or, in any other manner, processed or handled with the goal of making the site safer for people or the environment.

**Danger area**

Areas where conditions pose a serious danger to employees, such as areas where:

- Immediately dangerous to life or health (IDLH) conditions could exist

**OR**

- High levels of exposure to toxic substances could exist

**OR**

- There is a potential for exceeding the lower explosive limit (LEL), also known as the lower flammability limit (LFL), of a substance.

**Decontamination**

Removing hazardous substances from employees and their equipment so potential adverse health effects will not occur.

**Emergency response**

An organized response to an anticipated release of a hazardous substance that is, or could become an uncontrolled release.

**Emergency response plan**

A written plan that requires coordination between emergency response participants, and contains procedures, criteria, and other information that will be applied to emergency

response operations. Each employer's plan should be compatible with local and state plans.

**Engineering controls**

Methods of controlling employee exposures by modifying the source or reducing the quantity of contaminants.

**Hazardous materials team (HAZMAT team)**

A group of employees who are expected to perform responses to releases, or possible releases, of hazardous substances for the purpose of control and stabilization. As a result of their duties, HAZMAT team members may have close contact with hazardous substances.

**Note:** A HAZMAT team may be a separate component of a fire brigade or fire department.

**Hazardous substance**

Any of the following substances that could adversely affect an exposed employee's health or safety:

- Substances defined under section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) or "Superfund" Act (visit: <http://www.epa.gov>)

- Biological or other disease-causing agents released that could reasonably be expected to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations in a person or their offspring when the person:
  - Is directly exposed to the agent in the environment
  - Directly ingests, inhales, or assimilates the agent from the environment
  - Indirectly ingests the agent through a food chain

- Substances listed by the United States Department of Transportation as hazardous materials under Title 49 (Transportation) in the Code of Federal Regulations (CFR), Part 172, section 101 and appendices (visit: <http://www.nara.gov> and search for "List of CFR subjects")

- Hazardous wastes as defined in this chapter.

**Hazardous waste**

A substance designated by chapter 173-303 WAC, Dangerous waste regulations, department of ecology, as a dangerous waste or an extremely hazardous waste and any waste fitting the definition of "health hazard" in this chapter.



**Note:** For department of ecology regulations, visit: <http://www.ecy.wa.gov>

### Health hazard

A chemical, a mixture of chemicals, or a pathogen for which there is statistically significant evidence, based on at least one study conducted according to established scientific principles, that acute or chronic health effects may occur in exposed employees.

The term "health hazard" includes stress due to temperature extremes and chemicals that are:

- Carcinogens
- Toxic or highly toxic agents
- Reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, or neurotoxins
- Agents acting on the hematopoietic system agents that damage lungs, skin, eyes, or mucous membranes. (Detailed definitions of these chemical terms can be found in the Safety and health core rules, WAC 296-800-170, chemical hazard communication.)

### Incident command system (ICS)

An organized approach to control and manage operations at an emergency response incident.

### Incidental release

A release that can be safely controlled at the time of the release and does not have the potential to become an uncontrolled release.

**Note:**

Example of a situation that results in an incidental release:

A tanker truck is receiving a load of hazardous liquid when a leak occurs. The driver knows the only hazard from the liquid is minor skin irritation. The employer has trained the driver on procedures and provided equipment to use for a release of this quantity. The driver puts on skin protection and stops the leak. A spill kit is used to contain, absorb, and pick up the spilled material for disposal.

### Immediately dangerous to life or health (IDLH)

Any atmospheric condition that would:

- Cause an immediate threat to life
- OR
- Cause permanent or delayed adverse health effects
- OR
- Interfere with an employee's ability to escape

### Limited action

Action necessary to:

- Secure an operation during emergency responses,
- OR
- Prevent an incident from increasing in severity.

Examples include shutting down processes and closing emergency valves.

### Lines of authority

A preestablished ranking of individuals, qualified to assume a commanding role during an emergency response, noted in an emergency response plan and implemented during a response. This is most important when responders from multiple employers could participate in an emergency response.

### Lower explosive limit (LEL)

See lower flammable limit (LFL).

### Lower Flammable limit (LFL)

The lowest concentration of a material that will propagate a flame. The LFL is usually expressed as a percent (by volume) of the material in air (or other oxidant).

### Must

Must means mandatory.

### Permissible exposure limit (PEL)

Means the established time-weighted-average (TWA) concentration or ceiling concentration of a contaminant that must not be exceeded. The exposure, inhalation, or dermal permissible limit specified in chapter ((296-62 WAC, Part H, Air contaminants)) 296-841 WAC, identifying and controlling respiratory hazards.

### Personal protective equipment (PPE)

Protective items designed to be worn by the user to protect them against airborne, skin contact and other hazards. This includes items such as respiratory protection, protective suits, gloves, eye protection, etc.

### Postemergency response

The stage of the emergency response where the immediate threat from the release has been stabilized or eliminated, and cleanup of the site has started.

### Published exposure level

Exposure limits published in "*National Institute for Occupational Safety and Health (NIOSH) Recommendations for Occupational Safety and Health*" (DHHS publication #92-100, 1992).

If an exposure limit is not published by NIOSH, then "published exposure level" means the exposure limits published by the American Conference of Governmental Industrial Hygienists (ACGIH) in "*TLVs and BEIs-Threshold Limit Values for Chemical Substances and Physical Agents*" (1999 edition).

**Note:** Additional exposure levels published by recognized organizations such as the American Industrial Hygiene Association are not required to be observed by this rule; however, they may be a useful resource when a hazardous substance is not covered by NIOSH and ACGIH publications.

### Release

A spill, leak, or other type of hazardous substance discharge.

### Uncontrolled release

A release where significant safety and health risks could be created. Releases of hazardous substances that are either incidental or could not create a safety or health hazard (i.e., fire, explosion or chemical exposure) are not considered to be uncontrolled releases.

Examples of conditions that could create a significant safety and health risk:

- Large-quantity releases
- Small releases that could be highly toxic
- Potentially contaminated individuals arriving at hospitals
- Airborne exposures that could exceed a WISHA permissible exposure limit or a published exposure limit and employees are not adequately trained or equipped to control the release.

**Example of an uncontrolled release:**

A forklift driver knocks over a container of a solvent-based liquid, releasing the contents onto the warehouse floor. The driver has been trained to recognize the vapor is flammable and moderately toxic when inhaled. The driver has not been trained or provided appropriate equipment to address this type of spill. In this situation, it is not safe for the driver to attempt a response. The driver needs to notify someone of the release so an emergency response can be initiated.

**Workplace**

- A fixed facility
- OR
- A temporary location (such as a traffic corridor)
- OR
- Locations where employees respond to emergencies.

**You**

The employer. For a complete definition of "employer" see Safety and health core rules, chapter 296-800 WAC.

**AMENDATORY SECTION** (Amending WSR 02-15-102, filed 7/17/02, effective 10/1/02)

**WAC 296-835-11045 Protect employees during welding, burning, or other work using open flames.**

**You must:**

- Make sure the dip tank and the area around it are thoroughly cleaned of solvents and vapors before performing work involving:
  - Welding
  - Burning
- OR
- Open flames

**Reference:** There are additional requirements for this type of work. See Welding, cutting and brazing, chapter 296-24 WAC, Part I, and Respiratory protection, chapter ((296-62)) 296-842 WAC((,Part E)).

**AMENDATORY SECTION** (Amending WSR 03-01-096, filed 12/17/02, effective 6/1/03)

**WAC 296-839-30005 Develop or obtain material safety data sheets (MSDSs).**

**You must:**

- Develop or obtain a complete and accurate material safety data sheet (MSDS) for each hazardous chemical or mixture according to ALL of the following:

– ALL information in Table 8 must be completed. If there is no relevant information for a required item, this must be noted. Blank spaces are not permitted.

- Note:**
- No specific format is required for MSDSs; however, an example format (OSHA form 174) can be found online at: <http://www.osha.gov>
  - One MSDS can be developed for a group of complex mixtures (for example, jet fuels or crude oil) IF the health and physical hazards of the mixtures are similar (the amounts of chemicals in the mixture may vary).

– Content of MSDSs must accurately represent the available scientific evidence.

**Note:** You may report results of scientifically valid studies that tend to refute findings of hazards.

– MSDSs must be in English.

**Note:** You may develop copies of MSDSs in other languages.

**You must:**

- Revise an MSDS when you become aware of new and significant information regarding the hazards of a chemical, or how to protect against the hazards
  - Within three months after you first become aware of the information
- OR
- Before the chemical is reintroduced into the workplace if the chemical is no longer being used, produced or imported.

<b>Table 8 Information Required on MSDSs</b>
• The chemical's identity as it appears on the label
• The date the MSDS was prepared or updated
• A contact for additional information about the hazardous chemical and appropriate emergency procedures Include all of the following: <ul style="list-style-type: none"> <li>– Name</li> <li>– Address</li> <li>– Telephone number of the responsible party preparing or distributing the MSDS</li> </ul>
• The chemical's hazardous ingredients <sup>1</sup> as determined by your hazard evaluation <ul style="list-style-type: none"> <li>– For a <b>single substance chemical</b>, include the chemical and common name(s) of the substance</li> <li>– For <b>mixtures tested as a whole</b> <ul style="list-style-type: none"> <li>■ Include the common name(s) of the mixture</li> <li>AND</li> <li>■ List the chemical and common name(s) of ingredients that contribute to the known hazards</li> </ul> </li> <li>– For <b>mixtures NOT tested as a whole</b>, list the chemical and common name(s) of hazardous ingredients                             <ul style="list-style-type: none"> <li>■ That make up 1% or more of the mixture, by weight or volume, including carcinogens (if 0.1% concentration or more, by weight or volume)</li> </ul> </li> <li>– If ingredients are less than the above concentrations but may present a health risk to employees (for example, allergic reaction or exposure could exceed the permissible exposure limits, or PEL) they must be listed here</li> </ul>
• Exposure limits for airborne concentrations. Include ALL of the following, when they exist: <ul style="list-style-type: none"> <li>– WISHA or OSHA PELs<sup>2</sup> <ul style="list-style-type: none"> <li>■ The 8-hour time weighted average (TWA)</li> <li>■ The short-term exposure limit (STEL), if available</li> <li>■ Ceiling values, if available</li> </ul> </li> <li>– Threshold limit values (TLVs) including 8-hour TWAs, STELs, and ceiling values</li> <li>– Other exposure limits used or recommended by the employer preparing the MSDS</li> </ul>
• Physical and chemical characteristics <ul style="list-style-type: none"> <li>– For example, boiling point, vapor pressure, and odor</li> </ul>
• Fire, explosion data, and related information <ul style="list-style-type: none"> <li>– For example, flashpoint, flammable and explosion limits, extinguishing media, and unusual fire or explosion hazards</li> </ul>
• Physical hazards of the chemical including reactivity information <ul style="list-style-type: none"> <li>– For example, incompatibilities, decomposition products, by-products, and conditions to avoid</li> </ul>

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**Table 8**  
**Information Required on MSDSs**

<ul style="list-style-type: none"> <li>• Health hazard information including ALL of the following:           <ul style="list-style-type: none"> <li>– Primary routes of exposure               <ul style="list-style-type: none"> <li>■ For example, inhalation, ingestion, and skin absorption or other contact<sup>3</sup></li> </ul> </li> <li>– Health effects (or hazards) associated with:               <ul style="list-style-type: none"> <li>■ Short-term exposure<sup>4</sup></li> <li>AND</li> <li>■ Long-term exposure<sup>4</sup></li> </ul> </li> <li>– Whether the chemical is listed or described as a carcinogen or potential carcinogen in the latest editions of each of the following:               <ul style="list-style-type: none"> <li>■ The National Toxicology Program (NTP) Annual Report on Carcinogens</li> <li>OR</li> <li>■ The International Agency for Research on Cancer (IARC) Monographs as a potential carcinogen</li> <li>OR</li> <li>■ WISHA or OSHA rules</li> </ul> </li> <li>– Signs and symptoms of exposure<sup>5</sup></li> <li>– Medical conditions generally recognized as being aggravated by exposure</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Emergency and first-aid procedures</li> </ul>
<ul style="list-style-type: none"> <li>• Generally applicable precautions for safe handling and use known to the employer preparing the MSDS           <ul style="list-style-type: none"> <li>– For example, appropriate procedures for clean-up of spills and leaks, waste disposal method, precautions during handling and storing</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Generally applicable and appropriate control measures known to the employer preparing the MSDS, including ALL of the following:           <ul style="list-style-type: none"> <li>– Engineering controls (for example, general or local exhaust ventilation)</li> <li>– Work practices</li> <li>– Personal protective equipment (PPE)</li> <li>– Personal hygiene practices</li> <li>– Protective measures during repair and maintenance of contaminated equipment</li> </ul> </li> </ul>

<sup>1</sup> The identities of some chemicals may be protected as trade secret information (see chapter 296-62 WAC, Part B-1, Trade secrets).

<sup>2</sup> WISHA PEL categories are defined, and values are provided, in chapter (296-62 WAC, Part H) 296-841 WAC, identifying and controlling respiratory hazards.

<sup>3</sup> A "skin notation" listed with either an ACGIH TLV or WISHA/OSHA PEL indicates that skin absorption is a primary route of exposure.

<sup>4</sup>Examples of:

- Short-term health effects (or hazards) include eye irritation, skin damage caused by contact with corrosives, narcosis, sensitization, and lethal dose.

- Long-term health effects (or hazards) include cancer, liver degeneration, and silicosis.

<sup>5</sup> Signs and symptoms of exposure to hazardous substances include those that:

- Can be measured such as decreased pulmonary function

AND

- Are subjective such as feeling short of breath.

**AMENDATORY SECTION** (Amending WSR 03-01-096, filed 12/17/02, effective 6/1/03)

**WAC 296-839-500 Definitions.** The following definitions apply to this chapter:

**Article** (manufactured item)

A manufactured item that

- Is not a fluid or particle

AND

- Is formed to a specific shape or design during manufacture for a particular end use function

AND

- Releases only trace amounts of a hazardous chemical during normal use and does not pose a physical or health risk to employees.

Chemical

- An element or mixture of elements

OR

- A compound or mixture of compounds

OR

- A mixture of elements and compounds

Included are manufactured items (such as bricks, welding rods and sheet metal) that are not exempt as an article.

Chemical name

- The scientific designation of a chemical developed by the

- International union of pure and applied chemistry (IUPAC)

OR

- Chemical abstracts service (CAS) rules of nomenclature

OR

- A name that clearly identifies the chemical for the purpose of conducting a hazard evaluation.

Combustible liquid

Liquids with a flashpoint of at least 100°F (37.8°C) and below 200°F (93.3°C). A mixture with at least 99% of its components having flashpoints of 200°F (93.3°C), or higher, is not considered a combustible liquid.

Commercial account

An arrangement where a retailer is selling hazardous chemicals to an employer

- Generally in large quantities over time

OR

- At costs below regular retail price.

Common name

Any designation or identification used to identify a chemical other than the chemical name, such as a

- Code name or number

OR

- Trade or brand name

OR

- Generic name.

Compressed gas

- A contained gas or mixture of gases with an absolute pressure greater than:

- 40 psi at 70°F (21.1°C)

OR

- 104 psi at 130°F (54.4°C) regardless of the pressure at 70°F (21.1°C)

OR

- A liquid with a vapor pressure greater than 40 psi at 100°F (37.8°C), as determined by ASTM D323-72.

Container

A vessel, other than a pipe or piping system, that holds a hazardous chemical. Examples include:

- Bags

- Barrels

- Bottles
- Boxes
- Cans
- Cylinders
- Drums
- Reaction vessels
- Storage tanks
- Rail cars.

Designated representative

• An individual or organization with written authorization from an employee

OR

• A recognized or certified collective bargaining agent (not necessarily authorized by an employee)

OR

• A legal representative of a deceased or legally incapacitated employee.

Distributor

A business that supplies hazardous chemicals to other employers. Included are employers who conduct retail and wholesale transactions.

Explosive

A chemical that causes a sudden, almost instant release of pressure, gas, and heat when exposed to a sudden shock, pressure, or high temperature.

Flammable

A chemical in one of the following categories:

• Aerosols that, when tested using a method described in 16 CFR 1500.45, yield either a:

– Flame projection of more than eighteen inches at full valve opening

OR

– A flashback (a flame extending back to the valve) at any degree of valve opening

• Gases that, at the temperature and pressure of the surrounding area, form a:

– Flammable mixture with air at a concentration of thirteen percent, by volume, or less

OR

– Range of flammable mixtures with air wider than twelve percent, by volume, regardless of the lower limit

• Liquids with a flashpoint below 100°F (37.8°C). A mixture with at least ninety-nine percent of its components having flashpoints of 100°F (37.8°C), or higher, is not considered a flammable liquid

• Solids, other than blasting agents or explosives, as defined in WAC 296-52-417 or 29 CFR 1910.109(a), that:

– Is likely to cause fire through friction, moisture, absorption, spontaneous chemical change or retained heat from manufacturing or processing

OR

– That can be readily ignited (and when ignited burns so vigorously and persistently that it creates a serious hazard)

OR

– When tested by the method described in 16 CFR 1500.44, ignite and burn with a self-sustained flame at a rate greater than 1/10th of an inch per second along its major axis.

Flashpoint

The minimum temperature at which a liquid gives off an ignitable concentration of vapor, when tested by any of the following measurement methods:

• Tagliabue closed tester. Use this for liquids with a viscosity less than, 45 Saybolt Universal Seconds (SUS) at 100°F (37.8°C), that do not contain suspended solids and do not tend to form a surface film under test. See American National Standard Method of Test for Flashpoint by Tag Closed Tester, Z11.24-1979 (ASTM D 56-79)

• Pensky-Martens closed tester. Use this for liquids with a viscosity equal to, or greater than, 45 SUS at 100°F (37.8°C) or for liquids that contain suspended solids or have a tendency to form a surface film under test. See American National Standard Method of Test for Flashpoint by Pensky-Martens Closed Tester, Z11.7-1979 (ASTM D 93-79)

• Setaflash closed tester. See American National Standard Method of Test for Flashpoint by Setaflash Closed Tester (ASTM D 3278-78)

Organic peroxides, which undergo auto accelerating thermal decomposition, are excluded from any of the flashpoint measurement methods specified above.

Hazardous chemical

A chemical, which is a physical or health hazard.

Hazard warning

Words, pictures or symbols (alone or in combination) that appear on labels (or other forms of warning such as placards or tags) that communicate specific physical and health hazards (including target organ effects) associated with chemicals in a container.

Health hazard

A chemical that may cause health effects in short or long-term exposed employees based on statistically significant evidence from a single study conducted by using established scientific principles.

Health hazards include, but are not limited to, any of the following:

- Carcinogens
- Toxic or highly toxic substances
- Reproductive toxins
- Irritants
- Corrosives
- Sensitizers
- Hepatotoxins (liver toxins)
- Nephrotoxins (kidney toxins)
- Neurotoxins (nervous system toxins)
- Substances that act on the hematopoietic system (blood or blood forming system)
- Substances that can damage the lungs, skin, eyes, or mucous membranes.

Identity

A chemical or common name listed on the material safety data sheet (MSDS) and label.

Importer

The first business, within the Customs Territory of the United States, that receives hazardous chemicals produced in other countries and supplies them to manufacturers, distributors or employers within the United States.

Label

Written, printed, or graphic material displayed on, or attached to, a container of hazardous chemicals.

**Manufacturer**

An employer with a workplace where one or more chemicals (including items not exempt as "articles," see Table 1 in this chapter) are produced for use or distribution.

**Material safety data sheet (MSDS)**

Written, printed or electronic information (on paper, microfiche, or on-screen) that informs manufacturers, distributors or employers about the chemical, its hazards and protective measures as required by this rule.

**Mixture**

A combination of two or more chemicals that retain their chemical identity after being combined.

**Organic peroxide**

An organic compound containing the bivalent-O-O-structure. It may be considered a structural derivative of hydrogen peroxide if one or both of the hydrogen atoms has been replaced by an organic radical.

**Oxidizer**

A chemical, other than a blasting agent or explosive as defined in WAC 296-52-417 or 29 CFR 1910.109(a), that starts or promotes combustion in other materials, causing fire either of itself or through the release of oxygen or other gases.

**Permissible exposure limits**

See chapter ((296-62)) 296-841 WAC ((part H)), for definition of this term.

**Physical hazards**

A chemical that has scientifically valid evidence to show it is one of the following:

- A combustible liquid
- A compressed gas
- Explosive
- Flammable
- An organic peroxide
- An oxidizer
- Pyrophoric
- Unstable (reactive)
- Water-reactive.

**Produce**

To do one or more of the following:

- Manufacture
- Process
- Formulate
- Blend
- Extract
- Generate
- Emit
- Repackage.

**Pyrophoric**

Chemicals that ignite spontaneously in the air at a temperature of 130°F (54.4°C) or below.

**Responsible party**

Someone who can provide more information about the hazardous chemical and appropriate emergency procedures.

**Retailer**

See "distributor."

**Threshold limit values (TLVs)**

Airborne concentrations of substances established by the American Conference of Governmental Industrial Hygienists (ACGIH), and represent conditions under which it is believed

that nearly all workers may be repeatedly exposed day after day without adverse health effects.

TLVs are specified in the most recent edition of the *Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices* and include the following categories:

- Threshold limit value-time-weighted average (TLV-TWA)
- Threshold limit value-short-term exposure limit (TLV-STEL)
- Threshold limit value-ceiling (TLV-C).

**Unstable (reactive)**

A chemical in its pure state, or as produced or transported, that will vigorously polymerize, decompose, condense, or become self-reactive under conditions of shocks, pressure or temperature.

**Use**

To do one or more of the following:

- Package
- Handle
- React
- Emit
- Extract
- Generate as a by-product
- Transfer.

**Water-reactive**

A chemical that reacts with water to release a gas that is either flammable or presents a health hazard.

**Wholesaler**

See "distributor."

**WSR 04-20-088****EXPEDITED RULES****DEPARTMENT OF LICENSING**

[Filed October 5, 2004, 1:56 p.m.]

Title of Rule and Other Identifying Information: Chapter 308-94 WAC, Snowmobiles and off-road and nonhighway vehicles, WAC 308-94-105.

**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 THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Dale R. Brown, Department of Licensing, 1124 [1125] Washington Street S.E., P.O. Box 2957, Olympia, WA 98507-2957, AND RECEIVED BY December 6, 2004.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal is to correct an error in rule designation from 380 to 308. There is no substantive change being made.

Reasons Supporting Proposal: An accurate rule assists the public in complying. This is a technical correction.

Statutory Authority for Adoption: RCW 46.01.110.

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

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

October 4, 2004

Steve Boruchowitz  
Policy and Projects Office

**AMENDATORY SECTION** (Amending WSR 01-11-070, filed 5/14/01, effective 6/14/01)

**WAC 308-94-105 Delivery of snowmobile on dealer temporary permit.** (1) **How are snowmobile dealer temporary permits used?** By licensed snowmobile dealers as a dealer temporary permit.

(2) **How is the dealer temporary permit application issued and completed?**

(a) The dealer temporary permit application is issued by and must be completed by the selling dealer.

(b) The application must be signed by the registered owner(s).

(c) The dealer must collect all fees required for registration of a snowmobile.

(d) The dealer must detach the hard copy of the dealer permit and record the date of expiration in dark, bold letters and numbers on the permit side of that copy. Date of expiration will be forty-five calendar days after date on which the snowmobile is physically delivered to the customer/purchaser.

(e) The application copies must be used by the dealer to apply for registration of the snowmobile. Except as provided in chapter 46.10 RCW the selling dealer must submit the application and all registration fees to the department of licensing or an authorized licensing agent within forty-five calendar days from the date of sale.

(f) The hard copy of the permit and a purchase order identifying the snowmobile and the date on which the snowmobile is delivered to the customer must be carried on the snowmobile or on the person operating the snowmobile at all times the snowmobile is operated on the temporary permit.

(3) **How long is the dealer temporary permit valid?** The dealer temporary permit is valid for not more than forty-five calendar days commencing with the date on which the vehicle is delivered to the customer.

(4) **What restrictions apply to the dealer temporary permit?**

(a) The dealer temporary permit must not:

(b) Be issued for a dealer inventoried or a dealer or dealer-employee operated snowmobile;

(c) Be issued as a demonstration permit;

(d) Be issued for a snowmobile processed as a courtesy delivery.

(5) **Are fees paid for the dealer temporary permit application forms refundable?** Fees paid for dealer temporary permit application forms are not refundable unless the dealer ceases doing business as a snowmobile dealer.

(6) **Is the dealer reimbursed for the cost of the dealer temporary permit when used?** Yes, a credit in the amount of the permit form fee will be credited when the permit is used by the snowmobile dealer to make application for a snowmobile registration.

(7) **Is the dealer required to keep a record of the permits?** Yes, the dealer must maintain a record of each dealer temporary permit form acquisition and distribution including the following:

(a) Snowmobile purchaser's names;

(b) Vehicle identification number;

(c) Dates of snowmobile sales and deliveries; and

(d) Date and location of purchase of each permit form and the permit number.

(8) **Is the dealer required to submit the application for registration within a certain period of time?** Yes, the dealer must submit the application for registration in accordance with WAC ((380-94-030)) 308-94-030 within forty-five days from the date of delivery of the snowmobile to the customer.

The director may excuse late applications only in situations where applications are delayed for reasons beyond the control of the dealer.

## WSR 04-20-116

### EXPEDITED RULES

### DEPARTMENT OF REVENUE

[Filed October 6, 2004, 11:59 a.m.]

Title of Rule and Other Identifying Information:  
Amending WAC 458-30-262 Agricultural land valuation—  
Interest rate—Property tax component.

### 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 THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kim M. Qually, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, fax (360) 586-5543, e-mail kimq@dor.wa.gov, AND RECEIVED BY December 6, 2004.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule is to provide county assessors with the rate of interest and property tax component used in valuing farm and agricultural land classified under chapter 84.34 RCW (the open space program) during assessment year 2005.

The rule is being amended to update the interest rate and property tax component used to value farm and agricultural land classified under chapter 84.34 RCW. The amendments provide information that local taxing officials need to value classified farm and agricultural land during assessment year 2005. This proposal replaces WSR 04-19-077, filed Septem-

WSR 04-20-117

EXPEDITED RULES

DEPARTMENT OF REVENUE

[Filed October 6, 2004, 11:59 a.m.]

Title of Rule and Other Identifying Information:  
Amending WAC 458-30-590 Rate of inflation—Publica-  
tion—Interest rate—Calculation.

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 THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kim M. Qually, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, fax (360) 586-5543, e-mail kimq@dor.wa.gov, AND RECEIVED BY December 6, 2004.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule is to provide information about the rate of inflation that is used by county officials to calculate interest on deferred special benefit assessments when farm and agricultural or timber land is removed or withdrawn from classification under chapter 84.34 RCW, the open space program.

Special benefit assessments for certain local improvements to farm and agricultural or timber land classified under chapter 84.34 RCW may be deferred by the land owner. If a land owner has chosen to defer these assessments, when the land is subsequently removed or withdrawn from classification the deferred special benefit assessments become due and payable with interest. WAC 458-30-590 provides the rate of inflation used in calculating the interest that is added to the deferred amount of special benefit assessments.

Reasons Supporting Proposal: RCW 84.34.310(6) authorizes the department to determine the rate of inflation and to publish this rate no later than January 1 each year for used in that assessment year.

Statutory Authority for Adoption: RCW 84.34.360.

Statute Being Implemented: RCW 84.34.310.

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

Name of Proponent: Department of Revenue, govern-  
mental.

Name of Agency Personnel Responsible for Drafting:  
Kim M. Qually, 1025 Union Avenue S.E., Suite #544, Olym-  
pia, WA, (360) 570-6113; Implementation and Enforcement:  
Peri Maxey, 1025 Union Avenue S.E., Suite #200, Olympia,  
WA, (360) 570-5860.

October 6, 2004

Alan R. Lynn

Rules Coordinator

ber 17, 2004, which has been withdrawn because it provided an incorrect rate of interest.

Reasons Supporting Proposal: RCW 84.34.065 requires the department to annually determine a rate of interest and property tax component. This information is to be set forth in a rule that is to be published in the State Register no later than January 1 each year for use in that assessment year.

Statutory Authority for Adoption: RCW 84.34.065.

Statute Being Implemented: RCW 84.34.065.

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

Name of Proponent: Department of Revenue, govern-  
mental.

Name of Agency Personnel Responsible for Drafting:  
Kim M. Qually, 1025 Union Avenue S.E., Suite #544, Olym-  
pia, WA, (360) 570-6113; Implementation and Enforcement:  
Peri Maxey, 1025 Union Avenue S.E., Suite #200, Olympia,  
WA, (360) 570-5860.

October 6, 2004

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-24-013,  
filed 11/20/03, effective 12/21/03)

**WAC 458-30-262 Agricultural land valuation—  
Interest rate—Property tax component.** For assessment  
year ((2004)) 2005, the interest rate and the property tax com-  
ponent that are to be used to value classified farm and agri-  
cultural lands are as follows:

- (1) The interest rate is ((8.34)) 7.76 percent; and
- (2) The property tax component for each county is:

COUNTY	PERCENT	COUNTY	PERCENT
Adams	((1.40)) 1.36	Lewis	((1.15)) 1.13
Asotin	((1.48)) 1.44	Lincoln	((1.37)) 1.36
Benton	((1.36)) 1.39	Mason	((1.26)) 1.27
Chelan	((1.34)) 1.33	Okanogan	((1.20)) 1.24
Clallam	((1.18)) 1.11	Pacific	((1.23)) 1.44
Clark	((1.35)) 1.33	Pend Oreille	((1.33)) 1.16
Columbia	((1.36)) 1.33	Pierce	((1.51)) 1.50
Cowlitz	((1.23)) 1.26	San Juan	((0.73)) 0.67
Douglas	1.37	Skagit	((1.22)) 1.20
Ferry	((1.03)) 0.98	Skamania	((1.02)) 0.99
Franklin	((1.55)) 1.57	Snohomish	((1.33)) 1.26
Garfield	((1.58)) 1.60	Spokane	((1.42)) 1.50
Grant	((1.40)) 1.44	Stevens	((1.09)) 1.13
Grays Harbor	((1.35)) 1.37	Thurston	((1.42)) 1.38
Island	((0.99)) 0.94	Wahkiakum	((1.07)) 1.06
Jefferson	((1.16)) 1.11	Walla Walla	1.43
King	((1.10)) 1.09	Whatcom	((1.28)) 1.30
Kitsap	((1.34)) 1.28	Whitman	((1.57)) 1.59
Kittitas	((1.05)) 1.07	Yakima	((1.29)) 1.28
Klickitat	((1.17)) 1.20		

**AMENDATORY SECTION** (Amending WSR 03-24-076, filed 12/2/03, effective 1/2/04)

**WAC 458-30-590 Rate of inflation—Publication—Interest rate—Calculation.** (1) **Introduction.** This section sets forth the rates of inflation discussed in WAC 458-30-550. It also explains the department of revenue's obligation to annually publish a rate of inflation and the manner in which this rate is determined.

(2) **General duty of department—Basis for inflation rate.** Each year the department determines and publishes a rule establishing an annual rate of inflation. This rate of inflation is used in computing the interest that is assessed when farm and agricultural or timber land, which are exempt from special benefit assessments, is withdrawn or removed from current use classification.

(a) The rate of inflation is based upon the implicit price deflator for personal consumption expenditures calculated by the United States Department of Commerce. This rate is used to calculate the rate of interest collected on exempt special benefit assessments.

(b) The rate is published by December 31st of each year and applies to all withdrawals or removals from farm and agricultural or timber land classification that occur the following year.

(3) **Assessment of rate of interest.** An owner of classified farm and agricultural or timber land is liable for interest on the exempt special benefit assessment. Interest accrues from the date the local improvement district is created until the land is withdrawn or removed from classification. Interest accrues and is assessed in accordance with WAC 458-30-550.

(a) Interest is assessed only for the time (years and months) the land remains classified under RCW 84.34.020 (2) or (3).

(b) If the classified land is exempt from the special benefit assessment for more than one year, the annual inflation rates are used to calculate an average rate of interest. This average is determined by adding the inflation rate for each year the classified land was exempt from the special benefit assessment after the local improvement district was created. The sum of the inflation rates is then divided by the number of years involved to determine the applicable rate of interest.

(c) **Example.** A local improvement district for a domestic water supply system was created in January 1990 and the owner used the statutory exemption provided in RCW 84.34.320. On July 1, 1997, the land was removed from the farm and agricultural classification. An average interest rate was calculated using the inflation rates for 1990 through 1997. The owner was then notified of the amount of previously exempt special benefit assessment, plus the average interest rate.

(4) **Rates of inflation.** The rates of inflation used to calculate the interest as required by WAC 458-30-550 are as follows:

YEAR	PERCENT	YEAR	PERCENT
1976	5.6	1977	6.5
1978	7.6	1979	11.3
1980	13.5	1981	10.3
1982	6.2	1983	3.2
1984	4.3	1985	3.5
1986	1.9	1987	3.7
1988	4.1	1989	4.8
1990	5.4	1991	4.2
1992	3.3	1993	2.7
1994	2.2	1995	2.3
1996	2.2	1997	2.1
1998	0.85	1999	1.42
2000	2.61	2001	1.89
2002	1.16	2003	1.84
<u>2004</u>	<u>2.39</u>		

EXPEDITED



**WSR 04-18-082**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)

[Filed August 31, 2004, 3:04 p.m., effective October 1, 2004]

Effective Date of Rule: October 1, 2004.

Purpose: The Department of Social and Health Services' Economic Services Administration (ESA) is repealing all sections of chapter 388-155 WAC, Minimum licensing requirements for family home child care, **with the exception of WAC 388-155-080**, and replace the repealed sections with new chapter 388-296 WAC, Child care business regulations for family home child care. Proposed WAC 388-296-0310 and the proposed repeal of WAC 388-155-080 are being withdrawn. As a result of public comments, WAC 388-296-0310 is being revised and will be repropoed at a later date.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-155-005 Authority, 388-155-010 Definitions, 388-155-020 Scope of licensing, 388-155-040 Local ordinances and codes, 388-155-050 Waivers, 388-155-060 Dual licensure, 388-155-070 How do I apply for a license and what is required?, 388-155-083 Fees, 388-155-085 Initial license, 388-155-090 When can my license application be denied and when can my license be suspended or revoked?, 388-155-092 Civil penalties, 388-155-093 Civil penalties—Amount of penalty, 388-155-094 Civil penalty—Posting of notice of penalty, 388-155-095 Civil penalties—Unlicensed programs, 388-155-096 Civil penalties—Separate violations, 388-155-097 Civil penalties—Penalty for nonpayment, 388-155-098 Probationary license, 388-155-100 Activities and routines, 388-155-110 Learning and play materials, 388-155-120 Provider-child interactions, 388-155-130 Behavior management and discipline, 388-155-140 Rest periods, 388-155-150 Evening and nighttime care, 388-155-160 Off-site trips, 388-155-165 Transportation, 388-155-170 Parent communication, 388-155-180 Staffing—Qualifications, 388-155-190 Capacity, 388-155-200 Development and training, 388-155-220 Health supervision and infectious disease prevention, 388-155-230 Medication management, 388-155-240 Nutrition, 388-155-250 Kitchen and food service, 388-155-270 Care of young children, 388-155-280 General safety, maintenance, and site, 388-155-290 Water supply, sewage, and liquid wastes, 388-155-295 Water safety, 388-155-310 First-aid supplies, 388-155-320 Outdoor play area, 388-155-330 Indoor play area, 388-155-340 Toilets, handwashing sinks, and bathing facilities, 388-155-350 Laundry, 388-155-360 Nap and sleep equipment, 388-155-370 Storage, 388-155-380 Home atmosphere, 388-155-390 Discrimination prohibited, 388-155-400 Religious activities, 388-155-410 Additional requirements regarding American Indian children, 388-155-420 Child abuse, neglect, and exploitation, 388-155-430 Prohibited substances, 388-155-440 Limitations to persons on premises, 388-155-450 Child records and information, 388-155-460 Home records, 388-155-470 Personnel records, 388-155-480 Reporting of death, injury, illness, epidemic, or child abuse, 388-155-490 Reporting of circumstantial changes, 388-155-500 Posting requirements, 388-155-600 Occupancy restrictions, 388-155-605 Hazardous areas, 388-155-610 Single station smoke detectors, 388-155-620

Alternate means of sounding a fire alarm, 388-155-630 Fire extinguisher, 388-155-640 Fire prevention, 388-155-650 Sprinkler system maintenance, 388-155-660 Fire evacuation plan, 388-155-670 Fire evacuation drill, 388-155-680 Staff training, 388-155-991 Waiver of fees, 388-155-992 Fee payment and refunds, and 388-155-993 Denial, revocation, suspension, and reinstatement.

\*Note: The proposed repeal of WAC 388-155-080 has been withdrawn and this rule will remain in effect until the department files a supplemental rule-making notice related to the reproposal of WAC 388-296-0310.

Statutory Authority for Adoption: RCW 74.08.090 and 74.15.030; chapters 74.12 and 74.15 RCW.

Adopted under notice filed as WSR 04-07-134 on March 22, 2004; and WSR 04-10-095 on May 4, 2004.

Changes Other than Editing from Proposed to Adopted Version:

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
388-296-0010	For the purposes of this chapter "we," "use" and "our" means the state Department of Social and Health Services (DSHS), including but not limited to the Division of Child Care and Early Learning (DCCEL).	This language was deleted from the proposed language.
388-296-0020	"Character, competence, and suitability assessment" means ...	Added language, findings of abuse, neglect, exploitation or abandonment of a child or vulnerable adult and child protective services (CPS) referral history.
	"Child care" means ...	Deleted "ensure"; added "promote."
"	"Communicable disease" means ...	Added language, "in the child care setting."
"	"Confidentiality" means ...	Added language, "such as the child's records."
"	"Family home child care provider" means ...	Added language, behavior management.
"	No proposed language.	Added language, "Family home" means "a single dwelling unit and accessory buildings occupied for living purposes by a family which provides permanent provisions for living, sleeping, eating, cooking, and sanitation."
"	"Licensed family home child care..."	Deleted "licensed."
"	No proposed language.	Added language, "infant" means a child birth through eleven months of age.

PERMANENT

PERMANENT

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
"	No proposed language.	Added language, "licensor" means the person with authority to grant licenses.
"	No proposed language.	Added language, "pre-school age child" means a child thirty months through five years of age not attending kindergarten or elementary school.
"	"Premises..."	Added language, "at the same address."
"	No proposed language.	Added language, "staff" means a child care giver or group of child care givers employed by the licensee to assist with or supervise children served at the family home child care.
"	"Terms of the license..."	Deleted "location"; added language, "address."
"	No proposed language.	Added "toddler" means a child twelve months through twenty-nine months of age.
"	"Unsupervised access refers to the act of having contact with child care children without the direct supervision of the licensed provider."	New language, "means not in the absence of the licensed child care provider or primary staff person."
"	"Useable space..."	Deleted "the space described by the applicant on the application"; added language, "actually available for children to engage in developmentally appropriate activities."
388-296-0110	(1) Individuals, entities and agencies that provide care for children must be licensed, unless specifically exempt under RCW 74.15.020(2).  (3) deleted, "and certification."  (5) deleted "person or organization" and "serve state paid children."  (5)(b) "A booklet for providers."	(1) Individuals and agencies that provide care for children must be licensed, unless specifically exempt under RCW 74.15.020(2).  (3) Added, "certification that we apply for licensure."  (5) Added, "individuals and agencies wanting to care for children whose child care is paid for by the state child care subsidy program."  (5)(b) added, licensed and certified.

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	(5)(c) Bill the department at the person's or organization's customary rate or the DSHS rate, whichever is less.	(5)(c) added, (see WAC 388-290-0190 (2) (3) for exceptions).
388-296-0120	(5) You are caring for children outside your licensed allowable age range and you do not have a waiver for that purpose.	(5) You receive payment for caring for children outside your licensed allowable age range and you do not have a waiver for that purpose.
388-296-0125	Family home child cares must comply with any city and county ordinances and codes for their locality and meet the minimum construction...	Family home child care businesses must comply with any city and county ordinances and codes for their locality and meet the minimum construction...
388-296-0140	What personal characteristics does an individual need to provide care to children?  (1) We are looking for specific personal characteristics if you want a:	What personal characteristics does an individual need to provide care to children?  (1) An individual must have specific personal characteristics to have a:
388-296-0150	(2) If any evaluations we require has a cost you are responsible to pay for  (3) You must sign a release of information prior to having the evaluation, to allow us to speak to the person doing the evaluation.  (4) If you refuse to follow any of these rules, we may deny the application or revoke the license.	(2) If any evaluation we require has a cost, the individual required to have the evaluation is responsible to pay for it.  (3) The individual completing the evaluation must sign a release of information prior to having the evaluation, to allow us to communicate with the person doing the evaluation.  (4) If the individual refuses to follow any of these rules, we may deny the application or revoke the license.
388-296-0160	(b) Complete and submit a signed application form, to DCCCEL, including the following attachments:  (a) Documentation of current infant, child and adult CPR and standard first aid training for you and any primary staff, assistant or volunteer will be counted in staff/child ratios:	(b) Complete and submit a signed application form, DSHS 10-204 to DCCCEL, including the following attachments:  (a) Documentation of current infant, child and adult CPR and standard first aid training for you and any staff or volunteer who will be counted in staff/child ratios:

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	(ii) A copy of your social security card or verification of your employer identification number (EIN);	(ii) A photocopy of your social security card that is valid for employment or verification of your employer identification number (EIN);
388-296-0160	<p>(a) Written proof of current infant/child/and adult CPR and standard first aid training for you and any primary staff, assistant or volunteer who will care for children;</p> <p>(b) Documentation of a current TB exam by the Mantoux method for you, any primary staff, assistants, volunteers and members of the household ...</p> <p>A copy of your policies and procedures that you give to parents; and</p> <p>(f) Any additional reports or information regarding you, any staff, assistants, volunteers, members of your household or any other person having access to the child in care if your licensor requests it.</p>	<p>(a) Documentation of current infant, child and adult CPR and standard first aid training for you and any primary staff, assistant or volunteer who will be counted in staff/child ratios;</p> <p>(b) Documentation of a negative Mantoux tuberculin (TB) test in the twelve months prior to starting work for you, staff, volunteers and members of the household sixteen years or older;</p> <p>A copy of your policies and procedures you give to parents; and</p> <p>(f) Any additional reports or information pertaining to your ability to follow the WACs regarding you, staff, volunteers, members of your household or any other person having access to the child in care if your licensor requests it.</p>
388-296-0170	You must submit to the Financial Services Administration a nonrefundable yearly license fee of twenty-four dollars, in the form of a check or money order. The license fee may be paid for one, two or three years.	You must pay the Financial Services Administration a non-refundable license fee of twenty-four dollars. This must be in the form of a check or money order. You must pay the license fee each year before or on your anniversary date.
388-296-0180	Am I required to go through a criminal history background check?	Am I required to have a criminal history background check?

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	<p>(1)(a) You must submit this form to the BCCU for the employee and volunteer, within seven calendar days of the staff's or volunteer's first day of employment, permitting a criminal and background history check.</p> <p>(c) Primary staff.</p> <p>(d) Assistants and volunteers (fourteen years and older).</p> <p>(2) When you plan to have new primary workers, assistants or volunteers, you must require each person to complete and submit to you by the date of hire a criminal history and background check form:</p> <p>(a) You must submit this form to the BCCU for the employee and volunteer, within seven calendar days of the staff's or volunteer's first day of employment, permitting a criminal and background history check.</p>	<p>(1)(a) You must submit this form to the BCCU for the employee and volunteer, within seven calendar days of the employee's or volunteer's first day of work, permitting a criminal and background history check.</p> <p>(c) Staff;</p> <p>(d) Volunteers;</p> <p>(2) When you plan to have new staff, or volunteers, you must require each person to complete and submit to you by the date of hire a criminal history and background check form:</p> <p>(a) You must submit this form to the BCCU for the employee and volunteer, within seven calendar days of the employee's or volunteer's first day of work, permitting a criminal and background history check.</p>
388-296-0190	(1) Compare the background information with convictions posted on the DSHS secretary's list of disqualifying convictions for economic services administration (ESA).	(1) Compare the background information with convictions/actions posted on the DSHS secretary's list of disqualifying convictions/actions for Economic Services Administration (ESA).
WACs related to criminal history background clearances have been restructured for clarity at the request of the Board of Appeals. Changes for clarity can be found in WAC 388-296-0190, 388-296-0195, 388-296-0200, 388-296-0205, and 388-296-0210.	(4) Conduct a character, competence and suitability assessment of you, your family members, assistants or any one else living at the same address as you if an individual is not automatically disqualified by a conviction record, pending charges and/or a dependency record.	(3) Conduct a character, competence and suitability assessment of you, your family members, staff, volunteer or any one else living at the same address as you if an individual is not automatically disqualified by a conviction record, pending charges and/or findings of abuse, neglect, exploitation or abandonment of a child or vulnerable adult.

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WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	(5) Deny or revoke your license if the background information disqualifies you, a family member, or any person living at the same address as you.	Subsection (5) was deleted from 388-296-0190.
388-296-0195	WAC 388-296-0190	<p>When will I be disqualified from providing licensed child care?</p> <p>(1) If you have background containing any of the convictions/actions posted on the DSHS secretary's list of permanently disqualifying convictions/actions for ESA, you are permanently disqualified from providing licensed child care.</p> <p>(2) If you have a background containing any of the convictions posted on the DSHS secretary's list of non-permanent disqualifying convictions for ESA, you are disqualified from providing licensed child care for five years after the conviction date.</p> <p>(3) You can be disqualified from providing licensed child care if you have a background containing information other than conviction information that we determine:</p> <p>(a) Makes you not of suitable character and competence or of sufficient physical or mental health to meet the needs of the child in care; or</p> <p>(b) Puts the household at risk for harm.</p> <p>This takes the place of subsection (5) that was deleted from WAC 388-296-0190.</p>

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
388-296-0200	WAC 388-296-0200 What convictions permanently disqualify me from providing licensed child care? If you have a background containing any of the convictions posted on the DSHS secretary's list of permanently disqualifying convictions for ESA, you are permanently disqualified as a child care provider for DCCEL.	WAC 388-296-0200 Will my license be denied or revoked if I have been disqualified from providing licensed child care? Your license will be denied or revoked if you are disqualified from providing licensed child care.
388-296-0205	WAC 388-296-0190	<p>WAC 388-296-0205 When will my family members, staff, volunteer, and other people who live at the same address as me be disqualified from having access to children in a family home child care?</p> <p>(1) If a family member, staff person, volunteer, or other person living at the same address as you has a background containing any of the convictions/actions posted on the DSHS secretary's list permanently disqualifying convictions/actions for ESA, they are permanently disqualified from having access to children in a family home child care.</p> <p>(2) If a family member, staff person, volunteer or other person living at the same address as you has a background containing any of the convictions/actions posted on the DSHS secretary's list of non-permanent disqualifying convictions/actions for ESA, they are disqualified from having access to children in a family home child care for five years after the conviction date.</p>

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WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
		<p>(3) A family member staff person, volunteer, or other person living at the same address as you can be disqualified from having access to children in a family home child care if they have a background containing information other than conviction information that we determine:</p> <p>(a) Makes the individual not of suitable character and competence or of sufficient physical or mental health to meet the needs of the child in care, provided that the individual is responsible for the care of children; or</p> <p>(b) Puts the household at risk for harm;</p> <p>(4) The department notifies a staff person if they have been disqualified from having access to children in a family home child care. The disqualified staff person has a right to a hearing to contest the department's disqualification action pursuant to WAC 388-06-0240.</p>
388-296-0210	WAC 388-296-0210 Is there other background information or convictions that will disqualify me from providing licensed child care?	<p><u>WAC 388-296-0210</u>  <u>What are my responsibilities if I am notified that a family member, staff person, volunteer, or anyone else living at the same address as me has been disqualified? If we inform you that a family member, staff person, volunteer, or anyone else living at the same address as you has been disqualified, you must ensure that the disqualified person does not have access to children in the licensed facility.</u></p>

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	<p>(1) You can be disqualified if you, your family member, or any other person living at the same address as you has a background containing information other than conviction information that we determine:</p> <p>(a) Makes the individual not of suitable character and competence or of sufficient physical or mental health to meet the needs of the child in care; or</p> <p>(b) Puts the household at risk for harm.</p> <p>(2) If an individual being checked has a background containing any conviction posted on the DSHS secretary's list of nonpermanent disqualifying convictions for ESA, you are disqualified for five years after the conviction date.</p>	
388-296-0215	<p>WAC 388-296-0210 Is there other background information or convictions that will disqualify me from providing licensed child care?</p> <p>(1) You can be disqualified if you, your family member, or any other person living at the same address as you has a background containing information other than conviction information that we determine:</p> <p>(a) Makes the individual not of suitable character and competence or of sufficient physical or mental health to meet the needs of the child in care; or</p> <p>(b) Puts the household at risk for harm.</p>	<p>WAC 388-296-0215 Will my license be denied, suspended, or revoked if a family member, or someone else living at the same address as me has been disqualified from having unsupervised access to children? Your license will be denied or revoked if your family member or any other person who is living at the same address as you has been disqualified from having unsupervised access to children.</p>

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WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	(2) If an individual being checked has a background containing any conviction posted on the DSHS secretary's list of nonpermanent disqualifying convictions for ESA, you are disqualified for five years after the conviction date.	
388-296-0220	Must I keep the results of the background checks on family members and staff? You must keep for a period of three years, a file of all background check results for you, your family, primary staff, assistants, volunteers and any other persons required to have a background check.	Must I keep the results of the background checks on family members, staff and volunteers? You must keep for a period of three years, all background check results for you, your family, staff, volunteers and any other persons required to have a background check.
388-296-0230	<p>(1) You and all of your staff who care for children must have the following current CPR and first aid training. CPR and first aid training must be in accordance with a nationally recognized standard for:</p> <p>(a) Infant, child and adult CPR; and (b) Basic standard first aid.</p> <p>(2) You must keep records in the licensed space of the home at all times, showing who has completed current CPR and first aid training. This includes copies of the certificate of completion for the training for each person responsible for the care of children.</p>	<p>(1) You and any staff or volunteer who is counted in staff/child ratios must have the following current CPR and first aid training. CPR and first aid training must be in accordance with a nationally recognized standard for:</p> <p>(a) Infant, child and adult CPR; and (b) Basic standard first aid.</p> <p>(2) You must keep records on the premises and available to the department on request, showing who has completed current CPR and first aid training. This includes copies of the certificate of completion for the training for each person responsible for the care of children.</p>
388-296-0240	<p>You must:</p> <p>(1) Arrange for training for yourself and all staff and volunteers who are responsible for the care of children on the prevention and transmission of HIV/AIDS (human immunodeficiency virus/acquired immunodeficiency syndrome).</p>	<p>(1) You, your staff and volunteers who are responsible for the care of children must complete training on the prevention and transmission of HIV/AIDS (human immunodeficiency virus/acquired immunodeficiency syndrome).</p>

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
388-296-0250	(2) If you don't meet this deadline and have not contacted your licensor, your licensor considers your application withdrawn.	(2) If you don't meet this deadline and have not contacted your licensor, we consider your application withdrawn.
388-296-0270	<p>(1) If you move, and have an acceptable history of child care, and plan to continue to operate your family home child care business you must submit an application with all supporting documentation for the new address, before you move.</p> <p>(2) You are allowed to operate for up to two weeks at your new location if you have submitted an application for that address. If we are unable to issue a new license to you within the two-week period, you must stop operating the child care business until you become licensed at the new address.</p> <p>(3) If you move and do not tell us, your license becomes invalid the date of your move.</p>	<p>(1) If you move, have an acceptable history of child care, and plan to continue to operate your family home child care business you must submit an application with all supporting documentation for the new address, before you move.</p> <p>(2) If you have submitted an application for the new address prior to moving, we allow you to operate at your new address for up to two weeks. If you are unable to meet the health and safety requirements at your new address within the two-week period, you must stop operating the child care business until you become licensed at the new address (per RCW 74.15.100).</p> <p>(3) If you move and do not tell us, your license becomes invalid on the date of your move.</p>
388-296-0280	May a family home child care have more than one type of license?	May a family home child care have more than one type of license to provide care to children?
388-296-0290	(2) You or a qualified staff person must be awake when children are dropped off and picked up at your home.	(2) If you provide nighttime care you or a qualified primary staff person must be awake when children are dropped off and picked up at your home.
	(4)(d) Separate dressing and sleeping areas for boys and girls ages four years and older and demonstrating a need for privacy;	(4)(d) Separate dressing and sleeping areas for boys and girls ages four years and older and for other children demonstrating a need for privacy;
388-296-0310	We inspect family home child cares to ensure that conditions in the home do not pose a safety risk to young children.	Because we are making significant changes to the proposed rule we are filing a supplemental CR-102.

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	(1) We inspect the areas of your home that children will have access to: (a) All unlicensed space must be made inaccessible to children in care; and (b) Any area that is found to be accessible to children must be considered licensed space and becomes immediately subject to licensing requirements and inspection. (2) We may inspect specific areas that are unlicensed when: (a) We receive a complaint related to that area; or (b) We have reason to believe that conditions exist that place children at risk of harm.	
388-296-0320	How many children may I serve? (1) We approve up to ...  (c) Your education and licensed child care experience and the skills of your staff, assistants and volunteers:	How many children may I care for? (1) We may license you to care for ...  (c) Your education and licensed child care experience and the skills of your staff, and volunteers.
388-296-0330	Is there more than one type of license? We issue three types of licenses:  (1) Initial (see WAC 388-296-0340); (2) Full (see WAC 388-296-0350); and (3) Probationary (see WAC 388-286-0440).	Is there more than one category of license? We issue three types of licenses:  (1) Initial (see WAC 388-296-0340); (2) Full (see WAC 388-296-0350); and (3) Probationary (see WAC 388-296-0440).
388-296-0340	(vi) Other rules requiring us to observe your ability to comply with rules.	This language has been deleted.
388-296-0350	(1) We may issue a full license to you if you can demonstrate compliance with all rules contained in this chapter at any time that you have an initial license.	(1) We may issue a full license to you when you can demonstrate compliance with all rules contained in this chapter at any time that you have an initial license.
388-296-0360	(d) The maximum financial penalty (civil fine) that you must pay if you do not achieve compliance by the required date.	(1)(d) The maximum financial penalty (civil fine) that you must pay if you do not comply with the rules by the required date.
388-296-0370	Language not included.	(c) Comply with the agreement.
388-296-0390	What does the department base a civil penalty on?	What does the department base a fine on?

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
388-296-0410	If we assess a fine to you after an adjudicated hearing and you fail to pay the fine within ten days after we assess it, we may suspend, revoke or not renew your license.	If you fail to pay a fine within ten days after the fine assessment becomes final we may suspend, revoke or not renew your license.
388-296-0430	(7) Your right to an adjudicative proceeding if we assess a monetary penalty;	(7) Your right to an adjudicated proceeding if we assess a monetary penalty; and
388-296-0450	(1) When you demonstrate that you cannot provide the required care for children in a way that ensures their safety, health and well-being we must deny, suspend or revoke your license  (e) Try to get a license deceitfully, such as making false statements or leaving out important information on the application;  (n) Repeatedly fail to comply with the licensing requirements set forth in this chapter or any provision of chapter 74.15 RCW.	(1) When you demonstrate that you cannot provide the required care for children in a way that promotes their safety, health and well-being we must deny, suspend or revoke your license.  (e) Try to get or keep a license by deceitful means, such as making false statements or leaving out important information on the application;  (n) deleted
388-296-0460	(2) We may also suspend or revoke your license if you fail to comply with any of our other licensing requirements.	<u>(2) Repeatedly fail to comply with the licensing requirements set forth in this chapter or any provision of chapter 74.15 RCW.</u>
388-296-0470	(1) We send you a certified letter informing you of any decision to deny, suspend or revoke your license.	(1) We send you a certified letter and/or personally deliver a letter informing you of any decision to deny, suspend or revoke your license.
388-296-0480	(2) Your right to appeal and the procedures for that process are outlined in RCW 43.20A.205 and 74.14.130, chapter 34.05 RCW and chapter 388-02 WAC.	(2) Your right to appeal and the procedures for that process are outlined in RCW 43.20A.205 and 74.15.130, chapter 34.05 RCW and chapter 388-02 WAC.
388-296-0490	(1) You must develop written procedures for:  (a) Keeping child records current;	What written procedures am I required to establish for my child care business?  (1) You must develop written procedures for:

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WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	<p>(b) Routine communication with parents about their child's activities;</p> <p>(c) Storage of internal and external medications and administration of medications;</p> <p>(d) Expectations of primary workers, assistants and volunteers;</p> <p>(e) Emergency procedures including staffing emergencies, evacuation plans, sick or injured children and medical emergencies;</p> <p>(f) Emergency response plan for disasters;</p> <p>(g) Excluding persons whose presence on the premises is prohibited by the regulations;</p> <p>(h) Off-site activities;</p> <p>(i) Assuring children have an extra set of clean clothes available;</p> <p>(j) Child guidance and discipline (you must state that the use of corporal punishment by anyone is prohibited during your operating hours);</p> <p>(k) Religious activities (if any);</p> <p>(l) Confidentiality;</p> <p>(m) Reporting suspicion of child abuse, child neglect and exploitation;</p> <p>(n) Parents right to have free access to the licensed space on your premises during your hours of operation; and</p> <p>(o) Sign-in and sign-out procedure.</p> <p>(2) You must train your staff and have available to them the program's philosophy and all written procedures listed in subsection (1) of this section.</p> <p>(3) You must review all written policies and procedures and revise them when they no longer describe your current practice.</p>	<p>(a) Keeping child records current;</p> <p>(b) Routine communication with parents about their child's activities;</p> <p>(c) Expectations of primary staff, assistants and volunteers;</p> <p>(d) Emergency procedures including staffing emergencies, evacuation plans, sick or injured children and medical emergencies;</p> <p>(e) Off-site activities;</p> <p>(f) Confidentiality; and</p> <p>(g) All other policies and procedures that you will follow in your child care business.</p>

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
388-296-0510	(1) A completed child's admission form that is signed and dated by the parent;	(1) A completed child's enrollment form that is signed and dated by the parent;
388-296-0520	<p>A child's presence in the child care must be documented, on a daily basis, by the child's parent or guardian or an authorized person by using the sign-in and sign-out procedure for each child in attendance. The parent, guardian or authorized person must use their full signature when signing the child in and out of the child care. Daily attendance records, listing the dates and hours of attendance of each child must be maintained in the licensed space of the family home child care and kept up-to-date for five years.</p> <p>(3) Daily attendance records, listing the dates and hours of attendance of each child must be maintained in the licensed space of the family home child care and kept up-to-date for five years.</p> <p>(6) You must maintain all records and reports required by these regulations in an up-to-date manner at the facility. The records and reports are subject to inspection and you must surrender the records to us if we request them.</p>	<p>(2) When the school age child arrives at or leaves the child care home due to school or off-site activities as authorized by the parent, you or your staff must sign out the child, and sign in the child on return to the home.</p> <p>(3) Daily attendance records, listing the dates and hours of attendance of each child must be kept up-to-date and maintained in the licensed space of the family home child care for five years.</p> <p>(8) You must maintain all records and reports required by these regulations in an up-to-date manner at the facility. The records and reports are subject to inspection and you must allow us access to them at the time we request them.</p>
388-296-0550	(2)(a) The number and qualifications of the home's staff that may affect the ability to carry out the specified activities and routines of the family home child care or meet the requirements of the WAC, such as a change in a persons criminal history	(2)(a) The number and qualifications of you, your staff and volunteers that may affect the ability to carry out the specified activities and routines of the family home child care or meet the requirements of the WAC, such as a change in a person's criminal history;



WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
388-296-0560	<p>(2) If a portion of the home is used for purposes other than a dwelling, such as a garage, automotive repair shop, cabinet or furniture making or refinishing or similar use, a firewall is required between the dwelling and the other use.</p> <p>(6) You must ensure that any floor located more than four feet above grade level is not occupied by children for family home child care purposes except for the use of toilet facilities while under supervision of a staff person.</p>	<p>(2) If a portion of the home is used for purposes that could pose a hazard, such as an automotive repair shop, cabinet or furniture making or refinishing or similar use, a firewall is required between the dwelling and the other use.</p> <p>(6) Except as permitted in subsection (7) below, you must ensure that any floor located more than four feet above grade level is not occupied by children for family home child care purposes except for the use of toilet facilities while under supervision of a staff person.</p>
388-296-0610	<p>(5) You must not leave on open-flame devices capable of igniting clothing, or leave them unattended or allowed to be used in a way that could result in an accidental ignition of children's clothing. You must not use candles.</p> <p>(8) You must not use portable space heaters of any kind.</p> <p>(10) If you have fireplaces, woodstoves or similar devices, the local building official must approve them and any connections. If the woodstove is used as a sole source of heat or is used during hours of operation, it must be cleaned, maintained and inspected on at least an annual basis by a person or firm specializing in and licensed for that type of work. Where open flames or hot surfaces are accessible, you must erect approved barriers to prevent children from coming in contact with the open flames or hot surfaces.</p>	<p>(5) You must not leave on open-flame devices capable of igniting clothing, or leave them unattended or allowed to be used in a way that could result in an accidental ignition of children's clothing. You must not use, or allow the use of candles during operating hours.</p> <p>(8) You must not use portable space heaters of any kind in any area of the child care home or building during child care hours.</p> <p>(10) If you have fireplaces, woodstoves or similar devices, the local building official must approve them and any connections. Where open flames or hot surfaces are accessible, you must erect approved barriers to prevent children from coming in contact with the open flames or hot surfaces.</p>

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
388-296-0650	<p>You and each primary worker or assistant must be familiar with all elements of the fire evacuation plan and capable of:</p> <p>(3) Conducting frequent inspections of the home to identify fire hazards and take action to correct any hazards discovered during the inspection. The inspections should be conducted on a monthly basis and records kept in the licensed areas of your home for review by the licensor.</p>	<p>You and each staff person and volunteer must be familiar with all elements of the fire evacuation plan and capable of:</p> <p>(3) Conducting frequent inspections of the home to identify fire hazards and take action to correct any hazards discovered during the inspection.</p>
388-296-0720	<p>What are the physical structure safety requirements for a family home child care? You must keep the equipment and the physical structures</p> <p>(14) Securely anchor to the ground climbing equipment and swings, and space them to allow for a six-foot fall zone. The play area must be arranged so children playing on one piece of equipment do not interfere with children playing on another piece of equipment;</p> <p>(7) Have washable, water-resistant floors in your bathrooms, kitchens, and any other rooms exposed to moisture;</p> <p>(8) Provide non-removable electrical outlet covers to all outlets accessible to children if you care for children five years and younger or other persons with limited mental capacity or who might be endangered by access to them;</p>	<p>What are the physical structure and equipment safety requirements for a family home child care? You must keep the physical structures and equipment</p> <p>(7) Have washable, water-resistant floors in your bathrooms, kitchens, and any other rooms exposed to moisture; (This applies to anyone newly licensed on or after the date this rule takes effect)</p> <p>(8) Provide non-removable electrical outlet covers to all outlets accessible to children if you care for children five years and younger or other persons with limited mental capacity or who might be endangered by access to electrical outlets;</p> <p>(14) Securely anchor to the ground climbing equipment and swings that have provisions for anchors. The play area must be arranged so children playing on one piece of equipment do not interfere with children playing on another piece of equipment.</p>

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WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	(14) Securely anchor to the ground climbing equipment and swings, and space them to allow for a six-foot fall zone.	
388-296-0740	(2) Your address must be clearly visible on your house or mailbox so that firefighters or medics can easily find your home location.	(2) Your address must be clearly visible on your house or mailbox.
388-296-0750	<p>(3) You or a qualified primary worker must directly supervise all children in your care when they have access to wading pools, swimming pools and other bodies of water that are in your licensed space.</p> <p>(5) You must place a five-foot fence, designed to discourage climbing, and have a locked gate around a pool of water. This includes swimming pools that are above or below ground level and ornamental pools. Bodies of water hazardous to young children must be inaccessible to children when you or a primary worker are not providing direct supervision during your operating hours.</p> <p>(6) A certified lifeguard must be on duty when children are using a public or private (other than your own) swimming pool, lake, river, pond, or beach.</p>	<p>(3) You or a qualified primary staff person must directly supervise all children in your care when they have access to wading pools, swimming pools and other bodies of water that are in your licensed space.</p> <p>(5) You must place a five-foot fence, designed to discourage climbing, and have a locked gate around a pool of water. This includes swimming pools that are above or below ground level and ornamental pools. Bodies of water hazardous to young children must be inaccessible to children when you, or a primary staff person are not providing direct supervision during your operating hours.</p> <p>(6) A certified lifeguard must be on duty when children are using a public or private (other than your own) swimming pool, lake, river, pond, ocean or any other body of water used for swimming.</p>
388-296-0770	(1) All pets, whether kept indoors or outside, must be in good health, show no evidence of disease and be nonaggressive.	(1) All pets that have access to children, whether kept indoors or outside, must be in good health, show no evidence of disease and be nonaggressive.
388-296-0810	(2) Store external medications separately from internal medications;	(2) Store external medications separately from internal medications for the child in care;

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
388-296-0850	(1)(a) Ensure the child has a completed, current, certificate of immunization status form (CIS) submitted and on file before the first day of child care;	(1)(a) Ensure the child has a completed, current, certificate of immunization status form (CIS) submitted on or before the first day of child care;
388-296-0860	<p>(2) Staff with a reportable communicable disease in an infectious stage, as defined by the department of health, must not be on duty until they have approval from the local health department for returning to work.</p> <p>(3) Applicants for a license, all staff and persons sixteen years and older authorized to have access to children in a family home child care must have a tuberculin (TB) skin test by the Mantoux method of testing. They must have this skin test upon being employed or licensed unless the person has evidence:</p>	<p>(2) You, your staff and volunteers with a reportable communicable disease in an infectious stage, as defined by the department of health, must not be on duty until you, your staff and volunteers have approval from the local health department for returning to work.</p> <p>(3) Applicants for a license, staff, volunteers and persons sixteen years and older authorized to have access to children in a family home child care must have a tuberculin (TB) skin test by the Mantoux method of testing. They must have this skin test upon being employed or licensed unless the person has evidence:</p>
388-296-0870	<p>Only you or another authorized, primary worker may perform the functions described in this section.</p> <p>(3) You must not use any non-prescribed medication for the purpose of sedating a child;</p> <p>(4) You must not use medication in an amount or frequency other than that prescribed by a physician or psychiatrist;</p> <p>(6) You must not use medication to control a child's behavior unless a physician prescribes the medication for management of the child's behavior.</p>	<p>Only you or another, primary staff person may perform the functions described in this section.</p> <p>(3) You must not administer any non-prescribed medication for the purpose of sedating a child;</p> <p>(4) You must not administer any prescribed medication in an amount or frequency other than that prescribed by a physician, psychiatrist or dentist;</p> <p>(6) You must not use any prescribed medication to control a child's behavior unless a physician prescribes the medication for management of the child's behavior.</p>

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
388-296-0880	(4)(c) How to store medications (proper temperature).	(4)(c) How to store the medications (proper temperature).
388-296-0900	The meals and snacks you prepare and serve must meet the requirements of the U.S. Department of Agriculture child and adult food program (the USDA program),	The meals and snacks you prepare and serve must meet the requirements of the U.S. Department of Agriculture child and adult food program,
388-296-0910	(a) Two or more snacks and one meal; and  (7) The child in evening care must be offered breakfast in the morning.	(1)(a) Two or more snacks and one meal; or  (7) The child in overnight care must be offered breakfast in the morning if the child remains in the home after the child's usual breakfast time.
388-296-0920	(3)(a) You must accommodate any food preferences for personal, religious or medical reasons.  (6)(b) Plastic eating utensils if they are not easily broken by young children and are discarded after use.  (8) When deciding how often and how much food to serve a child you must consider the: (9) Child's age and developmental level; (10) Child's special needs; and (11) Hours of care on the premises.	(3)(a) You must accommodate any food preferences for religious or medical reasons.  (6)(b) Disposable plastic eating utensils if they are not easily broken by young children and are discarded after use.  (8) Language has been deleted.
388-296-0940	(2) Serve whole pasteurized milk to children twelve to twenty-four months of age;  (3) Serve low fat or nonfat pasteurized milk to children over twenty-four months of age.	(2) Serve whole pasteurized milk or breast milk to children twelve to twenty-four months of age;  (3) <u>Serve only pasteurized milk or pasteurized milk product to children over twenty-four months of age.</u>
388-296-0960	What requirements must I meet for feeding babies? You must meet the following requirements for feeding babies:  (2) If the bottle has been sitting at room temperature for an hour or more, you must throw away the contents of any bottle not fully consumed.	What requirements must I meet for feeding infants? You must meet the following requirements for feeding infants  (2) If the bottle has been sitting at room temperature for an hour or more, you must throw away the contents.

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	(3) You must keep bottle nipples covered when not in use to reduce the risk of cross-contamination.  (6) Infants who are nine months of age or over, and wanting to hold their own bottles may be placed in a highchair if you, or a primary worker remain in the room, within eyesight.  (9) You must not give a bottle or tippy cup to a prone child.  (10) To prevent uneven heating, you must not use a microwave oven to warm formula or breast milk in a bottle used for feeding.	(3) You must keep bottle nipples covered when not in use.  (6) Infants who are nine months of age or over, who want to hold their own bottles may be placed in a highchair if you, or a primary staff person remain in the room, within eyesight.  (9) You must not give a bottle or tippy cup to a child who is lying down.  (10) You must not use a microwave oven to warm formula or breast milk in a bottle used for feeding.
388-296-0970	(1) You must provide rooms that are the required size, and furnishings that are developmentally appropriate to the ages and number of children being served;  (2) Its size and location must provide thirty-five square feet of useable play space per child for the number of children using it to actively engage in recreational and informal educational activities;  (3) You must provide accessible storage space for each child in care to store their clothes and personal possessions; and	(1) You must use rooms that are the required size, and furnishings that are developmentally appropriate to the ages and number of children being served to actively engage in recreational and informal educational activities; Subsection (2) has been deleted.  (3) You must have the required amount of space to store your equipment, supplies, records, files, cots, mats and bedding.
388-296-0980	(1)(a) A minimum of 60° F when children are sleeping or napping; and  (2) Utilize electrical fans or an air conditioner to cool the house when the inside temperature reaches or exceeds 80° F.  (3) Not use space heaters in your home during your operating hours.	(1)(a) A minimum of sixty degrees Fahrenheit when children are sleeping or napping;  (2) Utilize electrical fans or an air conditioner to cool the house when the inside temperature reaches or exceeds eighty degrees Fahrenheit.  (3) Deleted

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WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
388-296-0990	(2) Food contact surfaces must be free of cracks and crevices. Cracks on any surface can hold germs. (3) Range tops, ovens and refrigerators must be clean.	(2) Food contact surfaces must be free of cracks and crevices. (3) Range tops, ovens and refrigerators must be kept clean.
388-296-1000	The best way to wash, rinse and sanitize dishes and eating utensils is to use a dishwasher. If a dishwasher is not available, you must use a combination of sink compartments or dishpans made of plastic or other nonporous material with the "three compartment method," which is:	You must use a dishwasher or the "three compartment method" which is a combination of sink compartments or dishpans made of plastic or other nonporous material:
388-296-1020	(1) The space you provide meets the required thirty-five square feet of useable play space for the number of children in care; and  (2) The room's usage, for one purpose does not interfere with usage of the room for another purpose.	(1) The space you provide meets the required thirty-five square feet of useable space for the number of children in care; and  (2) The room's use for one purpose does not interfere with use of the room for another purpose.
388-296-1030	(1) You or a primary staff must be on the same floor where children are playing, napping or sleeping in bedrooms (to meet the supervision requirement); and (2) Bedrooms must have at least one exit window that meets the fire safety requirements for an escape window that opens to the outside.	(1) You or a primary staff person must be on the same floor where children are playing, napping or sleeping in bedrooms; and (2) Bedrooms must have at least one exit window that meets the fire safety requirements for an escape window.
388-296-1050	(1) You must provide a child under two years with a single-level crib (you must not use stacking cribs),  (5) Infants must not sleep in car seats, swings or other similar type equipment.	What are the requirements for the use of cribs? (1) You must provide a child under two years with a single-level crib, (5) Children must not sleep in car seats, swings or other similar equipment.
388-296-1060	What additional sleeping arrangements must I make to reduce the risk of sudden infant death syndrome (SIDS)	What sleeping arrangements must I make to reduce the risk of sudden infant death syndrome (SIDS)

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	(3) Once infants are able to turn over, continue to place them on their back to sleep. You do not need to wake the infants to return them to their back while sleeping;	(2) Once infants are able to turn over, continue to place them on their back to sleep. If the infant has turned over while sleeping you do not need to return the infant to his or her back. (2) [(3)] Place the infant inside the crib, infant bed or playpen on a firm mattress with a tight fitting sheet; (5) You must make sure that the infant's head and face remain uncovered during sleep;
	(5) You must make sure that the baby's head and face remain uncovered during sleep;	(5) You must make sure that the infant's head and face remain uncovered during sleep;
	(6) You must not allow smoking around the baby; and (7) You must not let the baby get too warm during sleep.	(6) You must not allow smoking around the infant; and (7) You must not let the infant get too warm during sleep.
388-296-1070	(2) For each child in care who is two years and older, you must provide a pillow and pillowcase, blankets, and sheets.  (5) If the child using the mattress is not potty trained, you must provide waterproof mattress covers or moisture resistant mattresses.	(2) For each child in care who is two years and older, you must provide a pillow and pillowcase, blankets, and sheets. A slumber bag, designed for indoor use can substitute for a blanket and sheet. (5) If the child using the mattress is not toilet trained, you must provide waterproof mattress covers or moisture resistant mattresses.
388-296-1100	When bathing children, you and your staff must:	When bathing children, you or a primary staff person must:
388-296-1110	(6) You must provide a current phone number, at all times, to the parents or guardians of the children in your care and your licensor.	(6) You must provide your current phone number, at all times, to the parents or guardians of the children in your care and your licensor.
388-296-1120	(1) Locate light fixtures and provide lighting that promotes good visibility for the safety and comfort of children under your care; and	(1) Locate light fixtures and provide lighting that promotes good visibility for the safety and comfort of children in your care; and

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	(2) Have non-hazardous light fixture covers or shatter resistant (or otherwise made safe) light bulbs or tubes for ceiling lights in the play space.	(2) Use non-hazardous light fixture covers or shatter resistant (or otherwise made safe) light bulbs or tubes for ceiling lights in the play space.
388-296-1130	(2) An operational mechanical exhaust fan to the outside must ventilate toilets and bathrooms that do not have windows opening to the outside.	(2) An operational mechanical exhaust fan to the outside must ventilate toilet rooms and bathrooms that do not have windows opening to the outside.
388-296-1160	(4) Ensure that laundry equipment is vented to the outdoors.	(4) Ensure that the clothes dryer is vented to the outdoors.
388-296-1170	What are the requirements for washing clothes? You must use an effective way to clean laundry contaminated with urine, feces, lice, scabies, or other potentially infectious materials at your family home child care.	What are the requirements for washing laundry used in child care? You must use an effective way to clean laundry contaminated with urine, feces, lice, scabies, or other potentially infectious materials.
388-296-1180	(1) The water must be kept at a temperature range of not less than 85°F and not more than one hundred and 20°F.	(1) The water must be kept at a temperature range of not less than eighty-five degrees Fahrenheit and not more than one-hundred-twenty degrees Fahrenheit.
388-296-1190	(3) A mounted toilet paper dispenser for each toilet.	(3) A mounted toilet paper dispenser and toilet paper for each toilet
388-296-1220	(3) Any fence or enclosure must be four feet high and designed to discourage climbing (chain link fencing is acceptable).  (9) You must provide a fall zone of a minimum of six feet in all directions from stationary climbing equipment.	(3) Any fence or enclosure must be at least four feet high and designed to discourage climbing (chain link fencing is acceptable).  (9) You must provide a fall zone of a minimum of six feet in all directions from stationary climbing equipment. The fall zone must be free of objects that could harm a falling child on impact.
388-296-1250	(a) Staff-to-child ratio guidelines require a second staff person;	(b) Staff-to-child ratio guidelines require a second staff person (see WAC 388-296-1350(3));

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	(3) The driver or owner of the vehicle must be covered under an automobile liability and insurance policy;  (7) You must have a first aid kit and the child's records in the vehicle; and  (8) You must perform an attendance count of children when getting in and out of the vehicle to prevent accidentally leaving a child in the car.	(4) The driver or owner of the vehicle must be covered under an automobile liability insurance policy;  (7) You must have a first aid kit and a copy of the child's completed enrollment form in the vehicle; and  (8) You must perform an attendance count of children when getting in and out of the vehicle to prevent accidentally leaving a child in the vehicle.
388-296-1270	(1) You must follow all state and federal laws regarding nondiscrimination under chapter 49.60 RCW, regarding nondiscrimination in employment practices and client services.  (2) You must prohibit discrimination because of: (a) Race; (b) Creed; (c) Color; (d) National origin; (e) Gender; (f) Family structure; (g) Sexual orientation; (h) Marital status; (i) Age; or (j) The presence of any sensory, mental, or physical disability or use of a trained guide dog or service animal by a disabled person.	Language has been deleted.
388-296-1280	(2) This responsibility may not be delegated to a person under the age of eighteen years.	(2) This responsibility may only be delegated to a primary staff person.
388-296-1290	(1) You, your staff, volunteer, anyone residing in your home, or parents must not use any form of inappropriate discipline or corporal punishment such as, but not limited to:	(1) You, your staff, volunteer, anyone residing in your home or on the premises, or parents must not use any form of inappropriate discipline or corporal punishment such as, but not limited to

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WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	(2) You must not use methods that interfere with a child's basic needs. These include, but are not limited to:	(2) You, your staff, volunteer, anyone residing in your home or on the premises, must not use methods that interfere with a child's basic needs.
388-296-1320	You must not use:	You, your staff, volunteer, anyone residing in your home or on the premises must not use:
388-296-1330	(c) Review any incident with the staff that used physical restraint to ensure that the decision to use physical restraint and its application were appropriate (4) Obtain consultation from the licensor and public health nurse so that further use of restraint is eliminated.	(d) Review any incident of physical restraint to ensure that the decision to use physical restraint and its application were appropriate; (4) Obtain consultation from the licensor and public health nurse so that further use of restraint may be eliminated.
388-296-1340	(c) Any violations of the licensing or certification requirements (k) Serious property damage that is a safety hazard and is not immediately corrected (1)(j) Any medication that is given incorrectly and requires off-site professional medical treatment; (2)(b) Unexpected health problems that do not require professional medical treatment; (d) Physical assaults, between two children, that resulted in injury;	(1)(c) and (k) have been deleted.  (1)(i) Medication that is given incorrectly  (2)(b) Unexpected health problems;  (d) Physical assaults that resulted in injury;
388-296-1350	(2) All children under the age of twelve visiting the home count in capacity. Children attending with a parent do not count in capacity as long as the parent remains with and is responsible for the children; (not to exceed twelve children)  (3) The required staff to child ratios in the following chart must be met at all times. (d) Licensee with one year of licensed child care experience plus one primary staff person	(2) All children under the age of twelve visiting the home count in capacity. Children attending with a parent or responsible adult do not count in capacity as long as the parent or adult remains with and is responsible for the children;  (3) The required staff to child ratios in the following chart must be met at all times. (d) Licensee with one year of licensed child care experience plus one staff person or volunteer

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	(4) You must ensure an assistant or primary worker is present in the licensed space of the child care facility when:  (5) Our determination of capacity must include all children eleven years of age or younger on the premises.  (6) You must ensure that only you and a primary worker, eighteen years of age or older, has sole responsibility for the child in care.	(f) or volunteer (4) You must ensure a staff person or volunteer is present in the licensed space of the child care facility when:  (5) Our determination of capacity must include all children eleven years of age or younger on the premises. (Except as provided for in the above subsection (2).) (6) You must ensure that only you and/or a primary staff person, eighteen years of age or older, has sole responsibility for the child in care.
388-296-1360	(2) You must be within sight or hearing of the children in your care, both inside and outside, so that you are capable of intervening to protect the health and safety of the children.  (3) Preschool age children and younger must be within sight and hearing of you or a primary worker when outside.  (6) Children must not be on a floor level of the home unless you or a primary worker is on the same floor level. When deciding how close to supervise, you must consider the following	(2) You, or a primary staff person, must be within sight or hearing of the children in your care, both inside and outside, so that you or a primary staff person are capable of intervening to protect the health and safety of the children.  (4) Preschool age children and younger must be within sight and hearing of you or a primary staff person when outside.  (6) Children must not be on a floor level of the home unless you or a primary staff person is on the same floor level.
388-296-1390	You and your staff must  (5) Sit with children during meals	You, your staff and volunteers must  (5) Sit with children during meals when possible

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WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
	(8) Perform nurturing activities including diapering, toileting, feeding, dressing and resting in consideration of the parent's own nurturing practices, when developmentally appropriate and would not constitute a violation of these regulations.	(8) Perform nurturing activities including diapering, toileting, feeding, dressing and resting taking into consideration the parent's own nurturing practices, when the practices are developmentally appropriate and when the practices would not constitute a violation of these regulations.
388-296-1400	(1) You are responsible for the overall management of your family home child care business.  (2) You must ensure your family home child care business complies with the minimum licensing requirements contained in this chapter	(1) You are responsible for the overall management of your family home child care business.  (2) You must ensure your family home child care business complies with the minimum licensing requirements contained in this chapter.
388-296-1410	(1) You, a primary worker, assistant, volunteer, and other person associated with the operation of the home who has access to the child in care must:  (a) Meet the same qualifications in WAC 388-296-0140; and (b) Not have committed or been convicted of child abuse or any crime involving physical harm to another person.  Language not in proposal  Language is not in proposal  (4) You and your staff must meet the following qualifications:  First Aid and CPR X	(1) You, a primary staff person, assistant, volunteer, and other person associated with the operation of the business who has access to the child in care must:  (a) Meet the qualifications in WAC 388-296-0140; (b) Not have committed or been convicted of child abuse or any crime involving physical harm to another person; and (c) Not have been disqualified from working in a licensed child care setting or have had a license revoked. (4) You and your staff must meet the following qualifications: Primary child care staff must—Basic twenty hour training to be completed within the first six months of employment. <u>If counted in staff to child ratio</u>

WAC SECTION	PROPOSED LANGUAGE	PERMANENT LANGUAGE
388-296-1420	(2) You must notify your licensor if you plan to be away from your business more than the majority of the time.  (3) When you are absent from the home you must leave a qualified primary staff person in charge. This person must meet the same qualifications that we require of you.  (4) Language is not in proposal.	(2) You must notify your licensor and obtain advanced approval if you plan to be away from the child care business for more than the majority of the time the child care is in operation.  (3) When you are absent from the child care business you must leave a qualified primary staff person in charge. This person must meet the same qualifications that we require of you.  (4) You may leave a qualified assistant eighteen years or older in charge of the child care business to allow for medical, dental and other necessary appointments for periods not to exceed two hours.
388-296-1440	(5) Keep your CPR and first aid training current;  (7) Keep this information in each employee's file or in a separate training file and be available to DCCCEL upon request.	(5) Ensure that staff and volunteers keep CPR and first aid training current if they are required to have it;  (7) Keep this information in staff files or in a separate training file and make this information available to DCCCEL upon request.
388-296-1450	You, the primary worker, assistant, and volunteer must have on file at the home: (1) An employment application, including work and education history (resume), which you obtained from the employee prior to their date of hire; (6) Documentation of basic and annual STARS training.	You, the primary staff, assistant, and volunteer must have on file at the home (1) An application, including work and education history (resume).  (6) Documentation of basic and annual STARS training when applicable.

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A final cost-benefit analysis is available by contacting Mary Oakden, Program Manager, DCCCEL, P.O. Box 48470, Olympia, WA 98504-8470, phone (360) 725-4692, fax (360) 413-3482, e-mail OakdeMM@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 134, Amended 0, Repealed 70.

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 134, Amended 0, Repealed 70.

Date Adopted: August 25, 2004.

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

## Chapter 388-296 WAC

### CHILD CARE BUSINESS REGULATIONS FOR FAMILY HOME CHILD CARE

#### PURPOSE AND DEFINITIONS

##### NEW SECTION

**WAC 388-296-0010 What is the purpose of this chapter?** This chapter defines general and specific licensing requirements for family home child care. Unless noted otherwise, these requirements apply to people who want to be licensed or relicensed to provide family home-based child care (chapter 74.15 RCW). We issue or deny a license based on your ability to meet and follow the licensing requirements.

We are committed to ensuring that children who receive family home child care experience health, safety, and well-being. We want these children's experiences to benefit them not only in the short term, but also in the long term. Our licensing requirements reflect our commitment to children.

##### NEW SECTION

**WAC 388-296-0020 What definitions do I need to know to understand this chapter?** For the purpose of this chapter:

"**Accessible to children**" means areas of the facility and materials that children can easily get to on their own.

"**Age appropriate**" means the developing stages of growth typical of children within a given age group.

"**American Indian child**" means any unmarried person under the age of eighteen who is:

(1) A member of or eligible for membership in a federally recognized Indian tribe, or who is Eskimo, Aleut or other Alaska Native and a member of an Alaskan native regional Corporation or Alaska Native Village;

(2) Determined or eligible to be found to be Indian by the Secretary of the Interior, including through issuance of a certificate of degree of Indian blood;

(3) Considered to be Indian by a federally recognized Indian tribe; or

(4) A member or entitled to be a member of a Canadian tribe or band, Metis community, or nonstatus Indian community from Canada.

"**Anti-bias**" is an approach that recognizes when others are treated unfairly or oppressively based on race, color, national origin, marital status, sexual orientation, gender, class, religion, creed, disability, or age.

"**Assistant**" means a person fourteen years or older (whether a volunteer or an employee) who assists a licensed home provider in the operation of the family home child care and is not solely responsible for the supervision of children.

"**Capacity**" means the highest number of children you can care for at any time, as written on your license.

"**Character, competence, and suitability assessment**" means a determination of whether an applicant should be allowed access to vulnerable people if that applicant has a conviction record, pending charges and/or findings of abuse, neglect, exploitation or abandonment of a child or vulnerable adult and child protective services(CPS) adverse referral history.

"**Child**" means a person who has not yet reached the age of twelve years.

"**Child care**" means the developmentally appropriate care, protection and supervision of children that is designed to promote positive growth and educational experiences for children outside of their home for periods of less than twenty-four-hours a day.

"**Child abuse and neglect**" means the injury, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child by any person indicating that the child's health, welfare, and safety is harmed.

"**Communicable disease**" means an illness that can be spread from one person to another, in the child care setting, by either direct or indirect contact.

"**Conditions of the license**" means what you must do to keep a license.

"**Confidentiality**" means the protection of personal information, such as the child's records, from persons who are not authorized to see or hear it.

"**Corporal punishment**" means the infliction of pain by any means for the purpose of punishment, correction, discipline, instruction or any other reason.

"**Cultural relevancy**" means an environment in which the learning experiences, play materials and activities are meaningful, inclusive and respectful for the participating children, their families and the community at large.

"**Department**," "**we**," "**us**," or "**our**" refers to and means the state department of social and health services (DSHS), including but not limited to the division of child care and early learning (DCCCEL).

"**Department of health**" means the state department of health.

"**Developmentally appropriate**" means activities and interactions that recognize and address how children learn and what they can do at each stage of development - socially, emotionally, cognitively, and physically.

"**Discipline**" means a process of guiding children to develop internal, positive social behaviors through methods that include consistent use of the following: Modeling appro-



appropriate behavior, positive reinforcement, active listening, limit setting, redirecting and modifying the environment.

**"Division"** or **"DCCCEL"** means the division of child care and early learning within the department of social and health services (DSHS).

**"Facility licensing compliance agreement"** means a written notice of rule violations and the intention to initiate enforcement, including a corrective action plan.

**"Family home"** means a single dwelling unit and accessory buildings occupied for living purposes by a family which provides permanent provisions for living, sleeping, eating, cooking, and sanitation.

**"Family home child care"** means a facility licensed to provide direct care, supervision and early learning opportunities for twelve or fewer children, in the home of the licensee where the licensee resides and is the primary provider.

**"Family home child care provider"** means a person who provides direct care, supervision, behavior management, and early learning opportunities for twelve or fewer children in their family home living quarters for periods of less than twenty-four hours.

**"I," "you,"** and **"your"** refer to and mean the licensee or applicant for a child care license.

**"Inaccessible to children"** means areas kept or items stored in a manner that makes it impossible for children to reach, enter, or use potentially hazardous items or areas. Examples of how this can be accomplished are through the use of locks, gates, or other means that are effective to prevent access by the children in your care.

**"Infant"** means a child birth through eleven months of age.

**"License"** means an official document that certifies you have been granted permission by the department to operate a family home child care in compliance with the rules.

**"Licensed space,"** means the indoor and outdoor space approved by the department as useable space where children in care may be present.

**"Licensee"** means the person or persons named on the license as having been issued the license and who are responsible for maintaining compliance with the regulations.

**"Licensor"** means the person with authority to grant licenses.

**"Parent"** means a child's parent or legal guardian.

**"Premises"** means the buildings where the home is located and the adjoining grounds (at the same address) over which the licensee has control.

**"Preschool age child"** means a child thirty months through five years of age not attending kindergarten or elementary school.

**"Primary staff person"** means a person who has been approved by the department, age eighteen years or older, who has responsibilities for the operation of the program and the direct supervision, behavior management and care of children.

**"Provider"** means the same as licensee.

**"Repeatedly"** means a violation of a licensing regulation that is written on a facility licensing compliance agreement that occurs more than once during a twelve-month time frame.

**"Reportable communicable disease"** means an illness that can be spread from one person to another by either direct or indirect contact, and is of the type that is required by law to be reported to the department of health. Examples include Hepatitis, measles, smallpox, and tuberculosis.

**"Revocation"** means the formal act of closing your child care business and taking your license from you due to your failure to follow the rules.

**"Sanitize"** means a surface must be clean and the number of germs reduced to a level where disease transmissions by that surface are unlikely.

**"Staff"** means a child care giver or group of child care givers employed by the licensee to assist with or supervise children served at the family home child care.

**"STARS"** (Washington state training and registry system) means the entity approved by the department to determine the classes, courses, and workshops that licensees and staff may take to satisfy training requirements.

**"Summary suspension"** means the formal act of immediately stopping your license for a certain time because the health, safety or well being of a child is at risk.

**"Supervision of children,"** means the knowledge of and responsibility for the activity and whereabouts of each child in care and assuring immediate intervention of staff to safeguard a child from harm.

**"Terms of the license"** means the address, number and ages of children, and the beginning and ending dates listed on the license issued by the department.

**"Toddler"** means a child twelve months through twenty-nine months of age.

**"Unsupervised access"** means not in the absence of the licensed child care provider or primary staff person. (Anyone sixteen years or older who lives at the same address as the provider must pass a complete criminal history background check.)

**"Useable space"** means the space actually available for children to engage in developmentally appropriate activities, that has been inspected and approved by the department for providing child care.

**"Weapons"** means an instrument or device of any kind that is designed to be used to inflict harm on another person. For example, BB guns, pellet guns, air rifles, stun guns, antique guns, bows and arrows, handguns, rifles, shotguns, knives.

## GENERAL QUALIFICATIONS AND LICENSING PROCESS

### NEW SECTION

#### **WAC 388-296-0110 Who needs to become licensed?**

(1) Individuals and agencies that provide care for children must be licensed, unless specifically exempt under RCW 74.15.020(2).

(2) The person claiming an exemption must provide the department proof of the right to the exemption if we request it.

(3) We must not license a home that is legally exempt from licensing. However, at the applicant's request, we must investigate and may certify the home as meeting licensing

and other requirements. We must apply the same requirements and procedures for certification that we apply for licensure.

(4) We may certify a family home child care for payment without further investigation if the home is:

(a) Licensed by an Indian tribe; or

(b) Certified by the Federal Department of Defense. The home must be licensed or certified in accordance with national or state standards or standards approved by us and be operated on the premises over which the entity licensing or certifying the home has jurisdiction.

(5) The individuals and agencies wanting to care for children whose child care is paid for by the state child care subsidy program must:

(a) Be licensed or certified;

(b) Follow billing policies and procedures in *Child Care Subsidies, A Booklet for Licensed and Certified Providers*, DSHS 22-877(X); and

(c) Bill the department at the person's or organization's customary rate or the DSHS rate, whichever is less. (See WAC 388-290-0190 (2) and (3) for exceptions.

#### NEW SECTION

**WAC 388-296-0120** When does the department establish an overpayment for payment I receive through the child care subsidy program? We establish child care subsidy overpayments for payments you received when:

(1) You receive payment for services you did not provide;

(2) You do not have attendance records that support the billing. Only attendance records meeting WAC requirements will be accepted for attendance verification;

(3) We pay you more than you are eligible to bill;

(4) You receive payment from us and you are not eligible based on WAC 388-290-0125; or

(5) You receive payment for caring for children outside your licensed allowable age range and you do not have a waiver for that purpose.

#### NEW SECTION

**WAC 388-296-0125** Must I comply with local ordinances and codes? Family home child care businesses must comply with any city and county ordinances and codes for their locality and meet the minimum construction, fire and safety requirements for one and two family dwellings. Local officials are responsible for enforcing city ordinances and county codes, such as zoning and building regulations.

#### NEW SECTION

**WAC 388-296-0130** How old do I have to be to apply for a license? You must be at least eighteen years old to apply for a license to provide child care.

#### NEW SECTION

**WAC 388-296-0140** What personal characteristics does an individual need to provide care to children? (1)

An individual must have specific personal characteristics to have a:

(a) License;

(b) Certification;

(c) Primary staff position; or

(d) Assistant and volunteer position.

(2) These characteristics are:

(a) An understanding of how children develop socially, emotionally, physically, and intellectually;

(b) The ability to plan and provide care for children that is based on an understanding of each child's interests, life experiences, strengths, and needs;

(c) The physical ability to respond immediately to the health, safety and emotional well being of a child;

(d) Reliability and dependability;

(e) Truthfulness;

(f) A disposition that is respectful of a child's need for caring attention from a care giver; and

(g) Ethical business practices with clients, staff, the department and the community.

#### NEW SECTION

**WAC 388-296-0150** What personal information may I be required to provide to be licensed? (1) If we determine that you, any staff, assistants or members of your household may be unable to meet the requirements in chapter 388-296 WAC, we may require any of the following evaluations:

(a) Substance and alcohol abuse evaluations and documentation of treatment;

(b) Psychiatric and psychological evaluations;

(c) Psycho-sexual evaluations; and

(d) Medical evaluations.

(2) If any evaluation we require has a cost, the individual required to have the evaluation is responsible to pay for it.

(3) The individual having the evaluation must sign a release of information prior to having the evaluation, to allow us to communicate with the person doing the evaluation.

(4) If the individual refuses to follow any of these rules, we may deny the application or revoke the license.

#### NEW SECTION

**WAC 388-296-0160** How do I apply for a license? (1) To apply for a license, you must:

(a) Attend an orientation provided by DCCCEL;

(b) Complete and submit a signed application form, DSHS 10-204 to DCCCEL, including the following attachments:

(i) A copy of your picture identification issued by a government entity (could include but is not limited to: driver's license, passport, state identification);

(ii) A photocopy of your Social Security card that is valid for employment or verification of your employer identification number (EIN);

(iii) An employment and education resume for you, primary staff, assistants and volunteers; and

(iv) Three references for you from people unrelated to you.

(2) You must submit to DCCEL these additional documents either with your application or within sixty days of submitting your application:

(a) Documentation of current infant, child and adult CPR and standard first aid training for you, any staff, or volunteer who will be counted in staff/child ratios;

(b) Documentation of a negative Mantoux tuberculin (TB) test in the twelve months prior to starting work for you, staff, volunteers and members of the household sixteen years or older;

(c) Documentation of HIV/AIDS training and the availability of blood borne pathogens information for you, staff and volunteers who have child care responsibility;

(d) Documentation of the local health authority or state department of health approval of your private water supply and independent sewage system, if applicable;

(e) A copy of your policies and procedures you give to parents; and

(f) Any additional reports or information pertaining to your ability to follow the WACs regarding you, staff, volunteers, members of your household or any other person having access to the child in care if your licensor requests it.

#### NEW SECTION

**WAC 388-296-0170 Am I required to pay a fee when applying for a family home child care license?** You must pay the financial services administration a nonrefundable license fee of twenty-four dollars. This must be in the form of a check or money order. You must pay the license fee each year before or on your anniversary date.

#### NEW SECTION

**WAC 388-296-0180 Am I required to have a criminal history background check?** (1) At the time you apply for a license you must submit a completed background check form and finger print card if required to the background check central unit (BCCU) for each person who will have unsupervised access to children in your care. This includes:

- (a) You;
- (b) Members of your household sixteen years and older;
- (c) Staff;
- (d) Volunteers; and
- (e) Other persons living at the same address as you.

(2) When you plan to have new staff or volunteers, you must require each person to complete and submit to you by the date of hire a criminal history and background check form:

(a) You must submit this form to the BCCU for the employee and volunteer, within seven calendar days of the employee's or volunteer's first day of work, permitting a criminal and background history check.

(b) The employee and volunteer must not have unsupervised access to the children in care until they have been cleared by a full background check.

(c) We must discuss the result of the criminal history and background check information with you, when applicable.

#### NEW SECTION

**WAC 388-296-0190 What happens after we receive the background information?** After we receive the background information we:

(1) Compare the background information with convictions/actions posted on the DSHS secretary's list of disqualifying convictions/actions for economic services administration (ESA). The complete list can be found at [http://www1.dshs.wa.gov/esa/dccel/pdf/Crime\)and\)Backg\\_Chex.pdf](http://www1.dshs.wa.gov/esa/dccel/pdf/Crime)and)Backg_Chex.pdf).

(2) Review the background information using the following rules:

(a) A pending charge for a crime is given the same weight as a conviction;

(b) If the conviction has been renamed it is given the same weight as the previous named conviction. For example, larceny is now called theft;

(c) Convictions whose titles are preceded with the word "attempted" are given the same weight as those titles without the word "attempted"; and

(d) The crime will not be considered a conviction for the purposes of the department when it has been pardoned or a court of law acts to expunge, dismiss, or vacate the conviction record.

(3) Conduct a character, competence and suitability assessment of you, your family members, staff, volunteer or any one else living at the same address as you if an individual is not automatically disqualified by a conviction record, pending charges and/or findings of abuse, neglect, exploitation or abandonment of a child or vulnerable adult.

(4) Notify you whether or not we are able to approve you, family members residing with you, staff, volunteer or anyone else living at the same address as you to have access to children in a licensed facility.

#### NEW SECTION

**WAC 388-296-0195 When will I be disqualified from providing licensed child care?** (1) If you have background containing any of the convictions/actions posted on the DSHS secretary's list of permanently disqualifying convictions/actions for ESA, you are permanently disqualified from providing licensed child care.

(2) If you have a background containing any of the convictions posted on the DSHS secretary's list of nonpermanent disqualifying convictions for ESA, you are disqualified from providing licensed child care for five years after the conviction date.

(3) You can be disqualified from providing licensed child care if you have a background containing information other than conviction information that we determine:

(a) Makes you not of suitable character and competence or of sufficient physical or mental health to meet the needs of the child in care; or

(b) Puts the household at risk for harm.

#### NEW SECTION

**WAC 388-296-0200 Will my license be denied or revoked if I have been disqualified from providing**

**licensed child care?** Your license will be denied or revoked if you are disqualified from providing licensed child care.

#### NEW SECTION

**WAC 388-296-0205 When will my family members, staff, volunteer, and other people who live at the same address be disqualified from having access to children in a family home child care?** (1) If a family member, staff person, volunteer, or other person living at the same address as you has a background containing any of the convictions/actions posted on the DSHS secretary's list permanently disqualifying convictions/actions for ESA, they are permanently disqualified from having access to children in a family home child care.

(2) If a family member, staff person, volunteer or other person living at the same address as you has a background containing any of the convictions/actions posted on the DSHS secretary's list of nonpermanent disqualifying convictions/actions for ESA, they are disqualified from having access to children in a family home child care for five years after the conviction date.

(3) A family member staff person volunteer, or other person living at the same address as you can be disqualified from having access to children in a family home child care if they have a background containing information other than conviction information that we determine:

(a) Makes the individual not of suitable character and competence or of sufficient physical or mental health to meet the needs of the child in care, provided that the individual is responsible for the care of children; or

(b) Puts the house hold at risk for harm.

(4) The department notifies a staff person if they have been disqualified from having access to children in a family home child care. The disqualified staff person has a right to a hearing to contest the department's disqualification action pursuant to WAC 388-06-0240.

#### NEW SECTION

**WAC 388-296-0210 What are my responsibilities if I am notified that a family member, staff person, volunteer, or anyone else living at the same address as me has been disqualified?** If we inform you that a family member, staff person, volunteer, or anyone else living at the same address as you has been disqualified, you must ensure that the disqualified person does not have access to children in the licensed facility.

#### NEW SECTION

**WAC 388-296-0215 Will my license be denied, suspended, or revoked if a family member, or someone else living at the same address as me has been disqualified from having unsupervised access to children?** Your license will be denied or revoked if your family member or any other person who is living at the same address as you has been disqualified from have unsupervised access to children.

#### NEW SECTION

**WAC 388-296-0220 Must I keep the results of the background checks on family members, staff and volunteers?** You must keep for a period of three years, all background check results for you, your family, staff, volunteers and any other persons required to have a background check.

#### NEW SECTION

**WAC 388-296-0230 What CPR (cardiopulmonary resuscitation) and first aid training is required?** (1) You and any staff or volunteer who is counted in staff/child ratios must have the following current CPR and first aid training. CPR and first aid training must be in accordance with a nationally recognized standard for:

- (a) Infant, child and adult CPR; and
- (b) Basic standard first aid.

(2) You must keep records on the premises and available to the department on request, showing who has completed current CPR and first aid training. This includes copies of the certificate of completion for the training for each person responsible for the care of children.

#### NEW SECTION

**WAC 388-296-0240 What HIV/AIDS training and blood borne pathogen information is needed?** (1) You, your staff and volunteers who are responsible for the care of children must complete training on the prevention and transmission of HIV/AIDS (human immunodeficiency virus/acquired immunodeficiency syndrome).

(2) You must have a blood borne pathogen plan that includes;

(a) A list of caregivers who may be exposed to blood borne pathogens;

(b) A plan which addresses how to clean up body fluid spills, including blood, feces, nasal and eye discharge, saliva, urine and vomit.

(c) Document a plan addressing hand washing, use of gloves, proper disinfection of contaminated items and disposal of waste materials.

#### NEW SECTION

**WAC 388-296-0250 How long do I have to complete the licensing application process?** (1) You must complete the licensing application process including the home inspection and supporting documents, such as training certificates, within ninety days of first applying for your license.

(2) If you don't meet this deadline and have not contacted your licensor, we consider your application withdrawn.

#### NEW SECTION

**WAC 388-296-0260 Do I need to renew my license?** (1) You are required to renew your license every three years. (2) We send a relicensing packet one hundred twenty days before the expiration of your license.

(3) You must send the completed application form to your licensor at least ninety days before your current license expires.

(4) We close your license if it expires and we have not received a renewal application.

#### NEW SECTION

**WAC 388-296-0270 Am I required to submit an application if I move to a new address while my license is current?** (1) If you move, have an acceptable history of child care, and plan to continue to operate your family home child care business you must submit an application with all supporting documentation for the new address, before you move.

(2) If you have submitted an application for the new address prior to moving, we allow you to operate at your new address for up to two weeks. If you are unable to meet the health and safety requirements at your new address within the two week period, you must stop operating the child care business until you become licensed at the new address (per RCW 74.15.100).

(3) If you move and do not tell us, your license becomes invalid on the date of your move.

#### NEW SECTION

**WAC 388-296-0280 May a family home child care have more than one type of license to provide care to children?** (1) A family home child care may have only one type of license with these exceptions:

(a) Care of the other client category does not interfere with the quality of child care provided; and

(b) The most stringent capacity limitations are maintained.

(2) Dual licenses are subject to our approval.

#### NEW SECTION

**WAC 388-296-0290 What hours may a family home child care be open?** (1) You may operate your family home child care business twenty-four hours a day.

(2) If you provide nighttime care you or a qualified primary staff person must be awake when children are dropped off and picked up at your home.

(3) A child may remain in care a maximum of ten hours each day. If needed, you may extend the time based on the parent's typical work schedule and travel from and to the child care.

(4) If you provide nighttime care you must adapt the activities, routines and equipment to meet the physical and emotional needs of the child away from home at night. These must include:

(a) Arrangements made for bathing as needed;

(b) Standard night wear and individual toiletry items for each child;

(c) The required beds and bedding (WAC 388-296-1070);

(d) Separate dressing and sleeping areas for boys and girls ages four years and older and for other children demonstrating a need for privacy;

(e) Maintain staff to child ratios during sleeping hours;

(f) A plan approved by the licensor describing how you will ensure the physical safety and emotional well-being of children during sleeping hours.

#### NEW SECTION

**WAC 388-296-0300 What does the department look for when inspecting my home for licensed child care?** We inspect your home to determine if it meets the minimum standards for:

(1) The health and safety of young children; and

(2) The social, emotional, physical and cognitive needs of young children.

#### NEW SECTION

**WAC 388-296-0320 How many children may I care for?** (1) We may license you to care for a maximum of twelve children for family home child care. We determine the number of children that you may serve after looking at these factors:

(a) Physical environment in the home;

(b) The number of approved staff available for providing care;

(c) Your education and licensed child care experience and the skills of your staff and volunteers;

(d) Ages, characteristics and needs of the children served;

(e) The number and ages of your own children and other children residing in the home eleven years of age and under; and

(f) The supply of developmentally appropriate toys and equipment for the ages and stages of children you care for.

(2) Based on these factors, we may license you for the care of fewer children than your family home child care could house.

#### NEW SECTION

**WAC 388-296-0330 Is there more than one category of license?** We issue three types of licenses:

(1) Initial (see WAC 388-296-0340);

(2) Full (see WAC 388-296-0350); and

(3) Probationary (see WAC 388-296-0440).

#### NEW SECTION

**WAC 388-296-0340 When will the department issue an initial license to me?** (1) If you are not currently licensed we may issue an initial license to you to provide child care when all the health and safety rules have been met, but you:

(a) Cannot demonstrate compliance with the rules pertaining to:

(i) Supervision;

(ii) Capacity;

(iii) Behavior management;

(iv) Activity and routines; and

(v) Child records and information.

(b) Can provide a plan that is acceptable to us, to comply with rules found in subsection (1)(a) of this section.

(2) We may issue an initial license to you for a period not to exceed six months, renewable for a period not to exceed two years.

(3) We must evaluate your ability to follow all the rules contained in this chapter during the initial licensing period prior to issuing a full license.

#### NEW SECTION

**WAC 388-296-0350 When will the department issue a full license to me?** (1) We may issue a full license to you when you can demonstrate compliance with all rules contained in this chapter at any time that you have an initial license.

(2) We must not issue a full license to you if you do not demonstrate the ability to comply with all rules contained in this chapter during the period you have an initial license.

### **FINES, REGULATORY VIOLATIONS AND CORRECTIVE ACTION**

#### NEW SECTION

**WAC 388-296-0360 What happens if I fail to follow the rules?** (1) If you fail to follow the rules, we notify you of the violation in writing and unless the health, safety or welfare of children in care is threatened, we provide you with an opportunity to come into compliance before we take adverse licensing action. The notice provides:

(a) A description of the violation and rule that was broken;

(b) A statement of what is required to comply with the rules;

(c) The date by which we require compliance; and

(d) The maximum financial penalty (civil fine) that you must pay if you do not comply with the rules by the required date.

(2) We may fine you seventy-five dollars a day for each violation of the licensing rules.

(3) We may assess and collect the penalty with interest for each day you fail to follow the rules.

(4) We may impose a civil penalty in addition to other adverse actions against your license including probation, suspension and revocation.

(5) We may, but are not required to, withdraw the fine if you come into compliance during the notification period.

(6) If we assess a civil penalty you have the right to an adjudicative proceeding as governed by RCW 43.20A.215 and chapter 388-02 WAC.

(7) If you do not request an adjudicative proceeding you must pay the civil fine within twenty-eight days after you receive the notice.

#### NEW SECTION

**WAC 388-296-0370 How does the department notify me if I am in violation of the licensing rules and what am I required to do?** If you are in violation of the licensing rules we issue a notice to you called a facility licensing compliance agreement.

(1) You are required, with technical assistance from your licensor if you request it, to write a corrective action plan stating:

- (a) How you plan to correct the violations; and
- (b) When the violations will be corrected.

(2) You must:

- (a) Sign the agreement;
- (b) Return a copy of the completed agreement to us; and
- (c) Comply with the agreement.

#### NEW SECTION

**WAC 388-296-0380 How does the department determine the amount of time I have to make corrections?** The length of time that you have to make corrections depends on:

(1) The seriousness of the violation;

(2) The potential threat to the health, safety and well being of children in care; and

(3) The number of times you have failed to follow the rules.

#### NEW SECTION

**WAC 388-296-0390 What does the department base a fine on?** Fines are determined based on any violation of a licensing rule and according to the following conditions:

(1) You have allowed the existence of any condition that creates a serious safety or health risk;

(2) You or any person uses corporal punishment, or humiliating methods of control or discipline;

(3) You or any primary staff person fail to provide the required supervision;

(4) You fail to provide required light, ventilation, sanitation, food, water or heating;

(5) You provide care for more than the highest number of children permitted by the license; or

(6) You repeatedly fail to follow the rules. (Any repeat violation that has been the subject of a corrective action notification under WAC 388-296-0360.)

#### NEW SECTION

**WAC 388-296-0400 Am I required to inform the public if the department has assessed a civil penalty to me?** (1) You must post the final notice of a civil penalty in the licensed space of your child care where the public can easily view it; and

(2) You must keep the notice posted until we receive payment.

#### NEW SECTION

**WAC 388-296-0410 What happens if I fail to pay the fine?** If you fail to pay a fine within ten days after the fine assessment becomes final, we may suspend, revoke or not renew your license.

#### NEW SECTION

**WAC 388-296-0420 Does the department assess a civil penalty if I provide unlicensed child care?** We may

fine you seventy-five dollars per day for each day you provide unlicensed child care.

#### NEW SECTION

**WAC 388-296-0430 What will happen if the department believes I am providing unlicensed child care?** We send written notice to you if we think you are providing unlicensed child care. The notice explains:

- (1) Why we think you are providing unlicensed child care;
- (2) The law that prohibits unlicensed child care;
- (3) That you must stop providing child care until you get a license;
- (4) How to contact DCCCEL;
- (5) How to apply for a license;
- (6) That the fine may be lifted if you apply for a license;
- (7) Your right to an adjudicated proceeding if we assess a monetary penalty; and
- (8) How you can ask for an adjudicative proceeding.

#### NEW SECTION

**WAC 388-296-0440 When would the department issue a probationary license?** (1) We may, but are not required to, issue a probationary license as part of a corrective action plan with a licensed provider. In addition to issuing you a probationary license, we may also assess civil penalties or other sanctions.

- (2) We must base our decision about whether to issue a probationary license on the following:
  - (a) Intentional or negligent noncompliance with the licensing rules;
  - (b) A history of noncompliance with the rules;
  - (c) Current noncompliance with the rules; and
  - (d) Any other factors relevant to the specific situation.
- (3) When we issue you a probationary license you must give notification of your probationary license status to:
  - (a) The parents or guardians of all children in your care, within five working days of receiving notification from us; and
  - (b) New applicants for child care, before enrolling new children.
- (4) The notification must be in writing and must be approved by us prior to being sent.
- (5) Within ten working days of receiving notification of the probationary license, you must provide documentation to us that parents or guardians of all children in your care have been notified.
- (6) We may issue a probationary license for up to six months. We may extend the probationary license for an additional six months.
- (7) You must return your full license to us.

#### NEW SECTION

**WAC 388-296-0450 When will my license be denied, suspended or revoked?** (1) When you demonstrate that you cannot provide the required care for children in a way that promotes their safety, health and well-being we must deny, suspend or revoke your license.

(2) We must deny, suspend or revoke your license if you:

(a) Have been disqualified by your background check (see DSHS secretary's list of disqualifying convictions for ESA at [http://www1.dshs.wa.gov/esa/dccel/pdf/Crime\\_and\\_Backg\\_Chex.pdf](http://www1.dshs.wa.gov/esa/dccel/pdf/Crime_and_Backg_Chex.pdf));

(b) Have been found to have committed or have allowed others to commit child abuse, child neglect or exploitation, or you or others you supervise treat, permit or assist in treating children in your care with cruelty, or indifference;

(c) Fail to report instances of alleged child abuse, child neglect and exploitation to children's administration intake or law enforcement when an allegation of abuse, neglect or exploitation is reported to you;

(d) Or anyone residing at the same address as you had a license denied or revoked by an agency that provided care to children or vulnerable adults;

(e) Try to get or keep a license by deceitful means, such as making false statements or leaving out important information on the application;

(f) Commit, permit or assist in an illegal act at the address of your child care business;

(g) Use illegal drugs, or excessively use alcohol or abuse prescription drugs;

(h) Knowingly allow employees or volunteers with false statements on their applications to work at your facility;

(i) Repeatedly lack the required number of qualified staff to care for the number and types of children under your care;

(j) Repeatedly fail to provide the required level of supervision for a child in care;

(k) Repeatedly care for more children than your license allows;

(l) Refuse to allow our authorized staff and inspectors requested information or access to your licensed space and premises, child and program files, or staff and children in care; or

(m) Are unable to manage the property, fiscal responsibilities, or staff in your facility.

#### NEW SECTION

**WAC 388-296-0460 Are there any other reasons that could potentially cause me to lose my license?** (1) We may suspend or revoke your license if you go beyond the conditions of your license by caring for children with ages different than your license allows.

(2) Repeatedly fail to comply with the licensing requirements set forth in this chapter or any provision of chapter 74.15 RCW.

#### NEW SECTION

**WAC 388-296-0470 How will the department notify me if my license is denied, suspended, or revoked?** (1) We send you a certified letter and/or personally deliver a letter informing you of any decision to deny, suspend or revoke your license.

(2) In the letter we also inform you what you may do if you disagree with the decision to deny, suspend or revoke your license.

NEW SECTION

**WAC 388-296-0480 What may I do if I disagree with the department's decision to deny, suspend, revoke, or modify my license?** (1) You have the right to appeal any decision we make to deny, suspend, revoke or modify your license.

(2) Your right to appeal and the procedures for that process are outlined in RCW 43.20A.205 and 74.15.130, chapter 34.05 RCW and chapter 388-02 WAC.

**BUSINESS PRACTICES**NEW SECTION

**WAC 388-296-0490 What written procedures am I required to establish for my child care business?** (1) You must develop written procedures for:

- (a) Keeping child records current;
- (b) Routine communication with parents about their child's activities;
- (c) Expectations of primary staff, assistants and volunteers;
- (d) Emergency procedures including staffing emergencies, evacuation plans, sick or injured children and medical emergencies;
- (e) Off-site activities;
- (f) Confidentiality; and
- (g) All other policies and procedures that you will follow in your child care business.

(2) You must train your staff and volunteers and have available to them the program's philosophy and all written procedures listed in subsection (1) of this section.

(3) You must review all written policies and procedures and revise them when they no longer describe your current practice.

NEW SECTION

**WAC 388-296-0500 What written information am I required to give to parents?** You are required to give to parents a copy of the policies and procedures that you will follow in your family home child care. This written information must include:

- (1) Enrollment and admission requirements;
- (2) The fee and payment plan;
- (3) A typical daily schedule, including hours of operation;
- (4) Typical meals and snacks served, including guidelines on food brought from the child's home;
- (5) Permission for free access by the child's parent or guardian to all home areas used by the child, the child's records, and the staff during your operating hours;
- (6) Child abuse, neglect and exploitation reporting requirements;
- (7) Child guidance and discipline;
- (8) Requirements for maintaining accurate and up to date certificate of immunization status (CIS) records;
- (9) No smoking policy;
- (10) Policy regarding pets;
- (11) Sign-in and sign-out procedures;

(12) Infant sleeping safety requirements to reduce the risk of Sudden Infant Death Syndrome (SIDS);

(13) Nondiscrimination statement;

(14) Religious activities, if any;

(15) Transportation and field trip arrangements;

(16) Typical staffing plan when you are absent;

(17) Health care practices, including but not limited to information about the home's general health practices concerning:

(a) Injury prevention;

(b) Medication management;

(c) First aid, including medical emergencies;

(d) Plan for excluding persons whose presence on the premises is prohibited by regulations;

(e) Practices concerning an ill child;

(f) Communicable disease prevention, management and reporting;

(18) Disaster plan; and

(19) Supplies and clothing to be provided by the parents.

NEW SECTION

**WAC 388-296-0510 What forms am I required to have before a child can attend my child care program?**

Prior to admission, you must have a file for each child that contains:

(1) A completed child's enrollment form that is signed and dated by the parent;

(2) Child's complete name, birth date and date admitted;

(3) Full name of parents, home and daytime telephone numbers and address;

(4) Name, address and home and daytime telephone numbers of two persons to contact in an emergency if the parent cannot be reached;

(5) Name, address, home and daytime telephone numbers of persons, if any, authorized to sign-in and sign-out the child;

(6) Name and telephone numbers of child's health care provider and dentist;

(7) Description of child's health history, date of the child's last physical exam, current medications, allergies, special dietary requirements and other identified special needs;

(8) Signed permission by parent to authorize emergency medical and dental care and associated transportation; and

(9) Completed immunization form listing types and dates of immunizations.

NEW SECTION

**WAC 388-296-0520 How long must I keep child records and what am I required to document while operating my business?**

(1) A child's presence in the child care must be documented, on a daily basis, by the child's parent or guardian or an authorized person by using the sign-in and sign-out procedure for each child in attendance. The parent, guardian or authorized person must use their full signature when signing the child in and out of the child care.

(2) When the school age child arrives at or leaves the child care home due to school or off-site activities as authorized by the parent, you or your staff must sign out the child, and sign in the child on return to the home.



(3) Daily attendance records, listing the dates and hours of attendance of each child must be kept up-to-date and maintained in the licensed space of the family home child care for five years.

(4) When a child is no longer enrolled, the date of the child's withdrawal must be recorded in the child's file. You must maintain the child's file for at least five years from the child's last date of attendance. After five years the file may be destroyed or returned to the parent. The child's file must be made available for review by the child's parents and us during this period.

(5) You must call and report, within twenty-four hours to:

(a) Children's administration intake an incident or injury that required the services of a medical professional, including a dentist, that occurred while the child was in attendance.

(b) DCCEL and to animal control any incident where a child is bitten by an animal while in attendance.

(c) DCCEL any fire on your premises that required the use of a fire extinguisher or the services of a fire department.

(6) You must submit a written incident report to the child's parent and to your licensor within two working days of the same incident or injury as described in subsection (3) of this section.

(7) You must acquire written parental permission for field trips. You must notify parents in advance when you plan to use vehicles to transport children. Parents may grant general authorization for walking field trips.

(8) You must maintain all records and reports required by these regulations in an up-to-date manner at the facility. The records and reports are subject to inspection and you must allow us access to them at the time we request them.

#### NEW SECTION

**WAC 388-296-0530 Am I required to keep child and family records confidential?** You and your staff must observe confidentiality with regard to child and family records and family information. Confidential conversations regarding children and families must be held in private.

#### NEW SECTION

**WAC 388-296-0540 What items am I required to post and where do I post them?** You are required to post these items in the licensed space of your family home child care where the public can easily view them:

(1) The home's child care license issued under this chapter;

(2) Evacuation plans and procedures, that include a written record of the required monthly fire drills and smoke detector checks;

(3) Emergency telephone numbers;

(4) Any civil penalty imposed; and

(5) You must post a notification advising parents that you are required to keep the following licensing information available on site for their review:

(a) Copies of the most recent family home child care checklist for licensing renewal and facility licensing compliance agreement for any deficiencies noted; and

(b) Copies of the most recent family home child care monitoring checklist and facility licensing compliance agreement for any deficiencies noted.

#### NEW SECTION

**WAC 388-296-0550 What change of circumstance must I report to my licensor?** (1) Before making any change to your licensed space you must report to your licensor any changes you plan to make. Examples of changes include but are not limited to:

(a) Planned use of space not previously approved by us; and

(b) Plans for remodeling the home.

(2) You must also report any of the following changes to your licensor within twenty-four hours:

(a) The number and qualifications of you, your staff and volunteers that may affect the ability to carry out the specified activities and routines of the family home child care or meet the requirements of the WAC, such as a change in a person's criminal history;

(b) A marriage, separation or divorce;

(c) Persons moving in or out of the household;

(d) Your phone number;

(e) Occurrence of a fire, structural change, or damage to the premises from any cause; and

(f) The serious illness or incapacity of you and any other member of your household.

#### **FIRE SAFETY**

#### NEW SECTION

**WAC 388-296-0560 What are the occupancy restrictions for a family home child care?** (1) Any home used for child care purposes for fewer than thirteen children is considered to be a Group R, Division 3 occupancy by the state building code.

(2) If a portion of the home is used for purposes that could pose a hazard such as an automotive repair shop, cabinet or furniture making or refinishing or similar use, a fire-wall is required between the dwelling and the other use.

(3) One exit door from a family home child care must be of the pivoted or side hinged swinging type. You may use approved sliding doors for other exits.

(4) Each floor level used for family home child care purposes must have two exits, usually located at opposite ends of the building or floor.

(5) You must not use basements located more than four feet below grade level for family home child care purposes unless one of the following conditions exists:

(a) Two exit stairways from the basement open directly to the exterior of the building without entering the first floor;

(b) One of the two required exits opens directly to the exterior from the basement level and the other exit is an interior stairway with a self-closing door installed at the top or bottom leading to the floor above;

(c) One of the two required exits is a working window or door, approved for emergency escape or rescue, that opens directly to a public street, public alley, yard or exit court, and the other may be an approved interior or exterior stairway; or

(d) A residential sprinkler system is provided throughout the entire home in accordance with standards of the National Fire Protection Association.

(6) Except as permitted in subsection (7) below, you must ensure that any floor located more than four feet above grade level is not occupied by children for family home child care purposes except for the use of toilet facilities while under supervision of a staff person.

(7) Family home child care is allowed on the second story if one of the following conditions exists:

(a) Two exit stairways from the second story open directly to the exterior of the building without entering the first floor;

(b) One exit opens directly to the exterior from the second story level, and a second interior stairway with a self-closing door installed at the top or bottom of the interior stair leading to the floor below; or

(c) A residential sprinkler system is provided throughout the entire building in accordance with standards of the National Fire Protection Association.

(8) The maximum distance from any point in the home to an exterior exit door must not exceed one hundred fifty feet.

(9) Every room used for child care (except bathrooms) must have:

(a) At least one working window or door approved for emergency escape or rescue that opens directly into a public street, public alley, yard or exit court. The units must work from the inside to provide a full clear opening without the use of separate tools.

(b) The net clear open area of an escape or rescue window must be a minimum of 5.7 square feet. The net clear open height dimension must be a minimum of twenty-four inches. The net clear open width dimension must be a minimum of twenty inches.

(10) An escape or rescue window must have:

(a) A finished sill height of not more than forty-four inches above the floor;

(b) Doors leading to two separate exit ways; or

(c) A door leading directly to the exterior of the building.

(11) You may use a stationary platform under a window to attain the required forty-four inches above the floor.

(12) Exit doors must be easy to open to the full open position.

(13) Exit doors and windows must be of the type that can be opened from the inside without having to use a key. You must not use during child care hours:

(a) Night latches;

(b) Deadbolts;

(c) Security chains; or

(d) Manually operated edge or surface mounted flush bolts and surface bolts.

(14) The locking arrangement on outside exit doors must automatically unlock when the doorknob is turned from the inside.

(15) You must ensure that obstructions are not placed in corridors, aisles, doorways, doors, stairways or ramps.

(16) You must not use for child care purposes any space that is accessible only by ladder, folding stairs or trap doors.

(17) Every bathroom door lock must be designed to permit the opening of the locked door from the outside in an

emergency. The opening device must be readily accessible to the staff.

(18) Every closet door latch must be the type that children can open the door from inside the closet.

#### NEW SECTION

**WAC 388-296-0570 What are the requirements for hazardous areas of my home?** If you have rooms or spaces containing any of the following commercial-type items or utilities, they must be separated from the family home child care or any exits by a fire wall:

(1) Kitchen;

(2) Boiler;

(3) Maintenance shop;

(4) Janitor closet;

(5) Laundry;

(6) Woodworking shop;

(7) Flammable or combustible storage;

(8) Painting operation; or

(9) Parking garage.

#### NEW SECTION

**WAC 388-296-0580 What are the requirements for smoke detectors in my home?** (1) You must have smoke detectors in all sleeping and napping rooms.

(2) If your home has more than one story or a basement, you must install a smoke detector on each story and in the basement.

(3) If a story or basement is split into two or more levels, you must install the smoke detector in the upper level, except that when the lower level contains a sleeping or napping area, you must locate a smoke detector on each level.

(4) When sleeping or napping rooms are on an upper level, you must place the smoke detector on the ceiling of the upper level in close proximity to the stairway and in each sleeping or napping room.

(5) If the ceiling height of a room open to the hallway serving sleeping or napping rooms exceeds that of the hallway by twenty-four inches or more, you must install smoke detectors in both the hallway and the sleeping or napping room.

(6) Smoke detectors must sound an alarm audible in all areas of the building.

(7) In new construction, required smoke detectors must receive their primary power from the building wiring when the wiring is served from a commercial source. Wiring must be permanent and without a disconnecting switch other than those required for over current protection.

(8) Smoke detectors may be battery operated when installed in existing buildings or buildings without commercial power.

(9) Where battery operated smoke detectors are installed, you must keep on the premises at least one extra battery of the type and size specified for the battery operated smoke detector.

(10) You must test single station smoke detectors at monthly intervals or in a manner specified by the manufacturer. You must keep a record of the testing on the premises.

NEW SECTION

**WAC 388-296-0590 Am I required to have other ways to sound a fire alarm?** In addition to single station smoke detectors, you must provide an alternate method for sounding a fire alarm in your family home child care. A police type whistle or similar device is adequate for meeting this requirement, as long as you use that method only for emergency evacuations.

NEW SECTION

**WAC 388-296-0600 Are there requirements for fire extinguishers?** (1) You must have at least one approved 2A, 10B:C rated fire extinguisher on each floor level occupied for child care use. You must locate the extinguisher along the path of the main fire exits. The maximum travel distance to an extinguisher must not exceed seventy-five feet.

(2) Fire extinguishers must be operationally ready for use at all times.

(3) You must keep fire extinguishers on a shelf or mounted in the bracket provided for this purpose so that the top of the extinguisher is not more than five feet above the floor.

(4) You must ensure and have written documentation that fire extinguishers receive annual maintenance certification by a firm specializing in and licensed to do that type of work. Maintenance means a thorough check of the extinguisher to include examination of:

- (a) Mechanical parts;
- (b) Extinguishing agent; and
- (c) Expelling means.

NEW SECTION

**WAC 388-296-0610 What must I do to prevent fire in my home?** (1) You must request the local fire department to visit your home to become familiar with the facility and to assist in planning evacuation or emergency procedures. If your local fire department does not provide this service, you must document that you made the request.

(2) You must keep furnace rooms free of lint, grease and rubbish accumulations and other combustibles and suitably isolated, enclosed or protected.

(3) You must store flammable or combustible materials away from exits and in areas that are not accessible to children. You must not allow combustible rubbish to accumulate, so you must remove it from the building or store it in closed, metal containers.

(4) You must keep all areas used for child care clean and neat, making sure that all waste generated daily is removed from the building and disposed of in a safe manner outside the building. All containers used for the disposal of waste material must be of noncombustible materials with tops. You must keep electrical motors dust-free.

(5) You must not leave on open-flame devices capable of igniting clothing, or leave them unattended or allowed to be used in a way that could result in an accidental ignition of children's clothing. You must not use, or allow the use of candles during operating hours.

(6) You must keep a working flashlight available for use as an emergency power source.

(7) You must properly maintain all electrical circuits, devices and appliances. Circuits must not be overloaded. You must not use extension cords and multi-plug adapters in place of permanent wiring and proper receptacles.

(8) You must not use portable space heaters of any kind in any area of the child care home or building during child care hours.

(9) Approved numbers or addresses must be placed on all new and existing homes and in the driveway to the house when the house is not visible from the road. You must place the numbers or address in a position where it is plainly visible and legible from the street or road fronting the property. To be more visible, the numbers must contrast with their background.

(10) If you have fireplaces, woodstoves or similar devices, the local building official must approve them and any connections. Where open flames or hot surfaces are accessible, you must erect approved barriers to prevent children from coming in contact with the open flames or hot surfaces.

NEW SECTION

**WAC 388-296-0620 What are the requirements for maintaining my sprinkler system?** If you have a sprinkler system in your home, you must have it tested on an annual basis by a person or agency licensed to test sprinkler systems. The results of the system test must be documented on forms provided by the licenser and maintained at the home for inspection by the licenser.

NEW SECTION

**WAC 388-296-0630 Must I have a fire evacuation plan?** You must develop a written fire evacuation plan. The evacuation plan must include an evacuation floor plan, identifying exit doors and windows, and must be posted at a point clearly visible to the assistant and parents. Plans must include the:

(1) Action to be taken:

- (a) By the person discovering a fire;
- (b) For evacuation of the building and assuring accountability of the children; and
- (c) Pending arrival of the fire department.

(2) Method to be used for sounding an alarm on the premises.

NEW SECTION

**WAC 388-296-0640 Must I have fire evacuation drills?** You must:

- (1) Conduct a fire evacuation drill for each shift of operation at least once each month;
- (2) Maintain and post in the licensed area of your home:
  - (a) The fire safety record including date and time of fire drills; and
  - (b) Your evacuation plan.

NEW SECTION

**WAC 388-296-0650 Are there any requirements for staff training related to fire safety?** You and each staff person and volunteer must be familiar with all elements of the fire evacuation plan and capable of:

- (1) Operating the fire extinguisher installed on the premises;
- (2) Testing smoke detectors (single station types); and
- (3) Conducting frequent inspections of the home to identify fire hazards and take action to correct any hazards discovered during the inspection.

### HEALTH, ENVIRONMENT AND MEDICATION MANAGEMENT

NEW SECTION

**WAC 388-296-0700 How often must staff wash their hands?** Staff and volunteers must wash their hands with soap and warm running water after:

- (1) Toileting or assisting children with toileting;
- (2) Diapering a child;
- (3) Using the bathroom;
- (4) Attending to an ill child;
- (5) Before and after preparing, serving, or eating food;
- (6) Before and after giving medications;
- (7) Handling, feeding or cleaning up after animals;
- (8) Handling bodily fluids;
- (9) Being outdoors or involved in outdoor play; and
- (10) As needed.

NEW SECTION

**WAC 388-296-0710 How often must children wash their hands?** You and your staff must ensure that children thoroughly wash their hands or assist children with thoroughly washing their hands with soap and warm running water after:

- (1) Using the toilet;
- (2) The child is diapered;
- (3) Outdoor play;
- (4) Playing with animals;
- (5) Touching body fluids (such as blood or after nose blowing or sneezing);
- (6) Before and after the child eats or participates in food activities; and
- (7) As needed.

NEW SECTION

**WAC 388-296-0720 What are the physical structure and equipment safety requirements for a family home child care?** You must keep the equipment and the physical structures, inside and outside of your home, safe and clean for the children you serve. You must not use your licensed space, both indoor and outdoor areas of the home where the children are being cared for, for any other business purpose during your operating hours. You must:

(1) Maintain your home or building that includes the child care space and all child care equipment in a clean and sanitary condition, free of hazards, and in good repair;

(2) Have stairways, steps and walkways that are well lit. Stairways must be equipped with securely mounted handrails within the reach of young children;

(3) Have gates or other physical barriers, that prevent infants and toddlers from accessing stairways;

(4) Have emergency lighting devices, such as a flashlight, available and in good working condition;

(5) Provide furnishings in the licensed space of your child care that are safe, comfortable and match the developmental levels of all of the children in the home to include the size of the child, their abilities and activities;

(6) Have furniture, equipment and climbing structures that are clean, sturdy, without sharp edges and do not present hazards. Bookcases and other shelving units must not present a tipping or falling hazard;

(7) Have washable, water-resistant floors in your bathrooms, kitchens, and any other rooms exposed to moisture (this applies to anyone newly licensed on or after the date this rule takes effect);

(8) Provide nonremoveable electrical outlet covers to all outlets accessible to children if you care for children five years and younger or other persons with limited mental capacity or who might be endangered by access to electrical outlets;

(9) Have an unlocking device readily accessible to you and your staff for closet and bathroom doors that can be locked. You must not use a locking or fastening device on the outside of the door, that would prevent free escape;

(10) Ensure that toys for infants and toddlers (or children at those developmental levels) are large enough to prevent swallowing or choking. Examples of some of the types of small objects that should be kept off the floor are:

(a) Pins of any type;

(b) Coins;

(c) Balloons; and

(d) Any small toys that are smaller than one and three-fourth inches in diameter.

(11) Ensure that all art and play materials, for children under the age of three, are nontoxic;

(12) Not have plastic bags, styrofoam objects and vinyl or latex gloves accessible to children under three years of age;

(13) Prevent entrapment by ensuring there are no openings on indoor and outdoor climbers and platforms between three and one-half inches and nine inches;

(14) Securely anchor to the ground climbing equipment and swings that have provisions for anchors. The play area must be arranged so children playing on one piece of equipment do not interfere with children playing on another piece of equipment;

(15) Ensure that chains on swings have protective coverings and that swing seats are made of soft material with no sharp edges;

(16) Ensure that tricycles and bicycles with chains have chain guards, and that children on bicycles, roller blades, skateboards, or scooters wear helmets;

(17) Not use wheeled baby walkers; and

(18) Not allow trampolines and rebounders in your licensed space.

#### NEW SECTION

**WAC 388-296-0730 What are the requirements for the location of a family home child care?** (1) Your home must be located in an area that is well drained, and is free from hazardous conditions. Some examples of hazards are natural or man-made water hazards such as lakes or streams, ponds, steep banks, ravines, and drainage ditches. Abandoned wells and holes must be filled in or sealed.

(2) The safety of the children in care is essential. You must discuss with your licensor any potential hazardous conditions, considering the children's ages, behaviors, and abilities.

(3) If we decide that hazardous conditions are present at the home location you must write a supervision plan for the children in care.

#### NEW SECTION

**WAC 388-296-0740 What are the requirements for emergency aid vehicle access to my home?** (1) Your home must be accessible to emergency vehicles.

(2) Your address must be clearly visible on your house or mailbox.

#### NEW SECTION

**WAC 388-296-0750 What steps must I take to ensure children's safety around outdoor bodies of water?** (1) You must ensure children in your care are safe around bodies of water.

(2) You must empty and sanitize portable wading pools daily, and as needed when in use.

(3) You or a qualified primary staff person must directly supervise all children in your care when they have access to wading pools, swimming pools and other bodies of water that are in your licensed space.

(4) You must lock hot tubs and spas, and not use these during your operating hours.

(5) You must place a five-foot fence, designed to discourage climbing, and have a locked gate around a pool of water. This includes swimming pools that are above or below ground level and ornamental pools. Bodies of water hazardous to young children must be inaccessible to children when you or a primary staff person are not providing direct supervision during your operating hours.

(6) A certified lifeguard must be on duty when children are using a public or private (other than your own) swimming pool, lake, river, pond, ocean or any other body of water used for swimming.

#### NEW SECTION

**WAC 388-296-0760 What measures must I take for pest control?** (1) You must keep your premises free from pests, using the least toxic method possible. This includes rodents, flies, cockroaches, fleas, and other insects.

(2) You must notify parents, guardians and any other interested party forty-eight hours in advance of the application of pesticides.

#### NEW SECTION

**WAC 388-296-0770 What are the requirements regarding pets and animals at a family home child care?**

(1) All pets that have access to children, whether kept indoors or outside, must be in good health, show no evidence of disease and be nonaggressive.

(2) Dogs and cats must have the required immunizations.

(3) You must dispose of all pet waste daily and keep litter boxes inaccessible to children at all times.

(4) You must have an area separate from the outdoor play space for pets to relieve themselves.

(5) Staff must always be present when children play with pets.

(6) If you have a pet, tell parents before enrolling the child. Some children have allergies that require the parent to make other child care arrangements.

(7) Children and staff must wash their hands after handling pets or pet items.

(8) Reptiles can carry salmonella. If reptiles are present, you must have safeguards in place to limit potential risk of transmission.

(9) You must have a written plan, approved by your licensor, describing how you will protect children from health hazards, such as snake bites, if you have "exotic" pets such as iguanas, venomous or aggressive snakes, spiders, and some turtles.

#### NEW SECTION

**WAC 388-296-0780 Are alcoholic beverages allowed during operating hours?** You, and any other person associated with the operation of your business and care of children must not drink alcohol or allow others to consume alcohol on your premises during your operating hours.

#### NEW SECTION

**WAC 388-296-0790 Is smoking permitted around children?** (1) You must prohibit smoking in your family home child care during all hours of operation (licensed or unlicensed space), and in motor vehicles while transporting children.

(2) You may permit adults to smoke outdoors in unlicensed space and out of view of children.

#### NEW SECTION

**WAC 388-296-0800 May I have weapons at my home?** (1) You must keep weapons and ammunition in secure, locked storage, at all times during your operating hours. "Secure, locked storage" means a locked storage container, gun cabinet, gun safe, or other storage area made of strong, unbreakable material.

(2) If the cabinet has a glass or other breakable front, the guns need to be secured with a cable or chain placed through the trigger guards securing the guns in the storage unit.

- (3) You must store all firearms unloaded.

#### NEW SECTION

**WAC 388-296-0810 Are there requirements for the storage of medications?** You are required to:

- (1) Keep all medications, including pet medications, vitamins and herbal remedies, in locked storage. For example, a pad lock, lock with key or a magnetic lock;
- (2) Store external medications separately from internal medications for the child in care;
- (3) Store medications according to the manufacturer or pharmacy instructions; and
- (4) Store pet and human medications in separate places.

#### NEW SECTION

**WAC 388-296-0820 Are there requirements for storing dangerous chemicals or other substances?** (1) You are required to store the following items in a place that is inaccessible to children, persons with limited mental capacity, or anyone who might be endangered by access to the following products:

- (a) Cleaning supplies;
  - (b) Toxic or poisonous substances;
  - (c) Aerosols;
  - (d) Items with warning labels;
  - (e) Cosmetics; and
  - (f) Personal hygiene products.
- (2) When containers are filled with toxic substances from a stock supply, you must label the containers.
- (3) Toxic substances must be stored separately from food items.

#### NEW SECTION

**WAC 388-296-0830 Are first-aid supplies required?**

You must keep a first aid kit on hand for immediate use, in the licensed space of your child care, on a field trip and in your vehicle if you transport children. The first aid kit must include:

- (1) Nonsterile protective gloves;
- (2) Band-Aids of various sizes;
- (3) Small scissors and tweezers;
- (4) Ace bandages;
- (5) Sterile gauze pads;
- (6) An ice pack;
- (7) A mercury free thermometer for taking a child's temperature;
- (8) A large triangular bandage (sling);
- (9) Adhesive tape;
- (10) A one-way CPR barrier or mask;
- (11) A current first-aid manual; and
- (12) At least one unexpired bottle of Syrup of Ipecac that must be given only at the direction of a poison control center.

#### NEW SECTION

**WAC 388-296-0840 What are the requirements for health care policies and procedures for a family home child care?** You must maintain current written health care

policies and procedures that include, but are not limited to, the following areas:

- (1) When a child should not attend due to illness;
- (2) Cleaning and disinfecting procedures;
- (3) Reporting communicable diseases;
- (4) Infection control methods to include personal hygiene, hand washing, toileting, diapering, and laundering;
- (5) Food handling procedures;
- (6) Prevention of the transmission of communicable diseases including:
  - (a) Use of sanitizing chemicals; and
  - (b) Cleaning and sanitizing toys and play materials.
- (7) Medication management, including steps to be taken if medication is incorrectly administered;
- (8) Providing first aid;
- (9) Care of minor illnesses;
- (10) Actions to be taken for medical emergencies;
- (11) Infant care procedures when infants are under care;
- (12) Children with special needs; and
- (13) General health practices.

#### NEW SECTION

**WAC 388-296-0850 Must all children in my care have current immunizations?** (1) You are required to track each child's immunization status. To be sure children have the required immunizations for their age, you must:

- (a) Ensure the child has a completed, current, certificate of immunization status form (CIS) submitted on or before the first day of child care;
  - (b) Develop a system to audit and update, as scheduled, the information on the CIS form;
  - (c) Meet any requirement of the department of health WAC 246-100-166; and
  - (d) Have available in your licensed space the CIS forms for review by the licenser.
- (2) You may accept a child who is not current with immunizations on a conditional basis if immunizations are:
- (a) Initiated before or on enrollment; and
  - (b) Completed as rapidly as medically possible.
- (3) You may exempt the immunization requirement for the child if the parent or guardian:
- (a) Signs a statement expressing a religious, philosophical or personal objection; or
  - (b) Furnishes a physician's statement of a valid medical reason for the exemption.

#### NEW SECTION

**WAC 388-296-0860 What must I do to prevent the spread of infections and communicable diseases?** (1) You must take precautions to guard against infections and communicable diseases.

(2) You, your staff and volunteers with a reportable communicable disease in an infectious stage, as defined by the department of health, must not be on duty until you, your staff and volunteers have approval from the local health department for returning to work.

(3) Applicants for a license, staff, volunteers and persons sixteen years and older authorized to have access to children in a family home child care must have a tuberculin (TB) skin

test by the Mantoux method of testing. They must have this skin test upon being employed or licensed unless the person has evidence:

- (a) Of negative testing within the previous twelve months;
- (b) That they have a negative chest X ray since previously having a positive skin test; or
- (c) Of having completed adequate preventive therapy or adequate therapy for active tuberculosis.
- (4) The department does not require a tuberculin skin test if a physician indicates that the test is medically inadvisable.
- (5) Persons whose tuberculosis skin test is positive must have a chest X ray within thirty days following the skin test.
- (6) The department does not require retesting at the time of license renewal, unless the licensee or staff person believes they have been exposed to someone with tuberculosis or if their health care provider recommends testing.

#### NEW SECTION

**WAC 388-296-0870 How do I manage medications for children?** You must meet specific requirements for managing prescription and nonprescription medication for children under your care. Only you or another, primary staff person may perform the functions described in this section.

(1) You must have written approval of the child's parent or legal guardian to give the child any medication. This approval must not exceed thirty days.

(2) You must:

- (a) Keep a written record of all medications you give a child;
- (b) Return any unused medication to the parent or legal guardian of the child;
- (c) Give certain classifications of nonprescription medications, only with the dose and directions on the manufacturer's label for the age or weight of the child needing the medication. These nonprescribed medications include but are not limited to:

- (i) Nonaspirin, fever reducers or pain relievers;
- (ii) Nonnarcotic cough suppressants;
- (iii) Decongestants;
- (iv) Anti-itching ointments or lotions intended specifically to relieve itching;
- (v) Diaper ointments and talc free powders intended specifically for use in the diaper area of children; and
- (vi) Sun screen.

(3) You must not administer any nonprescribed medication for the purpose of sedating a child;

(4) You must not administer any prescribed medication in an amount or frequency other than that prescribed by a physician, psychiatrist or dentist;

(5) You must not give one child's medications to another child; and

(6) You must not use any prescribed medication to control a child's behavior unless a physician prescribes the medication for management of the child's behavior.

#### NEW SECTION

**WAC 388-296-0880 What are the requirements for labeling and dispensing of medications to children?** The

only medicine you may accept from the child's parent or legal guardian is medicine in the original container labeled with:

- (1) The child's first and last names;
- (2) The date the prescription was filled;
- (3) The medication's expiration date; and
- (4) Legible instructions for the administration of the drug (manufacturer's instructions or prescription label) that include:
  - (a) How to give the medication;
  - (b) How often to give the medication; and
  - (c) How to store the medications (proper temperature).

#### NEW SECTION

**WAC 388-296-0890 When may children take their own medicine?** (1) You may permit children under your care to take their own medicine if:

(a) They are physically and mentally capable of properly taking the medicine; and

(b) The child's parent or legal guardian approves in writing.

(2) You must keep the written approval by the child's parent or legal guardian in your records.

(3) When children take their own medication, you must keep the medication and medical supplies locked and inaccessible to other children and unauthorized persons.

(4) You or a primary worker must observe and document that the medication was taken.

### FOOD/NUTRITION/DIET

#### NEW SECTION

**WAC 388-296-0900 Are there general nutrition requirements?** The meals and snacks you prepare and serve must meet the requirements of the U.S. Department of Agriculture Child and Adult Food Program, with the addition of:

- (1) A minimum of one serving of vitamin C fruit, vegetable or juice daily; and
- (2) Servings of food high in vitamin A, provided three or more times weekly.

#### NEW SECTION

**WAC 388-296-0910 How often must I feed children in my care?** (1) You must provide the child in care for ten or less hours a minimum of:

- (a) Two or more snacks and one meal; or
- (b) Two meals and one snack.

(2) You must provide the child in care for ten or more hours a minimum of, two or more meals and two snacks.

(3) You must provide a snack for the child arriving after school.

(4) The time interval between providing the child with food, during the day, can be no more than three and one-half hours.

(5) The time interval between the evening meal or snack and breakfast must not be more than twelve hours.

(6) The child in evening care must be fed dinner when the child did not receive dinner at home before arriving.

(7) The child in overnight care must be offered breakfast in the morning if the child remains in the home after the child's usual breakfast time.

#### NEW SECTION

**WAC 388-296-0920 What are the requirements for meals and snacks served to children in my care?** (1) Food must be prepared and stored in a safe and sanitary manner and served at required intervals.

(2) If you do not furnish meals, you must have the required supplemental food available in the event that no meal is provided by the parent or if the meal provided by the parent does not meet the required nutritional value.

(3) If you provide meals:

(a) You must accommodate any food preferences for religious or medical reasons. If the meal patterns or serving sizes do not meet the child's nutritional needs, you must obtain a medical statement from the parent documenting the appropriateness of the variation.

(b) The servings must be in portions suitable for the size and age of the child in care. You must have a sufficient amount of food available to children to permit second helpings.

(4) You must refrigerate perishable food, milk and formula.

(5) You must make safe drinking water available to children at all times and must offer at intervals that are responsive to the needs of the individual children.

(6) You may use:

(a) Disposable cups and plates if discarded after use; and

(b) Disposable plastic eating utensils if they are not easily broken by young children and are discarded after use.

(7) You may not use styrofoam cups for infants or toddlers.

#### NEW SECTION

**WAC 388-296-0930 How do I handle a child's special diet?** If a child has a food allergy/intolerance or special menu requirements due to a health condition you must receive written directions from the child's health care provider and parent to provide nutritional supplements or a medically modified diet. For allergy diets the parent and health care provider must identify the foods the child is allergic to.

#### NEW SECTION

**WAC 388-296-0940 Are there special requirements for serving milk?** The type of milk served to children is determined by the child's age.

(1) Serve only breast milk or formula to the child zero to twelve months of age;

(2) Serve whole pasteurized milk or breast milk to children twelve to twenty-four months of age;

(3) Serve only pasteurized milk or pasteurized milk product to children over twenty-four months of age.

#### NEW SECTION

**WAC 388-296-0950 What home canned foods may I use?** You may not use any home canned food for the children in your care due to the risk of bacteria that may grow in food improperly canned, causing serious illness.

#### NEW SECTION

**WAC 388-296-0960 What requirements must I meet for feeding infants?** You must meet the following requirements for feeding infants:

(1) All formulas and breast milk must be in clean and sanitized bottles with nipples and labeled with the child's name and date prepared.

(2) If the bottle has been sitting at room temperature for an hour or more, you must throw away the contents.

(3) You must keep bottle nipples covered when not in use.

(4) If you reuse bottles and nipples, you must wash and sanitize them.

(5) You must hold infants while feeding.

(6) Infants who are nine months of age or over, who want to hold their own bottles may be placed in a highchair if you or a primary staff person remain in the room, within eye-sight.

(7) You must take bottles from the child when the child finishes feeding, or when the bottle is empty.

(8) You must not prop a bottle when feeding an infant.

(9) You must not give a bottle or tippy cup to a child who is lying down.

(10) You must not use a microwave oven to warm formula or breast milk in a bottle used for feeding.

#### **SPACE REQUIREMENTS AND EQUIPMENT**

#### NEW SECTION

**WAC 388-296-0970 Are there requirements for the rooms that I use to provide child care?** (1) You must use rooms that are the required size, and furnishings that are developmentally appropriate to the ages and number of children being served to actively engage in recreational and informal educational activities;

(2) You must provide accessible storage space for each child in care to store their clothes and personal possessions; and

(3) You must have the required amount of space to store your equipment, supplies, records, files, cots, mats and bedding.

#### NEW SECTION

**WAC 388-296-0980 What does the room temperature need to be?** You must:

(1) Maintain the temperature within your licensed space at:

(a) A minimum of sixty degrees Fahrenheit when children are sleeping or napping; and

(b) Sixty-eight degrees Fahrenheit or more when the children are awake.



(2) Utilize electrical fans or an air conditioner to cool the house when the inside temperature reaches or exceeds eighty degrees Fahrenheit. Consider the age and needs of the children under your care in determining which temperature is appropriate.

#### NEW SECTION

**WAC 388-296-0990 What are the kitchen requirements?** You must provide, use and maintain equipment to properly store, prepare, and serve food to meet the needs of the children under your care.

(1) Appliances must be installed so that you can easily clean them and the areas around them.

(2) Food contact surfaces must be free of cracks and crevices.

(3) Range tops, ovens and refrigerators must be clean.

(4) Wash tables with soap and water before and after each meal.

(5) Wash counters with soap and water prior to food preparation.

(6) If you cannot clean and sanitize dishes and utensils as required, use only disposable items.

(7) Keep pets and their food out of the food preparation area. If this is not always possible keep pets out of the kitchen while you are preparing food.

#### NEW SECTION

**WAC 388-296-1000 How do I wash, rinse and sanitize dishes and eating utensils?** You must use a dishwasher or the "three compartment method" which is a combination of sink compartments or dishpans made of plastic or other non-porous material:

(1) Fill one sink compartment or dishpan with hot tap water and dishwashing detergent, and wash the items in this compartment.

(2) Fill the second compartment or dishpan with hot tap water, and rinse the items in this compartment.

(3) Fill the third compartment or dishpan with cool water and one teaspoon liquid chlorine bleach for each gallon of water, and dip the items in this compartment to sanitize.

(4) Place the items in a rack to air-dry.

#### NEW SECTION

**WAC 388-296-1010 May I use the kitchen for activities for children?** You may use the kitchen for activities for children. When children are in the kitchen, you must:

(1) Make the kitchen environmentally safe for children to participate in planned kitchen activities; and

(2) Supervise food preparation activities involving children.

#### NEW SECTION

**WAC 388-296-1020 May I use a room for more than one purpose?** You may use a room for multiple purposes such as playing, dining, napping, and learning activities, provided that:

(1) The space you provide meets the required thirty-five square feet of useable space for the number of children in care; and

(2) The room's usage for one purpose does not interfere with use of the room for another purpose.

#### NEW SECTION

**WAC 388-296-1030 What are the general requirements for bedrooms?** If you use bedrooms for play or napping at your family home child care:

(1) You or a primary staff person must be on the same floor where children are playing, napping or sleeping in bedrooms; and

(2) Bedrooms must have at least one exit window that meets the fire safety requirements for an escape window.

#### NEW SECTION

**WAC 388-296-1040 What are the requirements for mats and cots used for napping?** (1) You must ensure the mat or cot is long enough and wide enough for the size of the child. A mat must be at least one inch thick to provide comfort for the child to nap.

(2) The surface of mats and cots must be of a material that can be cleaned and sanitized (one-fourth teaspoon chlorine bleach per quart of cool water) and allowed to air dry.

(3) You must clean the child's nap equipment once a week or as needed and between use by different children.

(4) You must allow enough space between children to give staff access to children when napping.

(5) You must ensure the child's bedding:

(a) Consists of a clean sheet or blanket to cover the sleeping surface and a clean, suitable cover for the child (children must not nap directly on the waterproof covering or the floor);

(b) Is laundered as needed (such as when soiled, used by different children); and

(c) Is stored separately from bedding used by another child.

#### NEW SECTION

**WAC 388-296-1050 What are the requirements for the use of cribs?** (1) You must provide a child under two years with a single-level crib, toddler bed, or playpen for napping until you and the parent agree that the child can safely use a mat, cot or other approved sleeping equipment.

(2) Cribs must have no more than two and three-eighths inches space between vertical slats when used for infants less than six months of age.

(3) Cribs, toddler beds, and playpens must:

(a) Have clean, firm, snug fitting mattresses covered with waterproof material that is easily cleaned and sanitized, without tears or tape; and

(b) Be made of wood, metal, or approved plastic with secure latching devices.

(4) Each crib or bed must be arranged to allow staff access to children.

(5) Children must not sleep in car seats, swings or other similar equipment.

NEW SECTION

**WAC 388-296-1060 What sleeping arrangements must I make to reduce the risk of sudden infant death syndrome (SIDS)?** You must follow the recommendations of the American Academy of Pediatrics (AAP) for putting infants down to sleep.

(1) You must put infants to sleep on their backs to reduce the risk of SIDS unless you have a written note in the infant's file from both the parent and the infant's health care provider requesting another sleeping position;

(2) Once infants are able to turn over, continue to place them on their back to sleep. If the infant has turned over while sleeping you do not need to return the infant to his or her back;

(3) Place the infant inside the crib, infant bed or playpen on a firm mattress with a tight fitting sheet;

(4) You must not use soft fluffy bedding, stuffed toys, pillows, crib bumpers and similar items in the crib;

(5) You must make sure that the infant's head and face remain uncovered during sleep;

(6) You must not allow smoking around the infant; and

(7) You must not let the infant get too warm during sleep.

NEW SECTION

**WAC 388-296-1070 What are the requirements for beds?** (1) Each child in overnight care must have their own bed. The bed must be at least twenty-seven inches wide with a clean and comfortable mattress in good condition.

(2) For each child in care who is two years and older, you must provide a pillow and pillowcase, blankets, and sheets. A slumber bag, designed for indoor use can substitute for a blanket and sheet.

(3) Pillows must be covered with waterproof material or be washable.

(4) Bedding must be clean.

(5) If the child using the mattress is not toilet trained, you must provide waterproof mattress covers or moisture resistant mattresses.

(6) You may use toddler beds with a standard crib mattress that is sufficient in length and width for the child's size.

(7) You must not allow children under the age of six years to use loft style beds or upper bunks of double-deck beds.

(8) You may use a mat for napping but not as a substitute for a bed.

NEW SECTION

**WAC 388-296-1080 What is the requirement for napping and resting?** (1) You must offer and supervise a rest period of at least thirty minutes for the child;

(a) Five years of age and under who remain in care more than six hours; or

(b) Showing a need for rest.

(2) You must not require or force children to sleep.

(3) You must provide a space, away from the napping children, for quiet play for the children who don't require sleep.

DIAPER CHANGING AND BATHING FACILITIESNEW SECTION

**WAC 388-296-1090 What are the requirements for diapers and diaper-changing areas?** (1) You must separate diaper-changing areas from areas where food is stored, prepared or served.

(2) There must be a sink for hand washing close to the diaper changing area with running hot and cold water. This sink must not be used for food preparation and clean up.

(3) You must have a sturdy, easily cleanable structure, or mat with a nonabsorbent surface for diaper changing. If you use a mat it must be large enough to prevent the surface underneath from becoming contaminated with bodily fluids.

(4) You and your staff must wash hands before and after diapering each child.

(5) You and your staff must maintain contact with the child being diapered at all times while changing diapers.

(6) For cleaning children, you must:

(a) Use either disposable towels or clean cloth towels that have been washed and sanitized between each use; and

(b) Assist a child in hand washing, after changing the diaper.

(7) You and your staff must place the diaper, without rinsing, directly into a waste container (used only for soiled diapers) that has a tight cover, is lined with a disposable plastic trash bag, and is within arm's reach of the diaper changing area.

(8) You and your staff must use:

(a) Disposable diapers;

(b) A commercial diaper service;

(c) Reuseable diapers supplied by the child's family; or

(d) Washable training pants.

(9) You and your staff must clean and sanitize (one tablespoon chlorine bleach per quart of cool water) diaper-changing areas between each use or you must use a nonabsorbent, disposable covering that you discard after each use.

NEW SECTION

**WAC 388-296-1100 What are the requirements for bathing children in care?** When bathing children, you or a primary staff person must:

(1) Directly supervise preschool age and younger children at all times; and

(2) Use a nonskid pad in the bathtub if the bathtub does not have a nonskid surface.

UTILITIES AND WASTE DISPOSALNEW SECTION

**WAC 388-296-1110 Do I need a telephone?** (1) You must have at least one working land line telephone in the licensed space of your facility for incoming and outgoing calls during the time children are present. This allows the 911 emergency operator to track the address or location where the emergency call is made from.

(2) You must provide a working phone for each level of the home in which the child care operates.

(3) The use of answering machines or voice mail is permitted only when they are fully operational and located where staff can hear them.

(4) The telephone must be accessible for incoming and out going emergency use at all times.

(5) You must post the following emergency numbers near the telephone:

- (a) Fire;
- (b) Police;
- (c) Ambulance;
- (d) Poison center;
- (e) 911, address and directions to your home;
- (f) Child protection services.

(6) You must provide your current phone number, at all times, to the parents or guardians of the children in your care and your licensor.

#### NEW SECTION

**WAC 388-296-1120 What are the lighting requirements?** You must:

(1) Locate light fixtures and provide lighting that promotes good visibility for the safety and comfort of children in your care; and

(2) Use nonhazardous light fixture covers or shatter resistant (or otherwise made safe) light bulbs or tubes for ceiling lights in the play space.

#### NEW SECTION

**WAC 388-296-1130 What are the requirements for ventilation?** (1) You must ensure that your licensed space is ventilated for the health and comfort of the children under your care.

(2) An operational mechanical exhaust fan to the outside must ventilate toilet rooms and bathrooms that do not have windows opening to the outside.

#### NEW SECTION

**WAC 388-296-1140 What are the requirements for drinking water?** You must provide:

(1) Drinking water supplied from:

(a) A public water supply regulated by Washington state department of health drinking water operations or the local health authority as appropriate; or

(b) An individual water supply operated and maintained in a manner acceptable to the local health authority; or

(c) Commercially bottled water.

(2) Disposable paper cups or individual drinking cups.

#### NEW SECTION

**WAC 388-296-1150 What are the requirements for sewage and liquid wastes?** Your home must discharge sewage and liquid wastes into a public sewer system or into an independent septic system maintained so as not to create a public health nuisance as determined by the local health authority.

## LAUNDRY, SINKS, AND TOILETS

#### NEW SECTION

**WAC 388-296-1160 What are the requirements for laundry facilities?** We have specific requirements for laundry facilities. You must:

(1) Have separate and adequate facilities for storing soiled and clean linen;

(2) Provide a washer and dryer, or make other arrangements for getting laundry done on a regular basis;

(3) Directly supervise when laundry equipment is accessible to children and is in use; and

(4) Ensure that the clothes dryer is vented to the outdoors.

#### NEW SECTION

**WAC 388-296-1170 What are the requirements for washing laundry used in child care?** You must use an effective way to clean laundry contaminated with urine, feces, lice, scabies, or other potentially infectious materials. You must clean laundry through temperature control or the use of chemicals.

#### NEW SECTION

**WAC 388-296-1180 What are the requirements for hand-washing sinks?** (1) You must supply children with warm running water for hand washing. The water must be kept at a temperature range of not less than eighty-five degrees Fahrenheit and not more than one hundred twenty degrees Fahrenheit.

(2) Locate children's hand washing facilities in or next to rooms used for toileting.

(3) You must provide the child with soap and paper towels for washing and drying their hands and face.

(4) Hand washing sinks must be of appropriate height and size for children in care or you must furnish safe, easily cleanable platforms impervious to moisture.

#### NEW SECTION

**WAC 388-296-1190 What are the requirements for toilets and toileting?** You must provide:

(1) A minimum of one indoor flush-type toilet;

(2) Privacy for toileting for children of the opposite sex who are four years of age and older and for other children demonstrating a need for privacy;

(3) A mounted toilet paper dispenser and toilet paper for each toilet; and

(4) Toilets that are of appropriate height and size for children in care or safe, easily cleanable platforms, impervious to moisture.

#### NEW SECTION

**WAC 388-296-1200 Must a family home child care have toilet training equipment for children?** (1) A family home child care must have developmentally appropriate toi-

let-training equipment, when the home serves children who are not toilet trained.

(2) You must sanitize (one tablespoon chlorine bleach per quart of cool water) the equipment after each child's use.

## INDOOR AND OUTDOOR PLAY AREAS AND TRANSPORTATION

### NEW SECTION

**WAC 388-296-1210 What are the requirements for indoor play areas?** (1) Your indoor play area must contain a minimum of thirty-five square feet of useable floor space per child. This space is considered in determining child capacity of the home, and must be available for use by children at all times. We must not count the following as part of the thirty-five square feet per child requirement:

- (a) Storage areas;
- (b) Bathrooms;
- (c) Hallways;
- (d) Closets;
- (e) Furnace rooms;
- (f) Stationary equipment; and
- (g) Any other furniture not used by children.

(2) You must designate an area that is developmentally appropriate and safe for children less than twenty-four months of age to allow opportunities for:

- (a) Large and small muscle development;
- (b) Crawling and exploring;
- (c) Sensory stimulation;
- (d) Development of communication; and
- (e) Learning self-help skills.

(3) You must provide appropriate lighting and ventilation for all activity areas.

### NEW SECTION

**WAC 388-296-1220 What are the requirements for an outdoor play area?** (1) You are required to provide a safe and securely-fenced play area, or an enclosed outdoor play area that we have approved.

(2) The fenced or approved enclosed outdoor play area must prevent child access to roadways and other dangers.

(3) The fence or enclosure must protect the play area from unauthorized exit or entry. Any fence or enclosure must be at least four feet high and designed to discourage climbing (chain link fencing is acceptable).

(4) Spacing between vertical slats must be no greater than three inches.

(5) The outdoor play area must directly adjoin the indoor premises or be reachable by a safe route and method approved by your licensor.

(6) The outdoor play area must promote the child's active play, physical development, and coordination.

(7) You must provide daily opportunities for children to participate actively in outdoor play.

(8) You must not place climbing equipment on concrete, asphalt, wood or similar surfaces.

(9) You must provide a fall zone of a minimum of six feet in all directions from stationary climbing equipment.

The fall zone must be free of objects that could harm a falling child on impact.

(10) The ground cover under climbing equipment must be soft enough to absorb falls and prevent injury. Examples of ground cover that will absorb a fall include cedar chips, pea gravel and rubber-like materials.

### NEW SECTION

**WAC 388-296-1230 What are the size requirements for an outdoor play area?** You must ensure the outdoor play area at your family home child care facility contains a minimum of seventy-five square feet of useable play space for each child you are licensed for.

### NEW SECTION

**WAC 388-296-1240 What are the requirements for outdoor play equipment?** You must provide a variety of age appropriate play equipment of sufficient quantity for the children in your care. For example:

- (1) Climbing equipment;
  - (2) Tires for swings;
  - (3) Age appropriate woodworking tools;
  - (4) Play tools for water, mud and sand;
  - (5) Ride-on toys, wheelbarrows, scooters, tricycles and bikes;
  - (6) Bats, balls and sports equipment;
  - (7) Gardening equipment;
  - (8) Jump ropes; and
  - (9) Dramatic play props.
- (10) All outdoor play equipment that needs installation must be installed as required by the manufacturers instructions and maintained in good condition.

### NEW SECTION

**WAC 388-296-1250 What are the requirements I must follow when I transport children?** When you transport children under your care, you must follow these requirements.

(1) You must keep the vehicle in a safe operating condition;

(2) The driver must have a valid driver's license;

(3) There must be at least one staff person other than the driver in a vehicle when:

(a) Staff-to-child ratio guidelines require a second staff person (see WAC 388-296-1350(3)); or

(b) The child's specific needs require a second staff person.

(4) The driver or owner of the vehicle must be covered under an automobile liability insurance policy;

(5) The number of passengers must not exceed the vehicle's seat belts;

(6) All persons in the vehicle must use seat belts or approved child passenger restraint systems, as required by law, whenever the vehicle is in motion;

(7) You must have a first aid kit and a copy of the child's completed enrollment form in the vehicle; and

(8) You must perform an attendance count of children when getting in and out of the vehicle to prevent accidentally leaving a child in the vehicle.

## CHILD PROTECTION

### NEW SECTION

**WAC 388-296-1260 What are the requirements for protecting a child under my care from abuse or neglect?** As part of ensuring a child's health, safety and welfare, you must protect children under your care from all forms of child abuse, child neglect and exploitation as required by RCW 26.44.030.

## CHILD GUIDANCE AND DISCIPLINE

### NEW SECTION

**WAC 388-296-1280 What requirements must I follow when guiding and disciplining children?** (1) You and your staff must use positive methods of guidance and discipline that promote self control, self-direction, self-esteem and cooperation. For example, redirection, planning ahead to prevent problems, reinforcing appropriate behavior and encouraging children to express their feelings and ideas instead of solving problems with force.

(2) You are responsible for disciplining children in your care. This responsibility may only be delegated to a primary staff person.

(3) Your expectations of children's social behavior must be appropriate to each child's level of development.

(4) Discipline must be fair, reasonable, consistent, and related to the child's behavior.

(5) You and your staff must not make derogatory, shaming or humiliating remarks in the presence of children or families.

(6) You must protect children from the harmful acts of other children.

### NEW SECTION

**WAC 388-296-1290 What types of disciplinary practices must not be used?** (1) You, your staff, volunteer, anyone residing in your home or on the premises, or parents must not use any form of inappropriate discipline or corporal punishment such as, but not limited to:

- (a) Spanking children with a hand or object;
- (b) Biting, jerking, kicking, hitting, or shaking the child;
- (c) Pulling the child's hair;
- (d) Pushing, shoving or throwing the child;
- (e) Inflicting pain as a punishment;
- (f) Name calling, shaming or using derogatory comments;
- (g) Threatening the child with physical harm; and
- (h) Threatening or intimidating the child.

(2) You, your staff, volunteer, anyone residing in your home or on the premises must not use methods that interfere with a child's basic needs. These include, but are not limited to:

- (a) Depriving the child of sleep;

- (b) Not providing required food, clothing or shelter;
- (c) Restricting a child's breathing;
- (d) Interfering with a child's ability to take care of their own hygiene and toilet needs; and
- (e) Not providing required medical or emergency dental care.

### NEW SECTION

**WAC 388-296-1300 Is the use of physical restraint allowed?** (1) You must first use efforts other than physical restraint to redirect or de-escalate a situation.

(2) If a child's behavior poses an immediate risk to physical safety, you may use a soft hold as a temporary method to prevent the child from hurting themselves or others.

### NEW SECTION

**WAC 388-296-1320 What types of restraint are not acceptable for children?** You, your staff, volunteer, anyone residing in your home or on the premises must not use:

- (1) Physical restraint as a form of punishment or discipline;
- (2) Mechanical restraints, including but not limited to handcuffs and belt restraints;
- (3) Locked time-out rooms; or
- (4) Physical restraint techniques that restrict breathing, or inflict pain as a strategy for behavior control, or that might injure a child. These include, but are not limited to:
  - (a) Restriction of body movement by placing pressure on joints, chest, heart, or vital organs;
  - (b) Sleeper holds, which are holds used by law enforcement officers to subdue a person;
  - (c) Arm twisting;
  - (d) Hair holds;
  - (e) Choking or putting arms around the throat; and
  - (f) Chemical restraints.

### NEW SECTION

**WAC 388-296-1330 What must I do following an incident that involved using physical restraint?** You must:

- (1) Review any incident of physical restraint to ensure that the decision to use physical restraint and its application were appropriate;
- (2) Report the incident to the child's parent;
- (3) Document the incident in the child's record; and
- (4) Obtain consultation from the licensor and public health nurse so that further use of restraint may be eliminated.

### NEW SECTION

**WAC 388-296-1340 What incidents involving children must I report?** (1) You or your staff must report any of the following incidents immediately to your local children's administration intake staff, and your licensor:

- (a) Suspected child abuse, neglect or exploitation;
- (b) Death of a child;
- (c) Child's suicide attempt;
- (d) Use of physical restraint that is alleged to be improper, excessive, or results in injury;

- (e) Sexual contact between two or more children;
  - (f) Disclosures of sexual or physical abuse by a child in care;
  - (g) Injury requiring professional medical treatment;
  - (h) Unexpected or emergent health problems that require off-site professional medical treatment;
  - (i) Medication that is given incorrectly.
- (2) You or your staff must report immediately, any of the following incidents to the child's parent or legal guardian:
- (a) Suicidal or homicidal ideation, gestures, or attempts;
  - (b) Unexpected health problems;
  - (c) Any incident of medication administered incorrectly;
  - (d) Physical assaults that resulted in injury;
  - (e) Runaways;
  - (f) Missing children; and
  - (g) Use of physical restraints for routine behavior management.

AGERANGE OF CHIL-DREN (IN YEARS)	HIGHEST NUMBER OF CHILDREN UNDER TWO YEARS OF AGE ALLOWED	HIGHEST NUMBER OF CHILDREN ALLOWED ON THE PREMISES
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STAFF AND EXPERIENCE  
 (f) Licensee with two years' of licensed child care experience and one three credit ECE course of 30 clock hours of ECE training, one staff person or volunteer

Birth - 11                      4                      12

- (4) You must ensure a staff person or volunteer is present in the licensed space of the child care facility when:
- (a) Three or more children under two years of age are in care;
  - (b) Seven or more children are in care and at least one child in care is under two years of age; or
  - (c) More than ten children are in care.
- (5) Our determination of capacity must include all children eleven years of age or younger on the premises. (Except as provided for in the subsection (2) above.)
- (6) You must ensure that only you and/or a primary staff person, eighteen years of age or older, has sole responsibility for the child in care.

**CAPACITY AND STAFFING RATIOS, AND SUPERVISION OF CHILDREN**

**NEW SECTION**

**WAC 388-296-1350 What are the capacity and the ratio of child care staff to children based on?** The number and ages of the children must determine the number of staff and group size in attendance.

- (1) All children in the home, including the provider's or other staff's own children, must be counted in determining the staff to child ratio and group size.
- (2) All children under the age of twelve visiting the home count in capacity. Children attending with a parent or responsible adult do not count in capacity as long as the parent or adult remains with and is responsible for the children;
- (3) The required staff to child ratios in the following chart must be met at all times.

STAFF AND EXPERIENCE	AGERANGE OF CHIL-DREN (IN YEARS)	HIGHEST NUMBER OF CHILDREN UNDER TWO YEARS OF AGE ALLOWED	HIGHEST NUMBER OF CHILDREN ALLOWED ON THE PREMISES
(a) Licensee	Birth - 11	2	6
(b) Licensee with one year experience	2 - 11	None	8
(c) Licensee with one year experience	5 - 11	None	10
(d) Licensee with one year of licensed child care experience plus one staff person or volunteer	Birth - 11	4	9
(e) Licensee with two years' of licensed child care experience and one three credit early childhood education (ECE) course or 30 clock hours of ECE training	3 - 11	None	10

**NEW SECTION**

**WAC 388-296-1360 What am I required to do to supervise children?** (1) You must ensure that the required number of staff supervise children.

- (2) You, or a primary staff person, must be within sight or hearing of the children in your care, both inside and outside, so that you or a primary staff person are capable of intervening to protect the health and safety of the children.
- (3) Preschool age children and younger must be within sight and hearing of you or a primary staff person when outside.
- (4) The supervision you provide must ensure that you are aware of what the children are doing at all times and can promptly assist or redirect activities when necessary.
- (5) If you are unable to view children in your licensed space you must continually go to that area to check on them.
- (6) Children must not be on a floor level of the home unless you or a primary staff person is on the same floor level. When deciding how close to supervise, you must consider the following:
  - (a) Ages of the children (sleeping or napping infants must be in the main child care space and subject to continual checks);
  - (b) Individual differences and abilities;
  - (c) Layout of the house and play area;
  - (d) The risk associated with the activities children are engaged in; and
  - (e) Your outdoor play area and nearby hazards.
- (7) A baby monitor or video monitor must not take the place of the required supervision for children in your care.

PERMANENT

## THE LEARNING ENVIRONMENT

### NEW SECTION

**WAC 388-296-1370 What types of play materials, equipment and activities must I provide for the children in my care?** (1) You must provide developmentally appropriate and culturally relevant activities and materials in the required quantity and variety to meet the needs and interests of children being served. The daily schedule must promote:

(a) Social skills (for example: opportunities for sharing, caring and helping);

(b) Positive self-concepts (for example: encouraging children to draw pictures and tell stories about themselves and their families);

(c) Language and literacy (for example: reading books, songs, conversation, story telling, scribbling and drawing);

(d) Physical development in both indoor and outdoor settings, strengthening large and small muscles and encouraging eye-hand coordination, body awareness, rhythm and movement (for example; finger plays, obstacle courses and puzzles); and

(e) Creative expression and appreciation for the arts (for example: creating art work as process rather than product, dance, movement, dramatic play, music and materials that represent a variety of cultures).

(2) The daily schedule must provide:

(a) Individual, small group and large group activities;

(b) Many opportunities for success through open-ended activities (for example: blocks, play dough and sand/water and praising effort, not just results);

(c) An environment of respect for individual and cultural diversity (for example: acknowledging and respecting each child's unique qualities and integrating positive culturally relevant experiences into daily activities);

(d) Opportunities for children to solve problems, initiate activities, experiment and gain mastery through learning by doing;

(e) Opportunities to explore science, dramatic play, music, language arts and mathematical concepts;

(f) A balance between staff-directed and child-initiated activities. Staff voices must not dominate the overall sound of the group; and

(g) Infants and toddlers with ample opportunities to move about freely in a safe area.

(3) If television/video viewing occurs it must not be in place of planned activities and must be:

(a) Educational;

(b) Designed for children; and

(c) Age-appropriate alternatives to television must be available for children during TV or video watching and appropriate for the number and ages of the children in care.

(4) You must have the required outdoor play equipment for the number and ages of the children that you serve (see WAC 388-296-1240).

### NEW SECTION

**WAC 388-296-1380 Are there additional requirements regarding American Indian children?** When one or

more American Indian child receives care at the home, the licensee must in consultation with the parent, establish a plan to provide resources and training designed to meet the social and cultural needs of such children.

### NEW SECTION

**WAC 388-296-1390 How am I required to interact with the children in my care?** You, your staff and volunteers must:

(1) Treat each child with consideration and respect, and with equal opportunities to take part in all developmentally appropriate activities;

(2) Appropriately hold, touch and smile at children;

(3) Speak clearly to children at their eye level;

(4) Be available and responsive to children, encouraging them to share experiences, ideas and feelings;

(5) Sit with children during meals when possible;

(6) Listen to children with attention and respect;

(7) Attend to children when they cry;

(8) Perform nurturing activities including diapering, toileting, feeding, dressing and resting taking into consideration of the parent's own nurturing practices, when the practices are developmentally appropriate and when the practices would not constitute a violation of these regulations. These activities must be performed in a relaxed, reassuring and individualized manner, which is developmentally appropriate and promotes the child's learning self-help and social skills; and

(9) You, your staff, volunteers and family members having access to the children in your care must not use profanity or obscene language.

## STAFF POSITIONS, QUALIFICATIONS AND ONGOING STAFF TRAINING

### NEW SECTION

**WAC 388-296-1400 What are the responsibilities of the family home provider?** (1) You are responsible for the overall management of your family home child care business.

(2) You must ensure your family home child care business complies with the minimum licensing requirements contained in this chapter.

### NEW SECTION

**WAC 388-296-1410 What are the required staffing qualifications for child care?** (1) You, a primary staff person, assistant, volunteer, and other person associated with the operation of the business who has access to the child in care must:

(a) Meet the qualifications in WAC 388-296-0140;

(b) Not have committed or been convicted of child abuse or any crime involving physical harm to another person; and

(c) Not have been disqualified from working in a licensed child care setting or have had a license revoked.

(2) The licensee must:

(a) Be eighteen years of age or older;

(b) Be the primary child care provider;

(c) Ensure compliance with minimum licensing requirements under this chapter; and

(d) Have completed one of the following prior to or within the first six months of obtaining an initial license:

(i) Twenty clock hours or two college quarter credits of basic training approved by the Washington state training and registry system (STARS);

(ii) Current child development associate (CDA) or equivalent credential or twelve or more college quarter credits in early childhood education or child development; or

(iii) Associate of arts or AAS or higher college degree in early childhood education, child development, school age care, elementary education or special education.

(3) Child care staff must be:

(a) Fourteen years of age or older if an assistant; or

(b) Eighteen years of age or older if a primary worker and assigned sole responsibility for the child in care.

(4) You and your staff must meet the following qualifications:

Position	Qualifications	Background Check	TB Test	STARS Training	First Aid and CPR	HIV/AIDS and Blood borne pathogens training
Licensee	Eighteen years of age	X	X	X	X	X
Primary child care staff	Eighteen years of age	X	X	X Basic 20 hour training to be completed within the first six months of employment	X	X
Child care assistant/volunteer	Fourteen years of age; (directly supervised by the licensee or a primary staff)	X	X	Recommended	If counted in staff to child ratio	X

PERMANENT

**NEW SECTION**

**WAC 388-296-1420 Must I be present while children are at my family home child care?** (1) You must be present and in the licensed space of your family home child care during the majority of your operating hours.

(2) You must notify your licensor and obtain advanced approval if you plan to be away from the child care business for more than the majority of the time the child care is in operation.

(3) When you are absent from the child care business you must leave a qualified primary staff person in charge. This person must meet the same qualifications that we require of you.

(4) You may leave a qualified assistant eighteen years or older in charge of the child care business to allow for medical, dental and other necessary appointments for periods not to exceed two hours.

**NEW SECTION**

**WAC 388-296-1430 Are child care assistants and volunteers allowed to provide care to a group of children without supervision?** (1) You may have a child care assistant and volunteer support you at your family home child care facility while under the direct supervision of you or a primary staff person; and

(2) You must not assign to a person under eighteen years of age sole responsibility for a group of children.

**ON-GOING STAFF TRAINING**

**NEW SECTION**

**WAC 388-296-1440 Am I required to offer training to my staff?** You must:

(1) Discuss with the staff your policies and procedures as well as the rules contained in this chapter;

(2) Provide or arrange for your staff to have training for the services that you provide to children under your care;

(3) Include in your training monthly practice of fire drills and disaster training for each staff;

(4) Update blood borne pathogen information on an annual basis;

(5) Ensure that staff and volunteers keep CPR and first aid training current if they are required to have it;

(6) Record the amount of time and type of training provided to staff; and

(7) Keep this information in staff files or in a separate training file and make this information available to DCCEL upon request.

**NEW SECTION**

**WAC 388-296-1450 What personnel records must I have?** You, the primary staff, assistant, and volunteer must have on file at the home:

(1) An application, including work and education history (resume);



(2) Documentation of criminal history and background inquiry form submission;

(3) A record of the tuberculin skin test results, X ray, or an exemption to the skin test or X ray;

(4) Documentation of HIV/AIDS training and blood borne pathogen information;

(5) Documentation of current CPR and first aid training, when applicable; and

(6) Documentation of basic and annual STARS training when applicable.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-155-005	Authority.
WAC 388-155-010	Definitions.
WAC 388-155-020	Scope of licensing.
WAC 388-155-040	Local ordinances and codes.
WAC 388-155-050	Waivers.
WAC 388-155-060	Dual licensure.
WAC 388-155-070	How do I apply for a license and what is required?
WAC 388-155-083	Fees.
WAC 388-155-085	Initial license.
WAC 388-155-090	When can my license application be denied and when can my license be suspended or revoked?
WAC 388-155-092	Civil penalties.
WAC 388-155-093	Civil penalties—Amount of penalty.
WAC 388-155-094	Civil penalty—Posting of notice of penalty.
WAC 388-155-095	Civil penalties—Unlicensed programs.
WAC 388-155-096	Civil penalties—Separate violations.
WAC 388-155-097	Civil penalties—Penalty for nonpayment.
WAC 388-155-098	Probationary license.
WAC 388-155-100	Activities and routines.
WAC 388-155-110	Learning and play materials.
WAC 388-155-120	Provider-child interactions.
WAC 388-155-130	Behavior management and discipline.
WAC 388-155-140	Rest periods.
WAC 388-155-150	Evening and nighttime care.

WAC 388-155-160

WAC 388-155-165

WAC 388-155-170

WAC 388-155-180

WAC 388-155-190

WAC 388-155-200

WAC 388-155-220

WAC 388-155-230

WAC 388-155-240

WAC 388-155-250

WAC 388-155-270

WAC 388-155-280

WAC 388-155-290

WAC 388-155-295

WAC 388-155-310

WAC 388-155-320

WAC 388-155-330

WAC 388-155-340

WAC 388-155-350

WAC 388-155-360

WAC 388-155-370

WAC 388-155-380

WAC 388-155-390

WAC 388-155-400

WAC 388-155-410

WAC 388-155-420

WAC 388-155-430

WAC 388-155-440

WAC 388-155-450

WAC 388-155-460

WAC 388-155-470

WAC 388-155-480

Off-site trips.

Transportation.

Parent communication.

Staffing—Qualifications.

Capacity.

Development and training.

Health supervision and infectious disease prevention.

Medication management.

Nutrition.

Kitchen and food service.

Care of young children.

General safety, maintenance, and site.

Water supply, sewage, and liquid wastes.

Water safety.

First-aid supplies.

Outdoor play area.

Indoor play area.

Toilets, handwashing sinks, and bathing facilities.

Laundry.

Nap and sleep equipment.

Storage.

Home atmosphere.

Discrimination prohibited.

Religious activities.

Additional requirements regarding American Indian children.

Child abuse, neglect, and exploitation.

Prohibited substances.

Limitations to persons on premises.

Child records and information.

Home records.

Personnel records.

Reporting of death, injury, illness, epidemic, or child abuse.

PERMANENT

WAC 388-155-490	Reporting of circumstantial changes.
WAC 388-155-500	Posting requirements.
WAC 388-155-600	Occupancy restrictions.
WAC 388-155-605	Hazardous areas.
WAC 388-155-610	Single station smoke detectors.
WAC 388-155-620	Alternate means of sounding a fire alarm.
WAC 388-155-630	Fire extinguisher.
WAC 388-155-640	Fire prevention.
WAC 388-155-650	Sprinkler system maintenance.
WAC 388-155-660	Fire evacuation plan.
WAC 388-155-670	Fire evacuation drill.
WAC 388-155-680	Staff training.
WAC 388-155-991	Waiver of fees.
WAC 388-155-992	Fee payment and refunds.
WAC 388-155-993	Denial, revocation, suspension, and reinstatement.

### WSR 04-19-103

#### PERMANENT RULES DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed September 20, 2004, 3:58 p.m., effective October 21, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Revises chapter 388-72A WAC, Comprehensive assessment reporting evaluation (CARE) tool, to include the CARE algorithm component in rule, incorporate CARE assessment criteria for children receiving state plan Medicaid personal care (MPC) services, and amend other sections as needed to update program rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-72A-0040 and 388-72A-0075; and amending WAC 388-72A-0010, 388-72A-0035, 388-72A-0055, 388-72A-0060, 388-72A-0065, 388-72A-0070, 388-72A-0080, 388-72A-0085, 388-72A-0090, and 388-72A-0095.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.520.

Other Authority: RCW 74.39A.090 and 74.39A.095.

Adopted under notice filed as WSR 04-14-099 on July 6, 2004.

Changes Other than Editing from Proposed to Adopted Version: Proposed WAC 388-72A-0042 has been withdrawn and filed under supplemental proposal WSR 04-18-071.

WAC 388-72A-0035, clarifies the definition of personal hygiene. Menses is a type of perineum care.

WAC 388-72A-0060(2), clarifies that only one of the criteria applies. The permanent rule also incorporates amendments adopted as WSR 04-16-029.

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 15, Amended 10, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 15, Amended 10, Repealed 2.

Date Adopted: September 15, 2004.

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

**WAC 388-72A-0010 ((Does)) Do chapter 388-71 WAC and WAC 388-845-1300 apply to me?** Yes. Chapter 388-71 WAC ((applies)) and WAC 388-845-1300 apply with the exception of the following((:)) definitions in WAC 388-71-0202: Direct personal care services, household assistance, medically oriented tasks, personal care services, plan of care, supervision, and unscheduled tasks. Also, the following WAC sections do not apply to you: WAC 388-71-0203, 388-71-0205, 388-71-0430, 388-71-0435, 388-71-0440, 388-71-0442, and 388-71-0445.

AMENDATORY SECTION (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

**WAC 388-72A-0035 What are personal care services?** Personal care services means physical or verbal assistance with activities of daily living (ADL) and instrumental activities of daily living (IADL). ~~((Assistance means verbal or physical assistance with ADL and IADL.))~~ Assistance is evaluated with the use of assistive devices.

(1) Activities of daily living consist of the following care tasks that are directly related to your disabling condition:

(a) **Bathing((:)):** How you take a full-body bath/shower, sponge bath, and transfer in/out of tub/shower;

(b) **Bed mobility((:)):** How you move to and from a lying position, turn side to side, and position your body while in bed;

(c) **Body care((:)):** How you perform with passive range of motion, applications of dressings and ointments or lotions to the body and pedicure to trim toenails and apply lotion to feet. In adult family homes or in ~~((licensed boarding homes contracting with DSHS to provide))~~ contracted assisted living ~~((services))~~ facilities, dressing changes using clean technique and topical ointments ~~((must be delegated by a registered~~

nurse)) require nurse delegation in accordance with chapter 246-840 WAC. Body care excludes:

(i) Foot care for clients who are diabetic or have poor circulation; or

(ii) Changing bandages or dressings when sterile procedures are required.

(d) **Dressing((:)):** How you put on, fasten, and take off all items of clothing, including donning/removing prosthesis;

(e) **Eating((:)):** How you eat and drink, regardless of skill. Eating includes any method of receiving nutrition, e.g., by mouth, tube or through a vein;

(f) **Locomotion in room and immediate living environment((:)):** How you move between locations in your room and immediate living environment. If you are in a wheelchair, locomotion includes how self-sufficient you are once in your wheelchair;

(g) **Locomotion outside of immediate living environment including outdoors((:)):** How you move to and return from more distant areas. If you are living in a boarding home or nursing facility (NF), this includes areas set aside for dining, activities, etc. If you are living in your own home or in an adult family home, locomotion outside immediate living environment including outdoors, includes how you move to and return from a patio or porch, backyard, to the mailbox, to see the next-door neighbor, etc;

(h) **Walk in room, hallway and rest of immediate living environment((:)):** How you walk between locations in your room and immediate living environment;

(i) **Medication management((:)):** Describes the amount of assistance, if any, required to receive medications, over the counter preparations or herbal supplements;

(j) **Toilet use((:)):** How you use the toilet room, commode, bedpan, or urinal, transfer on/off toilet, cleanse, change pad, manage ostomy or catheter, and adjust clothes;

(k) **Transfer((:)):** How you move between surfaces, i.e., to/from bed, chair, wheelchair, standing position. Transfer does not include how you move to/from the bath ((ø)), toilet, or vehicle; and

(l) **Personal hygiene((:)):** How you maintain personal hygiene, including combing hair, brushing teeth, shaving, applying makeup, washing/drying face (~~(hands, menses care)~~), hands (includes nail care), and perineum (menses care). This does not include personal hygiene in baths and showers.

(2) Instrumental activities of daily living (IADL) consist of the following routine activities performed around the home or in the community.

(a) **Meal preparation((:)):** How meals are prepared (e.g., planning meals, cooking, assembling ingredients, setting out food, utensils, and cleaning up after meals). NOTE: This task may not be authorized to just plan meals or clean up after meals. You must need assistance with actual meal preparation;

(b) **Ordinary housework((:)):** How ordinary work around the house is performed (e.g., doing dishes, dusting, making bed, tidying up, laundry);

(c) **Essential shopping((:)):** How shopping is completed to meet your health and nutritional needs (e.g., selecting items). Shopping is limited to brief, occasional trips in the local area to shop for food, medical necessities and house-

hold items required specifically for your health, maintenance or well-being. This includes shopping with or for you;

(d) **Wood supply((:)):** How wood is supplied (e.g., splitting, stacking, or carrying wood) when you use wood as the sole source of fuel for heating and/or cooking;

(e) **Travel to medical services((:)):** How you travel by vehicle to a physician's office or clinic in the local area to obtain medical diagnosis or treatment-includes driving vehicle yourself, traveling as a passenger in a car, bus, or taxi;

(f) **Managing finances((:)):** How bills are paid, check-book is balanced, household expenses are managed. The department cannot pay for any assistance with managing finances; and

(g) **Telephone use((:)):** How telephone calls are made or received (with assistive devices such as large numbers on telephone, amplification as needed).

### NEW SECTION

**WAC 388-72A-0036 How are my needs for personal care services determined?** The assessor gathers information from you, your caregivers, family members, and other sources to determine how much assistance you need with personal care services. For children age seventeen and younger, age expectations and the role of legally responsible natural/step/adoptive parents are considered and documented. This is measured by your:

(1) Self-performance, what you actually did in the last seven days before the assessment, not what you might be capable of doing. Coding is based on the level of performance that occurred three or more times in the seven-day period.

(2) Support provided, which means the highest level of support provided by others in the last seven days before the assessment, even if that level of support occurred only once.

(3) Status, which identifies whether a need is met, unmet, partially met, or declined.

(4) Assistance available.

### NEW SECTION

**WAC 388-72A-0037 How are self performance and support provided for the activities of daily living (ADLs) scored?** (1) For each ADL, except as otherwise provided for bathing, body care, and medication management, the assessor determines your ability to self-perform the ADL. Your self performance is scored as:

(a) **Independent** if you received no help or oversight, or if you needed help or oversight only once or twice;

(b) **Supervision** if you received oversight (monitoring or standby), encouragement, or cueing three or more times;

(c) **Limited assistance** if you were highly involved in the activity and given physical help in guided maneuvering of limbs or other nonweight bearing assistance on three or more occasions;

(d) **Extensive assistance** if you performed part of the activity, but on three or more occasions, you needed weight bearing support or you received full performance of the activity during part, but not all, of the activity;

(e) **Total dependence** if you received full caregiver performance of the activity and all subtasks during the entire

seven-day period from others. Total dependence means complete nonparticipation by you in all aspects of the ADL; or

(f) **Activity did not occur** if you or others do not perform an ADL over the last seven days before your assessment. The activity may not have occurred because:

- (i) You were not able (e.g., walking, if paralyzed); or
- (ii) No provider was available to assist; or
- (iii) You declined assistance with the task.

(2) The assessor also determines the level of support provided. Your support provided is scored as:

(a) **No set-up** or physical help provided by others;

(b) **Set-up help only** provided, which is the type of help characterized by providing you with articles, devices, or preparation necessary for greater self-performance of the activity (such as giving or holding out an item that you take from others);

(c) **One-person physical assist** provided;

(d) **Two- or more person physical assist** provided; or

(e) **Activity did not occur** during entire seven-day period.

#### NEW SECTION

**WAC 388-72A-0038 How are the ADLs bathing, body care, and medication management scored?** (1) The activity of bathing is assessed in the same way as other ADLs in WAC 388-72A-0037, except you are assessed as needing:

(a) **Limited assistance** with bathing if physical help is limited to transfer only; or

(b) **Extensive assistance** with bathing if you needed physical help with part of the activity (other than transfer).

(2) The activity of body care is assessed to determine whether you need assistance. You are scored as needing assistance if you require:

(a) Application of ointment or lotions;

(b) Trimming of toenails;

(c) Dry bandage changes; or

(d) Passive range of motion treatment.

(3) The activity of medication management is assessed to determine whether you need assistance managing your medications. This assistance is scored as:

(a) **Independent** if you remember to take medications as prescribed and manage your medications without assistance;

(b) **Assistance required** if you need assistance from a nonlicensed provider to facilitate your self-administration of a prescribed, over the counter, or herbal medication, you are assessed as needing assistance with medication management. Assistance required includes reminding or coaching you, handing you the medication container, opening the container, using an enabler to assist you in getting the medication into your mouth, and placing the medication in your hand. This does not include assistance with intravenous or injectable medications. You must be aware that you are taking medications;

(c) **Self-directed medication assistance/administration** if you are a person with a functional disability who is capable of and who chooses to self-direct your medication assistance/administration. In licensed boarding homes, this may include situations in which you cannot physically self-

administer medications but can accurately direct others, per WAC 388-78A-0300; or

(d) **Must be administered** if you must have medications placed in your mouth or applied or instilled to your skin or mucus membrane. Administration must either be performed by a licensed professional or delegated by a registered nurse to a qualified caregiver (per chapter 246-840 WAC). Intravenous or injectable medications may never be delegated. Administration may also be performed by a family member or unpaid caregiver if facility licensing regulations allow.

#### NEW SECTION

**WAC 388-72A-0039 How are self performance and difficulty for the instrumental activities of daily living (IADLs) scored?** (1) For each IADL, the assessor determines your ability to self-perform the IADL. Your self performance is scored as:

(a) **Independent** if you received no help, set-up help, or supervision;

(b) **Supervision** if you received set-up help or arrangements only;

(c) **Limited assistance** if you sometimes performed the activity yourself and other times needed assistance;

(d) **Extensive assistance** if you were involved in performing the activity, but required cueing/supervision or partial assistance at all times;

(e) **Total dependence** if you needed the activity fully performed by others; or

(f) **Activity did not occur** if you or others did not perform the activity in the last seven days before the assessment.

(2) For each IADL, the assessor determines how difficult it is or would be for you to perform the activity. This is scored as:

(a) **No difficulty** in performing the activity;

(b) **Some difficulty** in performing the activity (e.g., you need some help, are very slow, or fatigue easily); or

(c) **Great difficulty** in performing the activity (e.g., little or no involvement in the activity is possible).

#### NEW SECTION

**WAC 388-72A-0041 How are status and assistance available scored for ADLs and IADLs?** (1) For each ADL and IADL, the assessor determines whether there is an informal support available. An informal support is a person or resource that is available to provide assistance without home and community program funding. The assessor determines whether the ADL or IADL is:

(a) **Met**, which means the ADL or IADL will be fully provided by an informal support;

(b) **Unmet**, which means an informal support will not be available to provide assistance with the identified ADL or IADL;

(c) **Partially met**, which means an informal support will be available to provide some assistance, but not all, with the identified ADL or IADL; or

(d) **Client declines**, which means you do not want assistance with the task.

(2) If partially met is selected, then the amount of the assistance available is determined using one of four categories:

- (a) Less than one-fourth of the time;
- (b) One-fourth to one-half of the time;
- (c) Over one-half of the time to three-fourths of the time;

or

(d) Over three-fourths of the time.

Note: For children seventeen years and younger living with their legally responsible natural/step/adoptive parents, the status and assistance available will be met or partially met over three fourths of the time.

The following table is used to determine the percentages outlined in subsection (2)(a) through (d) of this section.

**NUMBER OF TIMES/HOURS TASK IS MET INFORMALLY**

NUMBER OF TIMES/HOURS TASK IS REQUIRED

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
1	100%																			
2	50%	100%																		
3	33%	67%	100%																	
4	25%	50%	75%	100%																
5	20%	40%	60%	80%	100%															
6	17%	33%	50%	67%	83%	100%														
7	14%	29%	43%	57%	71%	86%	100%													
8	13%	25%	38%	50%	63%	75%	88%	100%												
9	11%	22%	33%	44%	56%	67%	78%	89%	100%											
10	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%										
11	9%	18%	27%	36%	45%	54%	63%	73%	82%	91%	100%									
12	8%	17%	25%	33%	42%	50%	58%	67%	75%	83%	92%	100%								
13	8%	15%	23%	31%	38%	46%	54%	62%	69%	77%	85%	92%	100%							
14	7%	14%	21%	29%	36%	43%	50%	57%	64%	71%	79%	86%	93%	100%						
15	7%	13%	20%	27%	33%	40%	47%	53%	60%	67%	73%	80%	87%	93%	100%					
16	6%	13%	19%	25%	31%	38%	44%	50%	56%	63%	69%	75%	81%	88%	94%	100%				
17	6%	12%	18%	24%	29%	35%	41%	47%	53%	59%	65%	71%	76%	82%	88%	94%	100%			
18	6%	11%	17%	22%	28%	33%	39%	44%	50%	56%	61%	67%	72%	78%	83%	89%	94%	100%		
19	5%	11%	16%	21%	26%	32%	37%	42%	47%	52%	57%	63%	68%	74%	79%	84%	89%	95%	100%	
20	5%	10%	15%	20%	25%	30%	35%	40%	45%	50%	55%	60%	65%	70%	75%	80%	85%	90%	95%	100%

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**AMENDATORY SECTION** (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

**WAC 388-72A-0055 Am I eligible for COPES-funded services?** You are eligible for COPES-funded services if you meet all of the following criteria. The department or its designee must assess your needs and determine that:

- (1) You are age:
  - (a) Eighteen or older and blind or disabled, as defined in WAC 388-511-1105; or
  - (b) Sixty-five or older.

(2) You meet financial eligibility requirements. This means the department will assess your finances and determine if your income and resources fall within the limits set in WAC 388-515-1505, Community options program entry system (COPES);

- (3) You:
  - (a) Are not eligible for Medicaid personal care services (MPC); or

(b) Are eligible for MPC services, but the department determines that the amount, duration, or scope of your needs is beyond what MPC can provide.

(4) Your ((comprehensive)) **CARE** assessment shows you need the level of care provided in a nursing facility (or will likely need the level of care within thirty days unless COPES services are provided) which means one of the following applies((-):

(a) You require care provided by or under the supervision of a registered nurse or a licensed practical nurse on a daily basis, or:

(b) You have an unmet or partially met need or the activity did not occur (because you were unable or no provider was available) with at least three or more of the following((- as defined in WAC 388-72A-0040):

- (i) Setup in eating (e.g., cutting meat and opening containers at meals; giving one food category at a time);
- (ii) Supervision in toileting;
- (iii) Supervision in bathing;

- (iv) Supervision plus setup in transfer;
- (v) Supervision plus setup in bed mobility;
- (vi) Supervision plus set up help in one of the following three tasks:

(A) Walk in room, hallway and rest of immediate living environment;

(B) Locomotion in room and immediate living environment;

(C) Locomotion outside of immediate living environment including outdoors.

- (vii) Assistance required in medication management; or
- (c) You have an unmet or partially met need with at least two or more of the following (~~(as defined in WAC 388-72A-0040)~~):

(i) Extensive assistance plus one person physical assistance in toileting;

(ii) Extensive assistance plus one person physical assistance in one of the following three tasks:

(A) Walk in room, hallway and rest of immediate living environment;

(B) Locomotion in room and immediate living environment;

(C) Locomotion outside of immediate living environment including outdoors.

(iii) Extensive assistance plus one person physical assistance in transfer;

(iv) Limited assistance plus one person physical assistance in bed mobility and need turning/repositioning;

(v) Physical help limited to transfer plus one person physical assist in bathing;

(vi) Supervision plus one person physical assist in eating; or

(vii) Daily assistance required in medication management; or

(d) You have a cognitive impairment and require supervision due to one or more of the following: Disorientation, memory impairment, impaired decision making, or wandering and have an unmet or partially met need with at least one or more of the following (~~(as defined in WAC 388-72A-0040)~~):

(i) Extensive assistance plus one person physical assistance in toileting;

(ii) Extensive assistance plus one person physical assistance in one of the following three tasks:

(A) Walk in room, hallway and rest of immediate living environment;

(B) Locomotion in room and immediate living environment;

(C) Locomotion outside of immediate living environment including outdoors.

(iii) Extensive assistance plus one person physical assistance in transfer;

(iv) Limited assistance plus one person physical assistance in bed mobility;

(v) Physical help limited to transfer plus one person physical assist in bathing;

(vi) Supervision plus one person physical assist in eating; or

(vii) Daily assistance required in medication management.

**AMENDATORY SECTION** (Amending WSR 04-16-029, filed 7/26/04, effective 8/26/04)

**WAC 388-72A-0060 Am I eligible for MPC-funded services?** You are eligible for MPC-funded services when the department or its designee assesses your needs and determines that you meet all of the following criteria:

(1) You are certified as ((Title XIX)) noninstitutionally needy, as defined in WAC 388-500-0005. ~~Categorically needy medical institutional programs described in chapter 388-513 WAC do not meet this criteria.~~

(2) You are functionally eligible which means one of the following applies:

(a) You have an unmet or partially met need or the activity did not occur (because you were unable or no provider was available) in at least three or more of the following:

~~((a))~~ (i) Help/oversight one or two times during the last seven days plus setup in eating;

~~((b))~~ (ii) Supervision in toileting;

~~((c))~~ (iii) Supervision in bathing;

~~((d))~~ (iv) Supervision in dressing;

~~((e))~~ (v) Supervision plus setup in transfer;

~~((f))~~ (vi) Supervision plus setup in bed mobility;

~~((g))~~ (vii) Supervision plus set up help in one of the following three tasks:

~~((h))~~ (A) Walk in room, hallway and rest of immediate living environment;

~~((i))~~ (B) Locomotion in room and immediate living environment((;

~~((j))~~); or

(C) Locomotion outside of immediate living environment including outdoors.

~~((k))~~ (viii) Assistance required in medication management;

~~((l))~~ (ix) Supervision in personal hygiene;

~~((m))~~ (x) Assistance with body care, which means you need:

~~((n))~~ (A) Application of ointment or lotions;

~~((o))~~ (B) Your toenails trimmed;

~~((p))~~ (C) Dry bandage changes; or

~~((q))~~ (D) Passive range of motion treatment.

~~((r))~~ (b) You have an unmet or partially met need or the activity did not occur (because you were unable or no provider was available) with at least one or more of the following:

~~((s))~~ (i) Extensive assistance plus one person physical assistance in toileting;

~~((t))~~ (ii) Extensive assistance plus one person physical assistance in one of the following three tasks:

~~((u))~~ (A) Walk in room, hallway and rest of immediate living environment((;

~~((v))~~); or

(B) Locomotion in room and immediate living environment((;

~~((w))~~); or

(C) Locomotion outside of immediate living environment including outdoors.

~~((x))~~ (iii) Extensive assistance plus one person physical assistance in transfer;

~~((y))~~ (iv) Limited assistance plus one person physical assistance in bed mobility and need turning/repositioning;

~~((e))~~ (v) Physical help limited to transfer plus one person physical assist in bathing;

~~((f))~~ (vi) Supervision plus one person physical assist in eating; ~~((e))~~

~~((g))~~(vii) Daily assistance required in medication management; or

~~((h))~~ (viii) Assistance with body care, which means you need:

~~((i))~~ (A) Application of ointment or lotions;

~~((j))~~ (B) Your toenails trimmed;

~~((k))~~ (C) Dry bandage changes; or

~~((l))~~ (D) Passive range of motion treatment.

~~((m))~~ (ix) Extensive assistance plus one person physical assistance in dressing(~~(-~~

~~((n))~~); or

(x) Extensive assistance plus one person physical assistance in personal hygiene.

**AMENDATORY SECTION** (Amending WSR 03-05-097 [04-16-029], filed 2/19/03 [7/26/04], effective 3/22/03 [8/26/04])

**WAC 388-72A-0065 Am I eligible for Chore-funded services?** To be eligible for Chore-funded services, you must:

(1) Be eighteen years of age or older;

(2) Have an unmet or partially met need or the activity did not occur (because you were unable or no provider was available) in at least one or more of the following(~~(- as defined in WAC 388-72A-0040))~~):

(a) Help/oversight one or two times during the last seven days plus setup in eating;

(b) Supervision in toileting;

(c) Supervision in bathing;

(d) Supervision in dressing;

(e) Supervision plus setup in transfer;

(f) Supervision plus setup in bed mobility;

(g) Supervision plus set up help in one of the following three tasks:

(i) Walk in room, hallway and rest of immediate living environment;

(ii) Locomotion in room and immediate living environment; or

(iii) Locomotion outside of immediate living environment including outdoors.

(h) Assistance required in medication management;

(i) Supervision in personal hygiene;

(j) Assistance with body care, which means you need:

(i) Application of ointment or lotions;

(ii) Your toenails trimmed; or

(iii) Dry bandage changes; or

(iv) Passive range of motion treatment.

(3) Currently be on the Chore program and not be eligible for MPC or COPES, Medicare home health or other programs if these programs can meet your needs;

(4) Have net household income (as described in WAC ~~388-450-0005((-388-450-0020,))~~ and ~~388-450-0040((-and 388-511-1130))~~) not exceeding:

(a) The sum of the cost of your Chore services; and

(b) One-hundred percent of the Federal Poverty Level (FPL) adjusted for family size.

(5) Have resources, as described in chapter 388-470 WAC, which does not exceed ten thousand dollars for a one-person family or fifteen thousand dollars for a two-person family. (Note: One thousand dollars for each additional family member may be added to these limits.)

(6) Not transfer assets on or after November 1, 1995 for less than fair market value as described in WAC 388-513-1365.

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

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

### NEW SECTION

**WAC 388-72A-0069 How does CARE use the information the assessor gathers?** CARE processes the information that the assessor gathers through algorithms. An algorithm is a numerical formula utilized by the CARE assessment software that determines a classification group, payment level and referral needs based upon the information documented in the CARE assessment.

**AMENDATORY SECTION** (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

**WAC 388-72A-0070 What are the in-home hours and residential rate based on?** The department employs a client classification methodology consisting of fourteen care groups. Twelve groups apply to clients served in residential and in-home settings. For the in-home setting, two additional exceptional care groups apply. The department uses ~~((an automated assessment tool known as the comprehensive assessment reporting evaluation (-) CARE((-) tool))~~ to assess client characteristics. CARE places clients in a classification group based on the assessment. For in-home settings, each classification group is assigned a base number of care hours.

**AMENDATORY SECTION** (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

**WAC 388-72A-0080 What ~~((are the elements that))~~ criteria does the CARE tool ~~((evaluates for each of the criteria in WAC 388-72A-0075))~~ use to place a client in one of the classification groups?** The CARE tool ~~((evaluates for))~~ uses the following criteria to place a client in one of the classification groups:

(1) Cognitive performance

~~((a))~~ Short term memory;

~~((b))~~ Self performance in eating;

~~((c))~~ Ability to make self understood;

~~((d))~~ Ability to make decisions regarding ADLs; and

~~((e))~~ Comatose or in a persistent vegetative state), as defined in WAC 388-72A-0081, by using the cognitive performance scale (CPS) and assigning a score from zero to six.

(2) Clinical complexity

~~((a))~~ Diagnoses requiring more than average care time and/or special care;

~~(b) Skin problems receiving treatment;~~  
~~(c) Unstable clinical conditions; and~~  
~~(d) Skilled nursing needs)), as defined in WAC 388-72A-0082.~~

(3) Mood/behaviors ~~((the assessment data evaluated may include, but is not limited to the following:~~

- ~~(a) Assaulting care givers;~~
- ~~(b) Resisting care;~~
- ~~(c) Wandering; and~~
- ~~(d) Depression)) symptoms, as defined in WAC 388-72A-0083.~~

(4) ~~((Activities of daily living (A)ADLs(,)) by scoring the amount of assistance ((the client needs)) received to perform ((ADLs)) ADL in the past seven days, as defined in WAC 388-72A-0084.~~

(c) Sometimes understood—The client has limited ability, but is able;

(d) Rarely/never understood.

(4) Does the client have short-term memory problem, which is defined as client's capacity to remember recent events; or does the client have delayed recall?

(5) Does the client have total dependence for self performance in eating, as defined in WAC 388-72A-0037?

**NEW SECTION**

**WAC 388-72A-0081 How is cognitive performance measured in the CARE tool?** The CARE tool uses a standardized tool called the cognitive performance scale (CPS) to evaluate a client's cognitive impairment. The CPS results in a score that ranges from zero (intact) to six (very severe impairment), as shown in the table below. Answers to the following questions are used to determine a client's CPS score:

(1) Is the client comatose?

- (a) No,
- (b) Yes.

(2) What is the client's ability to make everyday decisions about tasks or activities of daily living in the seven days prior to the assessment?

(a) Independent—Decisions about the client's daily routine are consistent and organized; reflecting the client's lifestyle, choices, culture, and values.

(b) Modified Independence/difficulty in new situations—The client has an organized daily routine, was able to make decisions in familiar situations, but experienced some difficulty in decision making when faced with new tasks or situations.

(c) Moderately impaired/poor decisions; unaware of consequences—Decisions are poor and the client requires reminders, cues and supervision in planning, organizing and correcting daily routines. Client attempts to make decisions, although poorly.

(d) Severely impaired/no or few decisions or preferences regarding ADLs—Decision making severely impaired, never/rarely makes decisions.

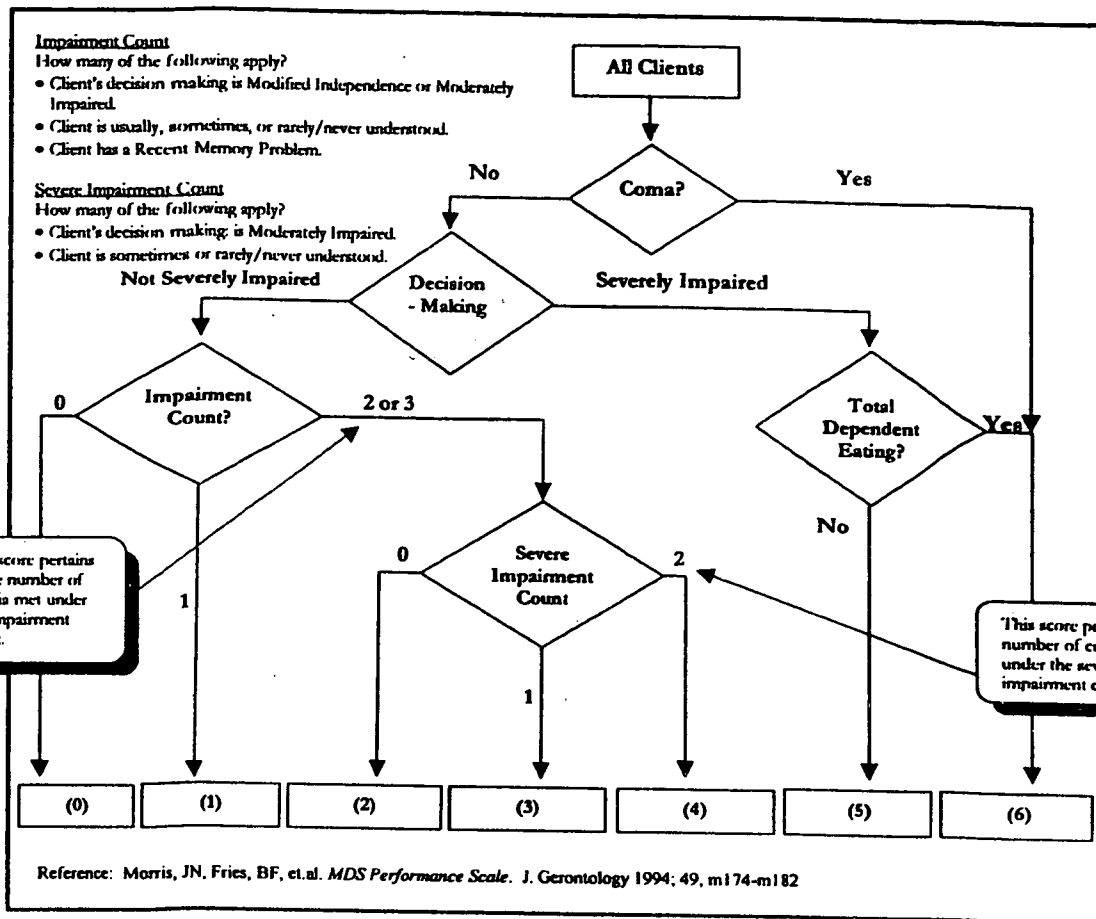
(3) How is the client able to make himself/herself understood (to those closest to him/her), to express or communicate requests, needs, opinions, urgent problems and social conversations, whether in speech, writing, sign language, symbols, or a combination of these including use of a communication board or keyboard?

(a) Understood—The client expresses ideas clearly;

(b) Usually understood—The client has difficulty finding the right words or finishing thoughts, resulting in delayed responses; or requires some prompting to make self understood.

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**NEW SECTION**

**WAC 388-72A-0082** How is clinical complexity measured within the CARE tool? Clinical complexity is determined only when you have one or more of the following conditions and corresponding ADL scores:

Condition	AND an ADL Score of
ALS (Lou Gehrig's disease)	>14
Aphasia (expressive and/or receptive)	>=2
Cerebral Palsy	>14
Diabetes Mellitus (insulin dependent)	>14
Diabetes Mellitus (noninsulin dependent)	>14
Emphysema & (SOB (at rest or exertion) or dizziness/vertigo)	>10
COPD & (SOB (at rest or exertion) or dizziness/vertigo)	>10
Explicit terminal prognosis	>14
Hemiplegia	>14
Multiple sclerosis	>14
Parkinson disease	>14

Condition	AND an ADL Score of
Pathological bone fracture	>14
Pressure ulcers, areas of persistent skin rednessOR Pressure ulcers, partial loss of skin layers OR Pressure ulcers, a full thickness lostOR Skin problem, skin desensitized to pain/pressureOR Skin problem, open lesionsOR Skin problem, stasis ulcers	>=2
AND Receives ulcer careOR (Received) or (needs and received) or (need met) pressure relieving deviceOR (Receive) or (needs and received) or (need met) turning/reposition program OR Receives application of dressingOR Receives wound/skin care	
Quadriplegia	>14
Rheumatoid Arthritis	>14

Condition	AND an ADL Score of
Skin problem, burns AND Receives application of dressingsOR Receives wound/skin care	>=2
Frequently incontinent, bladderOR Incontinent all or most of the time, bladder OR Frequently incontinent, bowelOR Incontinent all or most of the time, bowel AND Uses, has leakage, needs assistanceOR Does not use, has leakage OR Any scheduled toileting plan	>10
Current swallowing problem and not independent in eating	>10
Edema	>14
Pain daily	>14
Bowel program receives and needs	>10
Dialysis, needs	>10
IV nutritional support, needsOR Tube feedings, needs AND Total calories received per IV or tube was greater than 50%OR Total calories per IV or tube was 25-50% AND Fluid intake greater than 2 cups	>=2
Hospice care, needs	>14
Injections, needs	>14
Intravenous medications, needs	>10
Management of IV lines, needs	>10
Ostomy care, needs	>=2
Oxygen therapy, needs	>10
Radiation, needs	>10
Range of motion, passive, receives and needs	>10
Walking, training, receives and needs	>10
Suction, needs	>=2
Tracheostomy care, needs	>10
Ventilator/respirator, needs	>10

388-72A-0082, the mood and behavior criteria listed in subsection (3) below determines your classification group.

(2) Each documented behavior within CARE is described as:

(a) **Current**, which means it occurred within seven days of the assessment date, including the day of the assessment. Behaviors that are indicated as current must also include information about:

- (i) Whether the behavior is easily altered or not easily altered; and
- (ii) The frequency of the behavior.

(b) **Past**, which means it occurred between eight days and five years of the assessment date. For behaviors indicated as past, the assessor determines whether the behavior is addressed with current interventions or whether no interventions are in place.

(3) CARE places you in the Mood and behavior classification group only if you have one or more of the following behavior/moods that meets the corresponding description in the status, frequency, and alterability column. No other moods or behaviors documented in CARE are pertinent to this group.

Behavior/Mood	AND Status, Frequency & Alterability
Assaultive	Current
Combative during personal care	Current
Combative during personal care	In past and addressed with current interventions
Crying tearfulness	Current, frequency 4 or more days per week
Delusions	In past, addressed with current interventions
Depression score >=14	N/A
Disrobes in public	Current and not easily altered
Easily irritable/agitated	Current and not easily altered
Eats nonedible substances	Current
Eats nonedible substances	In past, addressed with current interventions
Hallucinations	Current
Hiding items	In past, addressed with current interventions
Hoarding/collecting	In past, addressed with current interventions
Mental health therapy/program	Need
Repetitive complaints/questions	Current, daily
Repetitive complaints/questions	In past, addressed with current interventions
Repetitive movement/pacing	Current, daily

**NEW SECTION**

**WAC 388-72A-0083 How are mood and behaviors measured within the CARE tool?** (1) When you do not meet the criteria for clinical complexity as defined in WAC 388-72A-0082 or the criteria for exceptional care, as defined in WAC 388-72A-0085, or have a cognitive performance scale score of five or six (in-home only), as defined in WAC

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Behavior/Mood	AND Status, Frequency & Alterability
Resistive to care	Current
Resistive to care	In past, addressed with current interventions
Sexual acting out	Current
Sexual acting out	In past, addressed with current interventions
Spitting	Current and not easily altered
Spitting	In past, addressed with current interventions
Breaks/throws items	Current
Unsafe smoking	Current and not easily altered
Up at night and requires intervention	Current
Wanders exit seeking	Current
Wanders exit seeking	In past, addressed with current interventions
Wanders not exit seeking	Current
Wanders not exit seeking	In past, addressed with current interventions
Yelling/screaming	Current, frequency 4 or more days per week

**NEW SECTION**

**WAC 388-72A-0084** How are ADL scores measured within the CARE tool? (1) CARE determines an ADL score ranging from zero to twenty-eight. The ADL scores are determined by looking at the self-performance coding for each of the ADLs listed below. Although assessed in CARE, bathing and medication management are not scored to determine the classification groups.

- (a) Personal hygiene;
- (b) Bed mobility;
- (c) Transfers;
- (d) Eating;
- (e) Toilet use;
- (f) Dressing;
- (g) Locomotion in room;
- (h) Locomotion outside room; and
- (i) Walk in room.

(2) CARE assigns a points value as described in the chart below. Only one score is used for the locomotion in room, locomotion outside of room and walk in room. The highest score of the three is used in determining the overall ADL score.

ADL Scoring Chart	
If Self Performance is:	Score Equals
Independent	0
Supervision	1

ADL Scoring Chart	
If Self Performance is:	Score Equals
Limited assistance	2
Extensive assistance	3
Total dependence	4
Did not occur/no provider	4
Did not occur/client not able	4
Did not occur/client declined	0

**AMENDATORY SECTION** (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

**WAC 388-72A-0085** How does the CARE tool evaluate ~~((the criteria elements))~~ for the two exceptional care classifications of in-home care? ~~((The CARE tool evaluates the criteria elements for:~~

~~(1) Cognitive performance by using the cognitive performance scale (CPS) and assigning a score. The score assigns ranges from zero to six with six being very severely impaired;~~

~~(2) Clinical complexity by determining whether your medical conditions take more or less time and/or require special care;~~

~~(3) Mood/behavior by determining whether your mood/behavior symptoms take more or less time;~~

~~(4) ADLs by scoring the assistance needed to perform ADLs.)~~ Exceptional care classification groups for the in-home setting occur only when the following criteria are met in either of the diagrams below:

Diagram 1 of Condition	
<u>One of the following diagnoses:</u> <u>Quadriplegia</u> <u>Paraplegia</u> <u>ALS (Amyotrophic Lateral Sclerosis)</u> <u>Parkinson's Disease</u> <u>Multiple Sclerosis</u> <u>Comatose</u> <u>Muscular Dystrophy</u> <u>Cerebral Palsy</u> <u>Post Polio Syndrome</u> <u>TBI (traumatic brain injury)</u>	<u>AND</u>
<u>ADL score of greater than or equal to 22</u>	<u>AND</u>
<u>(Needs) or (needs and received) or (need met)</u> <u>Turning/repositioning program</u>	<u>AND</u>
<u>External catheter</u> <u>or</u> <u>Intermittent catheter</u> <u>or</u> <u>Indwelling catheter care</u> <u>or</u> <u>Bowel program</u> <u>or</u> <u>Ostomy care</u>	<u>AND</u>

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<u>Diagram 1 of Condition</u>	
<u>Needs active range of motion (AROM)</u> <u>or</u> <u>Needs passive range of motion (PROM) performed by one of the following providers:</u> <u>Individual provider or agency provider;</u> <u>Self-directed care (individual provider only); or</u> <u>Private duty nurse.</u>	

<u>Diagram 2 of Condition</u>	
<u>ADL score greater than or equal to 22</u>	<u>AND</u>
<u>(Needs) or (needs and received) or (need met) Turning/repositioning program</u>	<u>AND</u>
<u>Need for AROM or need for PROM</u> <u>and</u> <u>Performed by one of the following providers:</u> <u>Individual provider or agency provider;</u> <u>Self-directed care (individual provider only); or</u> <u>Private duty nurse.</u>	<u>AND</u>

<u>IV nutrition support or tube feeding</u> <u>and</u> <u>Total calories received per IV or tube was greater than 50%</u> <u>and</u> <u>Fluid intake greater than 2 cups</u>	<u>AND</u>
<u>Needs dialysis (performed by individual provider or agency provider); Self-directed care (individual provider only); or Private duty nurse.</u> <u>or</u> <u>Needs ventilator/respirator (performed by individual provider or agency provider); Self-directed care (individual provider only); or Private duty nurse.</u>	

PERMANENT

**NEW SECTION**

**WAC 388-72A-0086** How is the information in WAC 388-72A-0081 through 388-72A-0084 used to determine the client's classification payment group for residential settings? The information in WAC 388-72A-0081 through 388-72A-0084 is used to place an adult applicant or recipient into one of the twelve residential classification groups, as shown in the table below.

<b>Classification</b>	<b>ADL Score</b>	<b>Group</b>
<b>Group D</b> Cognitive performance score = 4-6 and Clinically complex = yes and Mood/behavior = yes or no	ADL Score 18-28	D High (12)
	ADL Score 13-17	D Med (11)
	ADL Score 2-12	D Low (10)
<b>Group C</b> Cognitive performance score = 0-3 and Clinically complex = yes and Mood/behavior = yes or no	ADL Score 18-28	C High (9)
	ADL Score 9-17	C Med (8)
	ADL Score 2-8	C Low (7)
<b>Group B</b> Mood & behavior = Yes and Clinically complex = no and Cognitive performance score = 0-6	ADL Score 15-28	B High (6)
	ADL Score 5-14	B Med (5)
	ADL Score 0-4	B Low (4)

Classification	ADL Score	Group
<b>Group A</b> Mood & behavior = No and Clinically complex = No and Cognitive performance score = 0-6	ADL Score 10-28	A High (3)
	ADL Score 5-9	A Med (2)
	ADL Score 0-4	A Low (1)

**NEW SECTION**

**WAC 388-72A-0087** How is the information in WAC 388-72A-0081 through 388-72A-0085 used to determine the classification payment group for in-home clients? You are placed in a classification group based upon the criteria outlined in WAC 388-72A-0081 through 388-72A-0085. The in-home classification system is comprised of fourteen classification groups as shown in the table below.

Classification	ADL Score	Group	Base Hours of Group
<b>Group E</b> Exceptional care = yes and Mood and behavior = yes or no and Cognitive performance score = 0-6	ADL Score 26-28	E High (14)	420
	ADL Score 22-25	E Med (13)	350
<b>Group D</b> Cognitive performance score = 4-6 and Clinically complex = yes and Mood and behavior = yes or no <b>OR</b> Cognitive performance score = 5-6 and Clinically complex = no and Mood and behavior = yes or no	ADL Score 18-28	D High (12)	240
	ADL Score 13-17	D Med (11)	190
	ADL Score 2-12	D Low (10)	145
<b>Group C</b> Cognitive performance score = 0-3 and Clinically complex = yes and Mood and behavior = yes or no	ADL Score 18-28	C High (9)	180
	ADL Score 9-17	C Med (8)	140
	ADL Score 2-8	C Low (7)	83
<b>Group B</b> Mood and behavior = yes and Clinically complex = no and Cognitive performance score = 0-4	ADL Score 15-28	B High (6)	155
	ADL Score 5-14	B Med (5)	90
	ADL Score 0-4	B Low (4)	52

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Classification	ADL Score	Group	Base Hours of Group
<b>Group A</b> Mood and behavior = no and Clinically complex = no and Cognitive performance score = 0-4	ADL Score 10-28	A High (3)	78
	ADL Score 5-9	A Med (2)	62
	ADL Score 0-4	A Low (1)	29

**DETERMINING HOURS FOR IN-HOME SERVICES**

AMENDATORY SECTION (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

**WAC 388-72A-0090** What are the maximum hours that I can receive for in-home services? The maximum hours that you can receive for in-home services ((is)) are determined through the CARE tool. The maximum hours are based upon your classification group. The highest hours attached to an in-home classification group is four hundred twenty per month. These hours are based on criteria outlined in WAC 388-72A-0095. For Chore program clients, the maximum personal care hours per month the department will pay is one hundred sixteen.

NEW SECTION

**WAC 388-72A-0092** How are my in-home hours determined? (1) A base number of hours is assigned to each classification group as described in WAC 388-72A-0087.

(2) In accordance with WAC 388-72A-0095 and 388-71-0460, the base hours are adjusted to account for informal support, paid by individual(s) or group(s) other than the department and support shared living circumstances.

AMENDATORY SECTION (Amending WSR 03-05-097, filed 2/19/03, effective 3/22/03)

**WAC 388-72A-0095** ((How are)) What additional criteria are considered to determine the number of hours I ((can)) will receive for in-home services ((determined))? (1) In addition to criteria defined in WAC ((388-72A-0075, 388-72A-0080, and 388-72A-0085)) 388-72A-0081, 388-

72A-0082, 388-72A-0083, 388-72A-0084, 388-72A-0087, or 388-71-0460, CARE will take into account ((your)):

(a) ((Assistance available to meet your needs. This is defined as:

- (i) Met;
- (ii) Unmet;
- (iii) Partially met.

NOTE: Home and community programs (HCP) services may not replace other available resources the department identified when completing CARE. The hours will be adjusted to account for tasks that are either fully or partially met by other available resources. These resources may be unpaid or paid for by other state or community sources.

- (b) Environment, such as whether you:
- (i) Have laundry facilities out of home; and/or
  - (ii) Use wood as a primary source of heat and/or;
  - (iii) The time it takes to access essential shopping services.

(c) Living arrangement. The department will adjust payments to a personal care provider who is doing household tasks at the same time (e.g., essential shopping, meal preparation, laundry, and wood supply) if:

- (i) There is more than one client living in the same household; or
- (ii) You and your paid provider live in the same household.

(2) The CARE tool will provide a) The amount of informal supports available to fully or partially meet your needs as described in WAC 388-72A-0041.

(i) As shown in the following table, CARE determines the adjustment by placing a numeric value on the amount of assistance available to meet your needs and reduces the base hours assigned to the classification group using the values listed below for each ADL and IADL.

Meds	Self Performance	Status	Assistance Available	Value Percentage
Self administration of medications	Rules for all codes apply except independent is not counted	Unmet	N/A	.1
		Met	N/A	.0
		Decline	N/A	.0
		Partially met	<1/4 time	.9
			1/4 to 1/2 time	.7
			1/2 to 3/4 time	.5
> 3/4 time	.3			

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<u>Unscheduled ADLs</u>	<u>Self Performance</u>	<u>Status</u>	<u>Assistance Available</u>	<u>Value Percentage</u>
<u>Bed mobility, transfer, walk in room, eating, toilet use</u>	Rules apply for all codes except: Did not occur/client not able and Did not occur/no provider= 1; Did not occur/client declined and independent are not counted.	<u>Unmet</u>	N/A	<u>1</u>
		<u>Met</u>	N/A	<u>0</u>
		<u>Decline</u>	N/A	<u>0</u>
		<u>Partially met</u>	<1/4 time	<u>.9</u>
			1/4 to 1/2 time	<u>.7</u>
	1/2 to 3/4 time	<u>.5</u>		
	>3/4 time	<u>.3</u>		
<u>Scheduled ADLs</u>	<u>Self Performance</u>	<u>Status</u>	<u>Assistance Available</u>	<u>Value Percentage</u>
<u>Dressing personal hygiene bathing</u>	Rules apply for all codes except: Did not occur/client not able and Did not occur/no provider= 1; Did not occur/client declined and independent are not counted.	<u>Unmet</u>	N/A	<u>1</u>
		<u>Met</u>	N/A	<u>0</u>
		<u>Decline</u>	N/A	<u>0</u>
		<u>Partially met</u>	<1/4 time	<u>.75</u>
			1/4 to 1/2 time	<u>.55</u>
	1/2 to 3/4 time	<u>.35</u>		
	> 3/4 time	<u>.15</u>		
<u>IADLs</u>	<u>Self Performance</u>	<u>Status</u>	<u>Assistance Available</u>	<u>Value Percentage</u>
<u>Meal preparation Ordinary housework Essential shopping</u>	Rules for all codes apply except independent is not counted.	<u>Unmet</u>	N/A	<u>1</u>
		<u>Met</u>	N/A	<u>0</u>
		<u>Decline</u>	N/A	<u>0</u>
		<u>Partially met</u>	< 1/4 time	<u>.3</u>
			1/4 to 1/2 time	<u>.2</u>
	1/2 to 3/4 time	<u>.1</u>		
	> 3/4 time	<u>.05</u>		
<u>IADLs</u>	<u>Self Performance</u>	<u>Status</u>	<u>Assistance Available</u>	<u>Value Percentage</u>
<u>Travel to medical</u>	Rules for all codes apply except independent is not counted.	<u>Unmet</u>	N/A	<u>1</u>
		<u>Met</u>	N/A	<u>0</u>
		<u>Decline</u>	N/A	<u>0</u>
		<u>Partially met</u>	< 1/4 time	<u>.9</u>
			1/4 to 1/2 time	<u>.7</u>
	1/2 to 3/4 time	<u>.5</u>		
	> 3/4 time	<u>.3</u>		

(ii) The value percentage assigned to each specified ADL/IADL is summed and carried two decimal places. The resulting number is then divided by the number of qualifying ADL and IADL needs. If self-performance is coded as independent or did not occur/client declined then they are not qualifying ADLs and IADLs. The result is value A. Value A is then subtracted from one. This is value B. Value B is divided by three. This is value C. Value A and value C are summed. This is value D. Value D is multiplied by the "base hours" assigned to the client's classification group in WAC 388-72A-0087.

(b) Your environment, as described in the diagrams below.

Condition	Status	Assistance Available	Add On Hours
<u>Offsite laundry facilities, which means the client does not have facilities in own home and the caregiver is not available to perform any other personal or household tasks while laundry is done.</u>	N/A	N/A	8
<u>Client is &gt; 45 minutes from essential services (which means he/she lives more than 45 minutes one-way from a full-service market).</u>	Unmet	N/A	5
	Met	N/A	0
	Partially met	<1/4 time	5
		between 1/4 to 1/2 time	4
		between 1/2 to 3/4 time	2
>3/4 time		2	
<u>Wood supply used as sole source of heat.</u>	Unmet	N/A	8
	Met	N/A	0
	Declines	N/A	0
	Partially met	< 1/4 time	8
		between 1/4 to 1/2 time	6
		between 1/2 to 3/4 time	4
		> 3/4 time	2

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(c) Your living arrangement.

(i) If there is more than one client living in the same household, the status cannot be unmet for the following IADLs:

- (A) Meal preparation.
- (B) Housekeeping.
- (C) Shopping.
- (D) Wood supply.

(ii) If you and your paid provider live in the same household, the status must be met for the following IADLs:

- (A) Meal preparation.
- (B) Housekeeping.
- (C) Shopping.
- (D) Wood supply.

(iii) When there is more than one client living in the same household and your paid provider lives in your household, the status must be met for the following IADLs:

- (A) Meal preparation.
- (B) Housekeeping.
- (C) Shopping, and
- (D) Wood supply.

(2) The hours identified in WAC 388-72A-0095 (1)(b) are added to the resulting hours in WAC 388-72A-0095 (1)(a). The result is the maximum number of hours that can be used to develop your care plan. The assessor must take into account cost effectiveness, client health and safety, and program limits in determining how hours can be used to meet identified client needs.

(3) Within the limits of subsection (2) of this section, you and your case manager will work to determine what services you choose to receive if you are eligible. The hours may be used to authorize:

- (a) Personal care services (per WAC 388-72A-0055, 388-72A-0060, ~~((or))~~ 388-72A-0065, or 388-845-1300);
- (b) Home delivered meals (per WAC ~~((388-72A-0055))~~ 388-71-0415);

(c) Adult day care (per WAC ~~((388-72A-055 or 388-15-652))~~ 388-71-0708);

(d) ~~((Adult day health (per WAC 388-72A-055 or 388-15-653);~~

~~(e))~~ A home health aide (per WAC ~~((388-72A-0055))~~ 388-71-0415).

NEW SECTION

**WAC 388-72A-0115** When the department adjusts an algorithm, when does the adjustment become effective? When the department adjusts an algorithm used to evaluate the information gathered by the CARE tool, the effective date of any change generated by the adjustment(s) to the client's CARE level or hours shall be:

- (1) Immediate for applicants;
- (2) At the time of the recipient's next assessment.

NEW SECTION

**WAC 388-72A-0120** When a client requests a fair hearing to have the client's CARE tool assessment results reviewed and there is (are) a more recent CARE assessment(s), which CARE tool assessment does the administrative law judge review in the fair hearing? The administrative law judge must review the most recent CARE tool assessment.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 388-72A-0040      What information does the assessor gather?
- WAC 388-72A-0075      What does the CARE computerized assessment tool do



with the client information entered by department staff?

**WSR 04-19-136**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed September 21, 2004, 4:21 p.m., effective October 22, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending, repealing and adding new sections in chapter 388-71 WAC related to adult protective services, to implement procedures for due process and update rules for clarity.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-71-0120, 388-71-0150, and 388-71-0155; and amending WAC 388-71-0100, 388-71-0105, 388-71-0110, and 388-71-0115.

Statutory Authority for Adoption: RCW 34.05.020, 74.08.090.

Other Authority: RCW 74.39A.050, chapter 74.34 RCW.

Adopted under notice filed as WSR 04-13-138 on June 22, 2004.

Changes Other than Editing from Proposed to Adopted Version: The following changes have been made to the proposed rule based upon suggestions and comments received, as well as technical and editing changes noted during the process:

**WAC 388-71-0105 (amended) Definitions.**

- The following definitions have been revised or clarified in response to suggestions or comments:

**ALJ** - A comma replaced a period to fix a sentence fragment: "ALJ" means an administrative law judge, ~~An~~ an impartial decision-maker....

**BOA** - A description of BOA function has been added to the final rule definition for clarity and for consistency with the OAH definition: The board of appeals consists of lawyers who are members of the Washington State Bar Association. An ALJ's decision can be appealed to the board of appeals, allowing a level of review before an appeal to the court system may be considered.

**Entity** - The definition in the final rule has been modified as follows to clarify that APS does not and will not make entity findings against a licensed AFH, BH, or NH: "Entity" means any agency, corporation, partnership, association, limited liability company, sole proprietorship, for-profit or not-for-profit business that provides care and/or services to vulnerable adults under a license, certification or contract issued by DSHS or DSHS' contractor, ~~or who is required to be licensed as a boarding home licensed under chapter 18.20 RCW or an adult family home licensed under chapter 70.128 RCW. An entity does not include a boarding home licensed under chapter 18.20 RCW, an adult family home licensed under chapter 70.128 RCW, or a nursing home licensed under chapter 18.51~~

RCW, but does include such facilities if they are required to be licensed but are not currently licensed.

**Facility** - Added the following definition for clarity because the term is used in the rule, consistent with RCW 74.34.020 (5): "Facility" means a residence licensed as a boarding home under chapter 18.20 RCW, an adult family home under chapter 70.128 RCW, a nursing home under chapter 18.51 RCW, a soldier's home under chapter 72.36 RCW, a residential habilitation center under chapter 71A.20 RCW, or any other facility licensed by DSHS.

**Final finding**

- Edit: "self-neglect" has been removed from the list of types of mistreatment that may result in a hearing and placement on a registry because there is no perpetrator in a case of self-neglect.
- Clarified the appeal process as follows: ... is upheld through the administrative appeal process specified in WAC 388-71-01205 through 388-71-01280, or is not timely appealed ~~within thirty days~~ to the Office of Administrative Hearings.
- Added: The alleged perpetrator can appeal a final finding to Superior Court and the Court of Appeals under the Administrative Procedure Act, chapter 34.05 RCW.

**Initial Finding** - Added the term "initial" for clarification to differentiate between findings that have and have not been the subject of a due process opportunity.

**Person or entity with a duty of care**

- Renumbered subsections consistent with adding numbering to each definition.
- ~~(2)(b)~~: The word "individual" was replaced by the word "person" in order to be consistent with the rest of the chapter and the phrase "Person or entity with a duty of care" that is used in the RCW 74.34.020 definitions of abandonment and neglect. The change: ~~An individual~~ person named in a durable power of attorney as the attorney-in-fact as defined under chapter 11.94 RCW.
- ~~(3)(c)~~: Corrected the tense from plural to singular for consistency within the section, as follows: A person or entity providing the basic necessities of life to a vulnerable adults where:...

**Willful** - Edit. Made the term in bold font.

**WAC 388-71-0110 (amended) What is the purpose of an adult protective services investigation?**

- (3) The sentence was modified for clarity, as follows: When an allegation is substantiated, APS may investigate if whether other vulnerable adults may be at current risk of...
- (3) The word "individual" was replaced by the word "person" in order to be consistent with the phrase "Person or entity with a duty of care" that is used in the rule definition and the RCW 74.34.020 definitions of abandonment and neglect.

**WAC 388-71-0115 (amended) When is an investigation conducted?**

- (1) Edit, as follows: The reported circumstances fit the definition of abandonment, abuse, financial exploita-

tion, neglect, or self-neglect ~~found~~ as defined in chapter 74.34 RCW; and...

**WAC 388-71-0121 (new) What state-only funded services may be offered to a vulnerable adult victim of abandonment, abuse, financial exploitation, neglect or self-neglect?**

- (1)(f) The following clarification has been added to the final rule: State only funded services are temporary and provided with the consent of the vulnerable adult or legal representative only until the situation has stabilized. State-only funded protective services are provided by DSHS on a discretionary basis and are not a benefit and not an entitlement. Termination of state-only funded temporary protective services is exempt from notification and appeal requirements.

**WAC 388-71-01205 (new) When does APS notify the alleged perpetrator of the results of an APS investigation?**

- Added numbering.
- (1) For clarity, added the term "initial" consistent with the addition of the term to the definition of a finding, as follows: APS will notify the alleged perpetrator in writing within ten working days of making a substantiated initial finding of abandonment, abuse, financial exploitation or neglect of a vulnerable adult.
- (a) Clarified the limited circumstances under which notification can take longer, by adding: The timeframe for notification can be extended beyond ten working days to include the time needed to translate the notification letter or make provisions for the safety of the alleged victim.

**WAC 388-71-01210 (new) How may APS give the alleged perpetrator notice of the substantiated finding?**

- Title: Added the term "initial" before the term "finding" to be consistent with the addition of the term to the definition of a finding, as follows: How may APS give the alleged perpetrator notice of the substantiated initial finding?
- (1) For clarification, added the term "initial" before the term "finding" consistent with the addition of the term to the definition of a finding, as follows: APS shall notify the alleged perpetrator of a substantiated initial finding by sending a letter certified mail/return receipt requested and regular mail to the alleged perpetrator's last known place of residence.
- (1) Added clarification: The duty of notification created by this section is subject to the ability of the department to ascertain the location of the alleged perpetrator. APS shall make a reasonable, good faith effort to determine the address of the last known place of residence of the alleged perpetrator; or...

**WAC 388-71-01220 (new) What proves that APS provided notice of the substantiated finding to the alleged perpetrator?**

- Title: For clarification, added the term "initial" before the term "finding" consistent with the addition of the term to the definition of a finding.

**WAC 388-71-01230 (new) Will APS notify anyone other than the alleged perpetrator of the finding of abandonment, abuse, financial exploitation or neglect?**

- (1) - (5) Renumbered subsections.
- (1) For clarification, added the term "initial" before the term "finding" consistent with the addition of the term to the definition of a finding, as follows: (1) In a manner consistent with confidentiality requirements concerning the vulnerable adult, witnesses, and reporter, APS may provide notification of a substantiated initial finding to...
- (2) Added clarification: In the notification APS will identify the finding as an initial finding.

**WAC 388-71-01235 (new) Can an alleged perpetrator challenge an APS finding of abandonment, abuse, financial exploitation or neglect?**

- For clarification, added the term "initial" before the term "finding" consistent with the addition of the term to the definition of a finding, as follows: An alleged perpetrator of abandonment, abuse, financial exploitation or neglect may request an administrative hearing to challenge a substantiated initial finding made by APS on or after the effective date of this rule.

**WAC 388-71-01240 (new) How does an alleged perpetrator request an administrative hearing to challenge an APS finding of abandonment, abuse, financial exploitation or neglect?**

- (1) Corrected a typographical error by inserting an "h" omitted from the word "the."
- (1) Changed office of administrative hearings to "OAH."
- (1) Clarified timeframe in which to request an administrative hearing.

The (1) changes are as follows:

- (1) To request an administrative hearing the alleged perpetrator must send, deliver, or fax a written request to the office of administrative hearings, OAH must receive the written request within thirty calendar days of the date ~~of~~ the department's letter of notice is mailed or personally served upon the alleged perpetrator, whichever occurs first. If the alleged perpetrator requests a hearing by fax, the alleged perpetrator must also mail a copy of ~~the~~ request to ~~the office of administrative hearings~~ OAH on the same day.
- (2)(b) Inserted the word "initial" before the word finding for clarity and consistency.
- (2)(d) Added: The alleged perpetrator should keep a copy of the request.

**WAC 388-71-01250 (new) How is confidential information protected in the appeal process?**

- (1) Replaced the term "appellant" with the term "alleged perpetrator" for consistency throughout the rule chapter, as follows: All information and documents provided by the department to the ~~appellant~~ alleged perpetrator shall be used by the ~~appellant~~

alleged perpetrator only to challenge the findings in the administrative hearing.

- (2) Editing correction, replaced "personally" with "personal" as follows: Confidential information such as the name and other personally identifying information of the reporter and the vulnerable adult...

**WAC 388-71-01265 (new) What if the alleged perpetrator or the department disagrees with the decision?**

- Editing correction. Replaced a term with a more technically appropriate term: If the alleged perpetrator or the department disagrees with the ALJ's decision, either party may challenge this decision by filing a request petition for review with the department's board of appeals consistent with the procedures contained in chapter 34.05 RCW and chapter 388-02 WAC.

**WAC 388-71-01270 (new) What happens if the administrative law judge rules against the department?**

- Clarification, as follows: If the department appeals the ALJ's decision, the department will not modify the finding in the department's records until the finding is final and a final hearing decision is issued. If the department does not appeal the ALJ's initial decision, the department will modify the finding in the department's records to "unsubstantiated" consistent with the ALJ's initial decision and document the ALJ's decision in the record.

**WAC 388-71-01275 (new) When does the APS substantiated finding become a final finding?**

- Title: For clarification, added the term "initial" before each "finding" to be consistent with the addition of the term to the definition of a finding, as follows: WAC 388-71-01275 When does the APS substantiated initial finding become a final finding? A substantiated initial finding becomes a final finding when...
- (1) Added clarification: The department gives the alleged perpetrator notice of the substantiated initial finding pursuant to WAC 388-71-01210 and tThe alleged perpetrator does not request an administrative hearing as set forth in WAC 388-71-01240; or
- (2) Added clarification: The ALJ dismisses the hearing following default or withdrawal by the alleged perpetrator, or issues an initial order upholding the substantiated finding and the alleged perpetrator fails to file a request for review of the ALJ's initial decision with the department's board of appeals consistent with the procedures contained in chapter 34.05 RCW and chapter 388-02 WAC; or...
- (4) Added to clarify the status of the finding during post-BOA appeal, as follows: (a) The final finding will remain as substantiated in the department's records unless the final finding is reversed after judicial review.

**WAC 388-71-01280 (new) Does the department disclose information about findings of abuse, abandonment, neglect and financial exploitation?**

- Title clarified as follows: Does the department disclose information about final findings of abuse, abandonment, neglect and financial exploitation?

- (1) clarified as follows: The department will maintain a registry of final findings and, upon request of any person, the department may disclose the identity of a person or entity with a final finding of abandonment, abuse, financial exploitation or neglect.
- (2)(a)-(c) Eliminated.

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 17, Amended 4, Repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 17, Amended 4, Repealed 3.

Date Adopted: September 15, 2004.

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

PERMANENT

AMENDATORY SECTION (Amending WSR 00-03-029, filed 1/11/00, effective 2/11/00)

**WAC 388-71-0100 What are the statutory references for WAC 388-71-0100 through ((388-71-0155)) 388-71-01280?** The statutory references for WAC 388-71-0100 through WAC ((388-71-0155)) 388-71-01280 are:

- (1) Chapter 74.34 RCW;
- (2) Chapter 74.39A RCW; and
- (3) Chapter 74.39 RCW.

AMENDATORY SECTION (Amending WSR 00-03-029, filed 1/11/00, effective 2/11/00)

**WAC 388-71-0105 What definitions apply to adult protective services ((and the personal aide registry))?** In addition to the definitions found in chapter 74.34 RCW, the following definitions apply:

"ADSA" means DSHS aging and disability services administration.

"ALI" means an administrative law judge, an impartial decision-maker who is an attorney and presides at an administrative hearing. The office of administrative hearings (OAH), which is a state agency, employs the ALJs. ALJs are not DSHS employees or DSHS representatives.

"APS" means adult protective services.

"Basic necessities of life" means food, water, shelter, clothing, and medically necessary health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

"BOA" means the DSHS board of appeals. The board of appeals consists of lawyers who are members of the Washington State Bar Association. An ALJ's decision can be

appealed to the board of appeals, allowing a level of review before an appeal to the court system may be considered.

"DSHS" means the department of social and health services.

"Entity" means any agency, corporation, partnership, association, limited liability company, sole proprietorship, for-profit or not-for-profit business that provides care and/or services to vulnerable adults under a license, certification or contract issued by DSHS or DSHS' contractor. An entity does not include a boarding home licensed under chapter 18.20 RCW, an adult family home licensed under chapter 70.128 RCW, or a nursing home licensed under chapter 18.51 RCW, but does include such facilities if they are required to be licensed but are not currently licensed.

"Facility" means a residence licensed as a boarding home under chapter 18.20 RCW, an adult family home under chapter 70.128 RCW, a nursing home under chapter 18.51 RCW, a soldier's home under chapter 72.36 RCW, a residential habilitation center under chapter 71A.20 RCW, or any other facility licensed by DSHS.

"Final finding" means the department's substantiated finding of abandonment, abuse, financial exploitation or neglect is upheld through the administrative appeal process specified in WAC 388-71-01205 through 388-71-01280, or is not timely appealed to the office of administrative hearings. The alleged perpetrator can appeal a final finding to Superior Court and the Court of Appeals under the Administrative Procedure Act, chapter 34.05 RCW.

"Initial finding" means a determination made by the department upon investigation of an allegation of abandonment, abuse, financial exploitation, neglect or self-neglect.

(1) If the department determines it is more likely than not the incident occurred, the department shall document the finding as "substantiated."

(2) If the department determines it is more likely than not the incident did not occur, the department shall document the finding as "unsubstantiated."

(3) If the department cannot make a determination about whether the incident occurred or did not occur on a more probable than not basis, the department shall document the finding as "inconclusive."

"Legal representative" means a guardian appointed under chapter 11.88 RCW ((or individual named in a durable power of attorney as the attorney-in-fact as defined under chapter 11.94 RCW)).

"Person or entity with a duty of care" includes, but is not limited to, the following:

(1) A guardian appointed under chapter 11.88 RCW; or

(2) A person named in a durable power of attorney as the attorney-in-fact as defined under chapter 11.94 RCW.

(3) A person or entity providing the basic necessities of life to a vulnerable adult where:

(a) The person or entity is employed by or on behalf of the vulnerable adult; or

(b) The person or entity voluntarily agrees to provide, or has been providing, the basic necessities of life to the vulnerable adult on a continuing basis.

"Personal aide" as found in RCW 74.39.007.

"Self-directed care" as found in RCW 74.39.007.

"Willful" means the nonaccidental action or inaction by an alleged perpetrator that he/she knew or reasonably should have known could cause harm, injury or a negative outcome.

**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.

## PART A—PROGRAM DESCRIPTION

AMENDATORY SECTION (Amending WSR 00-03-029, filed 1/11/00, effective 2/11/00)

**WAC 388-71-0110 What is the purpose of an adult protective services investigation?** The purpose of an adult protective services investigation is to:

(1) ((Determine if)) Investigate allegations of abandonment, abuse, financial exploitation, neglect, or self-neglect ((are valid)).

(2) Provide protective services ((on valid reports)) with the consent of the vulnerable adult or his or her legal representative when the allegation is substantiated, or prior to substantiation when it appears abandonment, abuse, financial exploitation, neglect or self-neglect may be occurring and protective services could assist in ending or preventing harm to the vulnerable adult.

(3) ((Determine if other vulnerable adults are at risk of being harmed by individual who has abused, neglected, abandoned or financially exploited the vulnerable adult.

(4) Inform the program or facility providing care for the vulnerable adult that the reported incident of abandonment, abuse, financial exploitation, or neglect occurred. The information provided to the facility or program is required to be consistent with confidentiality requirements concerning the vulnerable adult, witnesses, and complainants)) When an allegation is substantiated, APS may investigate whether other vulnerable adults may be at current risk of abuse, neglect, abandonment or financial exploitation by the person or entity.

AMENDATORY SECTION (Amending WSR 00-03-029, filed 1/11/00, effective 2/11/00)

**WAC 388-71-0115 When is an investigation conducted?** The department determines when an investigation is conducted. The following criteria must be met:

(1) The reported circumstances fit the definition of abandonment, abuse, financial exploitation, neglect, or self-neglect ((found)) as defined in chapter 74.34 RCW; and

(2) The alleged victim is a vulnerable adult as defined in chapter 74.34 RCW.

**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.

## NEW SECTION

**WAC 388-71-0121 What state-only funded services may be offered to a vulnerable adult victim of abandonment, abuse, financial exploitation, neglect or self-neglect?** (1) Subject to available funding, state-only funded in-home personal care/household services and state-only

funded placement in a department licensed and contracted adult family home, boarding home or nursing facility may be offered without regard to the vulnerable adult's functional status or income/resources, if:

(a) The vulnerable adult is the subject of an open APS case involving an allegation of abandonment, abuse, financial exploitation, neglect, and/or self-neglect;

(b) The services would help protect the vulnerable adult from harm;

(c) APS cannot verify alternative resources or options for payment for services available to the vulnerable adult at the time;

(d) Services are provided in the least restrictive and most cost effective setting available to appropriately meet the needs of the vulnerable adult;

(e) APS is actively pursuing other service alternatives and/or resolution of the issues that resulted in the need for protective services; and

(f) The state-only funded services are temporary and provided with the consent of the vulnerable adult or legal representative only until the situation has stabilized. State-only funded protective services are provided by DSHS on a discretionary basis and are not a benefit and not an entitlement. Termination of state-only funded temporary protective services is exempt from notification and appeal requirements.

(2) State-only funded services to an individual vulnerable adult shall be based on assessed need and limited to:

(a) Up to one hundred forty-three hours of in-home personal care/household services per month; and

(b) A cumulative maximum total of ninety days service in any twelve-month period of time, with nursing facility services not exceeding thirty days of the ninety-day total. An exception to rule cannot be used to grant an extension.

## **PART B—NOTIFICATION AND ADMINISTRATIVE APPEAL OF A SUBSTANTIATED FINDING**

### NEW SECTION

**WAC 388-71-01205 When does APS notify the alleged perpetrator of the results of an APS investigation?**

(1) APS will notify the alleged perpetrator in writing within ten working days of making a substantiated initial finding of abandonment, abuse, financial exploitation or neglect of a vulnerable adult.

(2) The timeframe for notification can be extended beyond ten working days to include the time needed to translate the notification letter or make provisions for the safety of the alleged victim.

### NEW SECTION

**WAC 388-71-01210 How may APS give the alleged perpetrator notice of the substantiated initial finding?** (1)

APS shall notify the alleged perpetrator of a substantiated initial finding by sending a letter certified mail/return receipt requested and regular mail to the alleged perpetrator's last known place of residence. The duty of notification created by this section is subject to the ability of the department to ascertain the location of the alleged perpetrator. APS shall

make a reasonable, good faith effort to determine the address of the last known place of residence of the alleged perpetrator; or

(2) APS shall have the written notice delivered or personally served upon the alleged perpetrator.

### NEW SECTION

**WAC 388-71-01215 When is notice to the alleged perpetrator complete?** Notice is complete when:

(1) Personal service is made;

(2) Mail is properly stamped, addressed and deposited in the United States mail;

(3) A parcel is delivered to a commercial delivery service with charges prepaid; or

(4) A parcel is delivered to a legal messenger service with charges prepaid.

### NEW SECTION

**WAC 388-71-01220 What proves that APS provided notice of the substantiated initial finding to the alleged perpetrator?** APS may prove notice was provided to the alleged perpetrator by any of the following:

(1) A sworn statement or declaration of personal service;

(2) The certified mail receipt signed by the recipient;

(3) An affidavit or certificate of mailing; or

(4) A signed receipt from the person who accepted the commercial delivery service or legal messenger service package.

### NEW SECTION

**WAC 388-71-01225 What information must not be in the APS finding notice to the alleged perpetrator?** The identities of the alleged victim, reporter, and witnesses must not be included in the APS finding notice to the alleged perpetrator.

### NEW SECTION

**WAC 388-71-01230 Will APS notify anyone other than the alleged perpetrator of the finding of abandonment, abuse, financial exploitation or neglect?** (1) In a manner consistent with confidentiality requirements concerning the vulnerable adult, witnesses, and reporter, APS may provide notification of a substantiated initial finding to:

(a) Other divisions within the department;

(b) The agency or program identified under RCW 74.34.068 with which the alleged perpetrator is associated as an employee, volunteer or contractor;

(c) Law enforcement;

(d) Other investigative authority consistent with chapter 74.34 RCW; and

(e) The facility in which the incident occurred.

(2) In the notification APS will identify the finding as an initial finding.

NEW SECTION

**WAC 388-71-01235 Can an alleged perpetrator challenge an APS finding of abandonment, abuse, financial exploitation or neglect?** An alleged perpetrator of abandonment, abuse, financial exploitation or neglect may request an administrative hearing to challenge a substantiated initial finding made by APS on or after the effective date of this rule.

NEW SECTION

**WAC 388-71-01240 How does an alleged perpetrator request an administrative hearing to challenge an APS finding of abandonment, abuse, financial exploitation or neglect?** (1) To request an administrative hearing the alleged perpetrator must send, deliver, or fax a written request to the office of administrative hearings. OAH must receive the written request within thirty calendar days of the date the department's letter of notice is mailed or personally served upon the alleged perpetrator, whichever occurs first. If the alleged perpetrator requests a hearing by fax, the alleged perpetrator must also mail a copy of the request to OAH on the same day.

(2) The alleged perpetrator must complete and submit the form to request an administrative hearing provided by APS or submit a written request for a hearing that includes:

(a) The full legal name, current address and phone number of the alleged perpetrator;

(b) A brief explanation of why the alleged perpetrator disagrees with the substantiated initial finding;

(c) A description of any assistance needed in the administrative appeal process by the alleged perpetrator, including a foreign or sign language interpreter or any accommodation for a disability;

(d) The alleged perpetrator should keep a copy of the request.

NEW SECTION

**WAC 388-71-01245 What laws and rules will control the administrative hearings held regarding substantiated APS findings?** Chapters 34.05 and 74.34 RCW, chapter 388-02 WAC, and the provisions of this chapter govern any administrative hearing regarding a substantiated APS finding. In the event of a conflict between the provisions of this chapter and chapter 388-02 WAC, the provisions of this chapter shall prevail.

NEW SECTION

**WAC 388-71-01250 How is confidential information protected in the appeal process?** (1) All information and documents provided by the department to the alleged perpetrator shall be used by the alleged perpetrator only to challenge the findings in the administrative hearing.

(2) Confidential information such as the name and other personal identifying information of the reporter and the vulnerable adult shall be redacted from documents and the parties shall use means in testimony to protect the identify of such persons, unless otherwise ordered by the ALJ consistent

with chapter 74.34 RCW and other applicable state and federal laws.

NEW SECTION

**WAC 388-71-01255 How does the administrative law judge make a decision regarding the substantiated APS finding?** (1) The ALJ shall decide if a preponderance of the evidence in the hearing record supports a determination that the alleged perpetrator committed an act of abandonment, abuse, financial exploitation or neglect of a vulnerable adult.

(2) If the ALJ determines that a preponderance of the evidence in the hearing record supports the substantiated APS finding, the ALJ shall uphold the finding.

(3) If the ALJ determines that the substantiated APS finding is not supported by a preponderance of the evidence in the hearing record, the ALJ shall remand the matter to the department to modify the finding consistent with the initial decision of the ALJ.

NEW SECTION

**WAC 388-71-01260 How is the alleged perpetrator notified of the administrative law judge's decision?** After the administrative hearing, the ALJ will send a written decision to the alleged perpetrator and the department within ninety calendar days after the record is closed.

NEW SECTION

**WAC 388-71-01265 What if the alleged perpetrator or the department disagrees with the decision?** If the alleged perpetrator or the department disagrees with the ALJ's decision, either party may challenge this decision by filing a petition for review with the department's board of appeals consistent with the procedures contained in chapter 34.05 RCW and chapter 388-02 WAC.

NEW SECTION

**WAC 388-71-01270 What happens if the administrative law judge rules against the department?** If the department appeals the ALJ's decision, the department will not modify the finding in the department's records until a final hearing decision is issued. If the department does not appeal the ALJ's initial decision, the department will modify the finding in the department's records consistent with the ALJ's initial decision and document the ALJ's decision in the record.

NEW SECTION

**WAC 388-71-01275 When does the APS substantiated initial finding become a final finding?** A substantiated initial finding becomes a final finding when:

(1) The department gives the alleged perpetrator notice of the substantiated initial finding pursuant to WAC 388-71-01210 and the alleged perpetrator does not request an administrative hearing as set forth in WAC 388-71-01240; or

(2) The ALJ dismisses the hearing following default or withdrawal by the alleged perpetrator, or issues an initial

order upholding the substantiated finding and the alleged perpetrator fails to file a request for review of the ALJ's initial decision with the department's board of appeals consistent with the procedures contained in chapter 34.05 RCW and chapter 388-02 WAC; or

(3) The board of appeals issues a final order upholding the substantiated finding when a request for review to the department's board of appeals is made consistent with the procedures contained in chapter 34.05 RCW and chapter 388-02 WAC.

(4) The final finding will remain as substantiated in the department's records unless the final finding is reversed after judicial review.

**NEW SECTION**

**WAC 388-71-01280 Does the department disclose information about final findings of abuse, abandonment, neglect and financial exploitation?** The department will maintain a registry of final findings and, upon request of any person, the department may disclose the identity of a person or entity with a final finding of abandonment, abuse, financial exploitation or neglect.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 388-71-0120 What adjunct services are provided?
- WAC 388-71-0150 When is the name of a personal aide placed on a registry?
- WAC 388-71-0155 Prior to placing his or her name on the registry is the personal aide notified?

**WSR 04-20-004  
PERMANENT RULES  
DEPARTMENT OF  
RETIREMENT SYSTEMS**

[Filed September 23, 2004, 11:11 a.m., effective October 24, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 415-108-805 and 415-112-555 are being adopted to implement chapter 85, Laws of 2004, which entitles eligible TRS Plan 1 and PERS Plan 1 retirees and beneficiaries to a minimum benefit.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: For WAC 415-108-805 is RCW 41.40.1984; and for WAC 415-112-555 is RCW 41.32.4851.

Adopted under notice filed as WSR 04-17-077 on August 13, 2004.

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 2, 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.

Date Adopted: September 23, 2004.

Maureen Westgard  
Deputy Director

**NEW SECTION**

**WAC 415-108-805 What is the PERS Plan 1 "adjusted minimum benefit"?** RCW 41.40.1984 entitles certain PERS Plan 1 retirees and beneficiaries to a minimum benefit of one thousand dollars, adjusted by the same actuarial reduction factors as were used to calculate their benefit at the time of retirement; or for beneficiaries, at the time benefit payments commenced.

(1) **Do I qualify for the adjusted minimum benefit?**

(a) Except as provided in (b) of this subsection:

(i) You qualify if you are a PERS Plan 1 retiree and you:

(A) Have at least twenty-five years of PERS service credit;

(B) Have been retired at least twenty years; and

(C) Have a current retirement benefit, including adjustments, that is less than the amount of the adjusted minimum benefit.

(ii) You qualify if you are a PERS Plan 1 member's beneficiary, as defined in RCW 41.40.010 (14)(a), and:

(A) The member had at least twenty-five years of PERS service credit;

(B) The member and/or beneficiary have been receiving benefits for at least twenty years; and

(C) Your current retirement benefit, including adjustments, is less than the amount of the adjusted minimum benefit.

(b) You do not qualify if you are a retiree or beneficiary who receives a duty disability retirement allowance under RCW 41.40.220(1) or a statewide cities employee's retirement duty disability retirement allowance under RCW 41.44.170 (3) or (5).

(2) **How is the amount of the adjusted minimum benefit calculated?** The benefit calculation starts with one thousand dollars and is adjusted by the same factors that were used to calculate the benefit at the time of retirement.

(3) **What factors are used to calculate the amount of the adjusted minimum benefit?** The factors used to calculate the minimum benefit are:

(a) Annuity withdrawal;

(b) Early retirement;

(c) Automatic cost of living (COLA) increases chosen at retirement;

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- (d) Joint survivor option chosen at retirement;
- (e) Extra contributions made by the member;
- (f) Survivor percentage. See Example 2 in this subsection.

Example 1: At the time of retirement, Bill withdrew his contributions and chose a joint and 50% survivor option, with Betty as his beneficiary. The one thousand dollar minimum benefit will be adjusted by the same factors that were used to calculate Bill's original benefit, as follows:

Minimum benefit per RCW 41.32.4851	\$1000.00
Reduction for contribution withdrawal	-\$140.00
Adjustment for the joint survivor option	-\$129.00
Bill's adjusted minimum benefit	\$731.00

Example 2: Betty is Bill's beneficiary. After Bill's death, Betty receives 50% of the amount of his benefit. For Betty, the \$1,000 minimum benefit will be adjusted by the same factors that were used to calculate Bill's original benefit, and also by the survivor percentage (50%) chosen at the time of Bill's retirement:

Minimum benefit per RCW 41.32.4851	\$1000.00
Reduction for contribution withdrawal	-\$140.00
Adjustment for the joint survivor option	-\$129.00
Retiree's adjusted minimum benefit as calculated in Example 1	\$731.00
Survivor percentage (which, in this case, is 50% because of the survivor option selected at the time of retirement)	-\$365.50
Betty's adjusted minimum benefit	\$365.50

See WAC 415-02-300 through 415-02-380 for the tables, schedules, and factors the department uses to calculate benefits.

(4) **If the adjusted minimum benefit is less than my current benefit, will my benefit be reduced?** No, the department will compare the amount of the adjusted minimum benefit to your current benefit. You will always receive the higher of the two benefits.

(5) **If I qualify for the adjusted minimum benefit, when will I begin to receive the higher benefit?**

(a) If you meet the requirements as of July 1, 2004, you will begin receiving the adjusted minimum benefit, in lieu of your regular benefit, at the end of July 2004.

(b) If you qualify after July 1, 2004, you will automatically begin receiving the adjusted minimum benefit, in lieu of your regular benefit, at the end of the month in which you qualify.

(6) **Will I continue to get cost of living increases (COLAs) if I receive the adjusted minimum benefit?** No. Under the provisions of RCW 41.40.1984, the adjusted minimum benefit will not be adjusted for COLAs.

(7) **How long will I continue to receive the adjusted minimum benefit?** You will receive the adjusted minimum benefit until your original retirement benefit, plus on-going adjustments, exceeds the adjusted minimum benefit. At that time you will automatically start receiving the higher benefit.

Example: Joe retired with a survivor option, requiring an actuarial reduction of his monthly benefit (87% of full allowance). He received a 3% COLA each year. In 2004, Joe's retirement benefit was \$806.25. The following table shows how his benefit is compared to the adjusted minimum benefit from 2004 through 2008.

	Regular Benefit (including COLAs)	Adjusted Minimum Benefit (Fixed - No COLAs added)	Actual Amount Joe Received
2004	\$806.25 (benefit + COLAs)	\$870 (\$1,000 x .87)	\$870
2005	\$830.44 (\$806.25 + COLA)	\$870 (\$1,000 x .87)	\$870
2006	\$855.35 (\$830.44 + COLA)	\$870 (\$1,000 x .87)	\$870
2007	\$881.01 (\$855.35 + COLA)	No longer applicable	\$881.01
2008	\$907.44 (\$881.01 + COLA)	No longer applicable	\$907.44

*This example assumes a three percent annual COLA.*

**NEW SECTION**

**WAC 415-112-555 What is the TRS Plan 1 "adjusted minimum benefit"?** RCW 41.32.4851 entitles certain TRS Plan 1 retirees and beneficiaries to a minimum benefit of one thousand dollars, adjusted by the same actuarial reduction factors as were used to calculate their benefit at the time of retirement; or for beneficiaries, at the time benefit payments commenced.

(1) **Do I qualify for the adjusted minimum benefit?**

(a) Except as provided in (b) of this subsection:

(i) You qualify if you are a TRS Plan 1 retiree and you:

(A) Have at least twenty-five years of TRS service credit;

(B) Have been retired at least twenty years; and

(C) Have a current retirement benefit, including adjustments, that is less than the amount of the adjusted minimum benefit.

(ii) You qualify if you are a TRS Plan 1 member's beneficiary, as defined in RCW 41.32.010 (5)(a), and:

(A) The member had at least twenty-five years of TRS service credit;

(B) The member and/or beneficiary have been receiving benefits for at least twenty years; and

(C) Your current retirement benefit, including adjustments, is less than the amount of the adjusted minimum benefit.

(b) You do not qualify if you are receiving a temporary disability benefit under RCW 41.32.540.

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(2) **How is the amount of the adjusted minimum benefit calculated?** The benefit calculation starts with one thousand dollars and is adjusted by the same factors that were used to calculate the benefit at the time of retirement.

(3) **What factors are used to calculate the amount of the adjusted minimum benefit?** The factors used to calculate the minimum benefit are:

- (a) Annuity withdrawal;
- (b) Early retirement;
- (c) Automatic cost of living (COLA) increases chosen at retirement;
- (d) Joint survivor option chosen at retirement;
- (e) Extra contributions made by the member;
- (f) Survivor percentage. See Example 2 in this subsection.

**Example 1:** At the time of retirement, Bill withdrew his contributions and chose a joint and 50% survivor option, with Betty as his beneficiary. The \$1,000 minimum benefit will be adjusted by the same factors that were used to calculate Bill's original benefit, as follows:

Minimum benefit per RCW 41.32.4851	\$1000.00
Reduction for contribution withdrawal	-\$140.00
Adjustment for the joint survivor option	-\$129.00
Bill's adjusted minimum benefit	\$731.00

**Example 2:** Betty is Bill's beneficiary. After Bill's death, Betty receives 50% of the amount of his benefit. For Betty, the \$1,000 minimum benefit will be adjusted by the same factors that were used to calculate Bill's original benefit, and also by the survivor percentage (50%) chosen at the time of Bill's retirement:

Minimum benefit per RCW 41.32.4851	\$1000.00
Reduction for contribution withdrawal	-\$140.00
Adjustment for the joint survivor option	-\$129.00
Retiree's adjusted minimum benefit as calculated in Example 1	\$731.00

Survivor percentage (which, in this case, is 50% because of the survivor option selected at the time of retirement)	-\$365.50
Betty's adjusted minimum benefit	\$365.50

See WAC 415-02-300 through 415-02-380 for the tables, schedules, and factors the department uses to calculate benefits.

(4) **If the adjusted minimum benefit is less than my current benefit, will my benefit be reduced?** No, the department will compare the amount of the adjusted minimum benefit to your current benefit. You will always receive the higher of the two benefits.

(5) **If I qualify for the adjusted minimum benefit, when will I begin to receive the higher benefit?**

(a) If you meet the requirements as of July 1, 2004, you will begin receiving the adjusted minimum benefit, in lieu of your regular benefit, at the end of July 2004.

(b) If you qualify after July 1, 2004, you will automatically begin receiving the adjusted minimum benefit, in lieu of your regular benefit, at the end of the month in which you qualify.

(6) **Will I continue to get cost of living increases (COLAs) if I receive the adjusted minimum benefit?** No. Under the provisions of RCW 41.32.4851, the adjusted minimum benefit will not be adjusted for COLAs.

(7) **How long will I continue to receive the adjusted minimum benefit?** You will receive the adjusted minimum benefit until your original retirement benefit, plus on-going adjustments, exceeds the adjusted minimum benefit. At that time you will automatically start receiving the higher benefit.

**Example:** Joe retired with a survivor option, requiring an actuarial reduction of his monthly benefit (87% of full allowance). He received a 3% COLA each year. In 2004, Joe's retirement benefit was \$806.25. The following table shows how his benefit is compared to the adjusted minimum benefit from 2004 through 2008.

	Regular Benefit (including COLAs)	Adjusted Minimum Benefit (Fixed - No COLAs added)	Actual Amount Joe Received
2004	\$806.25 (benefit + COLAs)	\$870 (\$1,000 x .87)	\$870
2005	\$830.44 (\$806.25 + COLA)	\$870 (\$1,000 x .87)	\$870
2006	\$855.35 (\$830.44 + COLA)	\$870 (\$1,000 x .87)	\$870
2007	\$881.01 (\$855.35 + COLA)	No longer applicable	\$881.01
2008	\$907.44 (\$881.01 + COLA)	No longer applicable	\$907.44

*This example assumes a three percent annual COLA.*

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WSR 04-20-005
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed September 23, 2004, 11:13 a.m., effective October 24, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 415-02-175 provides information about purchasing service credit for periods of unpaid authorized leave of absence. It applies to members of PERS Plan 2 and Plan 3, TRS Plan 2 and Plan 3, SERS Plan 2 and Plan 3, and LEOFF Plan 2. WAC 415-104-374, 415-108-491, and 415-110-491 are amended to replace duplicative information with references to the new rule.

Citation of Existing Rules Affected by this Order: Amending WAC 415-104-374, 415-108-491, and 415-110-491.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: For WAC 415-02-175 is RCW 41.40-710, 41.40.805, 41.32.810, 41.32.865, 41.35.470, 41.35.650, 41.26.520, 41.50.165; other rules are RCW 41.50.050(5).

Adopted under notice filed as WSR 04-17-083 on August 16, 2004.

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 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 23, 2004.

Maureen Westgard
Deputy Director

NEW SECTION

WAC 415-02-175 May I purchase service credit for the time I was on an unpaid authorized leave of absence?

(1) Will I get service credit for the time I was on an unpaid authorized leave of absence? You will receive service credit for the period of time you are on an unpaid authorized leave of absence, up to a maximum of twenty-four service credit months during your entire working career, provided:

(a) You are a member of PERS Plan 2 or Plan 3, TRS Plan 2 or Plan 3, SERS Plan 2 or Plan 3, or LEOFF Plan 2;

(b) Your leave of absence was authorized by your employer;

(c) You resumed employment according to the requirements in subsection (3) of this section; and

(d) You purchase the service credit for the period of leave according to the provisions in this section.

(2) How does an unpaid authorized leave of absence affect my retirement? If you purchase service credit for the period of time you were on an unpaid authorized leave of absence:

(a) It will be used as part of your total service credit to determine retirement eligibility and pension; but

(b) The period of time you were on leave will not be included in your average final compensation period.

Example:

Joseph has the following earnable compensation prior to retirement:

Table with 2 columns: Year (YR 1 to YR 7) and Amount (\$30,000 to \$55,000, including unpaid leave for entire year in YR 6).

Joseph's AFC period will be YR 2, YR 3, YR 4, YR 5, and YR 7.

(3) Do I qualify to purchase this service credit? As a requirement for purchasing this service credit, you must resume employment within the same retirement system you left.

(a) After resuming employment, you may request, and pay for, service credit whether you are a contributing member or whether you become inactive.

(b) If you are a law enforcement officer in LEOFF Plan 2 and took a part-time unpaid leave of absence while you worked part-time, you may request service credit only after returning to full-time employment with the employer that authorized your leave of absence. In this case, you may only request part-time service credit for the portion of time you were on unpaid leave of absence.

(4) How do I request this service credit? If you desire to purchase the service credit for unpaid authorized leave of absence, you must contact the department. The department will obtain written verification from your employer confirming the months of your authorized leave of absence and your salary for the months preceding and following the leave.

(5) How does the department determine the cost of purchasing this service credit?

(a) In order to purchase service credit for the period of time you were on leave of absence, you must pay the employee and employer retirement contributions, plus applicable interest. LEOFF Plan 2 members must also pay the contributions normally paid by the state.

(b) The amount of the employee and employer contributions is calculated as follows:

(i) For TRS members, the salary upon which contributions are calculated is determined by averaging the salary earned for the school year, as defined in RCW 28A.150.040, prior to your unpaid leave of absence and the salary earned in the school year after you returned to work. If you were on leave of absence for less than the entire school year, that year's salary will be prorated according to the number of months you were on leave of absence.

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(ii) For law enforcement officers in LEOFF Plan 2 who took a part-time unpaid leave of absence while working part-time, the salary upon which contributions are calculated is determined by:

(A) Averaging your basic salary during the last full month of employment before your part-time leave of absence, and your basic salary during the first full month after you return to full-time employment; and

(B) Multiplying the monthly salary determined according to (b)(ii)(A) of this subsection by the number of months you were on leave.

(iii) For members of other systems, the salary upon which contributions are calculated is determined by:

(A) Averaging the compensation earned during the last full month of employment before your leave of absence, and the compensation you earned during the first full month after you returned to work; and

(B) Multiplying the monthly salary determined according to (b)(iii)(A) of this subsection by the number of months you were on leave.

If you worked part-time prior to the leave of absence, partial month wages will be used to estimate your average salary. In this case, you may only purchase part-time service credit for the period of time you were on leave of absence.

**(6) What is the payment process for purchasing this service credit?**

(a) You may purchase this service credit in one payment, or make payments at any time until the deadline expires.

(b) Interest will accrue on the unpaid balance until payment is made in full.

(c) The department will accept funds that have been rolled over from a tax-deferred retirement account for the purchase of the service credit. However, the amount you may roll over is limited to the purchase price of the service credit. If the rollover amount does not cover the entire purchase price, you must pay the additional amount within thirty days of the rollover. If the balance is not paid within thirty days, the rollover funds will be returned to the original financial institution.

(d) If you took more than one authorized leave of absence, the department will bill you separately for each occurrence. Service credit will be granted for each occurrence only after the bill for that period is paid in full.

**(7) What is the deadline for purchasing this service credit?** Except as provided in subsection (9) of this section:

(a) If you are a member of PERS Plan 2, SERS Plan 2, or LEOFF Plan 2, payment in full must be received within five years from the initial date of your return to an eligible position, or prior to your retirement, whichever occurs first.

(b) If you are a member of PERS Plan 3 or SERS Plan 3, payment in full must be received prior to your retirement.

(c) If you are a member of TRS Plan 2 or Plan 3, payment in full must be received by August 31st of the fifth school year, as defined in RCW 28A.150.040, after you return to employment or prior to your retirement, whichever comes first. The school year during which you return to work will be counted as year one.

**(8) What if I do not make payment in full by the deadline?**

(a) If you are a Plan 2 member and do not make payment in full by the deadline, the amount you paid will be refunded to you.

(b) If you are a Plan 3 member and do not make payment by the deadline, the portion of your payments that were:

(i) Employer contributions will be refunded to you; and

(ii) Employee contributions will be deposited into your defined contribution account and available to you only upon separation from service.

(c) If you are a Plan 2 member, the department will refund partial payments prior to the deadline upon your request.

(d) If you are a PERS Plan 2, SERS Plan 2, or TRS Plan 2 member and transfer to Plan 3 prior to making payment in full:

(i) The department will refund any partial payments; and

(ii) You must reapply under Plan 3 if you still wish to purchase this service credit.

**(9) What is the exception to the deadline?** After your initial deadline has passed, you retain the right to purchase this service credit until the date of your retirement. However, the purchase price will be equal to the full actuarial value of the increase in benefit that results from the purchased service credit. You may use the two-part formula in WAC 415-10-040 to determine actuarial value.

**(10) What state law applies to purchasing service credit for an unpaid authorized leave of absence?**

(a) PERS Plan 2: RCW 41.40.710;

(b) PERS Plan 3: RCW 41.40.805;

(c) TRS Plan 2: RCW 41.32.810;

(d) TRS Plan 3: RCW 41.32.865;

(e) SERS Plan 2: RCW 41.35.470;

(f) SERS Plan 3: RCW 41.35.650;

(g) LEOFF Plan 2: RCW 41.26.520;

(h) Deadline extension: RCW 41.50.165.

**AMENDATORY SECTION** (Amending WSR 02-18-047, filed 8/28/02, effective 9/1/02)

**WAC 415-104-374 LEOFF Plan 2 part-time leave of absence. (1) What are the LEOFF Plan 2 part-time leave rules for law enforcement officers?**

(a) You must be a current LEOFF Plan 2 *law enforcement* member;

(b) Your employer must authorize you to work part time and go on an unpaid part-time leave of absence;

(c) While in part-time work/part-time leave status, you cannot do any other work for pay for your employer; and

(d) When you return to full-time employment, the employment must be with the same employer who granted you the part-time leave.

**(2) May I purchase service credit for periods of part-time leave?**

~~((a) You may purchase service credit for any periods of any type of unpaid leave of absence, but only up to a lifetime maximum of two years of service credit.~~

~~(b) In purchasing service credit, you must pay the member, employer, and state contributions, plus interest. The contributions required will be based on the average of your basic salary at the time the employer granted your authorized leave~~

of absence and your basic salary at the time you resumed full-time employment.

(e) You must complete the service credit purchase within five years of your return to full-time employment, or prior to your retirement, whichever is earlier.

(d) If you fail to complete the service credit purchase within five years of your return to full-time employment, you may purchase the service credit by paying the amount required under RCW 41.50.165(2) prior to retirement.) See WAC 415-02-175 for information about purchasing service credit for an unpaid authorized leave of absence.

**AMENDATORY SECTION** (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

**WAC 415-108-491 Salary imputed to periods of unpaid leave.** In some circumstances specified in statute, a member may choose to establish service credit for periods of unpaid leave. The salary imputed to a member for purposes of calculating contributions owing for such periods of leave is not reportable compensation. Depending on the type of leave, the imputed compensation may or may not be included as average final compensation in calculating a member's retirement allowance.

(1) ~~((Authorized unpaid leave. RCW 41.40.710 provides Plan 2 members with an option to establish service credit for periods of unpaid leave. RCW 41.40.805 provides Plan 3 members with an option to establish service credit for periods of unpaid leave. RCW 41.40.038 provides members with an option to establish service credit for periods of disability covered by industrial insurance. Salary imputed to members in order to calculate contributions for such periods is not reportable compensation and can not be included as average final compensation in calculating a member's retirement allowance.)) Unpaid authorized leave of absence. For information about purchasing service credit for periods of unpaid authorized leave of absence, see:~~

- (a) Plan 2: WAC 415-02-175 and RCW 41.40.710; and
- (b) Plan 3: WAC 415-02-175 and RCW 41.40.805.

(2) Periods of disability. See RCW 41.40.038 for information about establishing service credit for periods of disability covered by industrial insurance.

(3) **Military leave.** For Plan 2 and Plan 3, salary imputed to a member for purposes of calculating contributions owing for periods of interrupted military service is not reportable compensation. Federal law requires that if a member chooses to purchase credit for such periods of military service, and that period falls in the member's average final compensation period, the member is entitled to have the imputed salary he or she would have earned during the period of absence used in the calculation of his or her average final compensation.

**AMENDATORY SECTION** (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

**WAC 415-110-491 Salary imputed to periods of unpaid leave.** In some circumstances specified in statute, a member may elect to establish service credit for periods of unpaid leave. The salary imputed to a member for purposes of calculating contributions owing for such periods of leave

is not reportable compensation. Depending on the type of leave, the imputed compensation may or may not be included as average final compensation in calculating a member's retirement allowance.

(1) ~~((Authorized unpaid leave. RCW 41.35.470 (Plan 2) and RCW 41.35.650 (Plan 3) provides members with an option to establish service credit for periods of unpaid leave. RCW 41.35.070 provides members with an option to establish service credit for periods of disability covered by industrial insurance. Salary imputed to members in order to calculate contributions for such periods is not reportable compensation and can not be included as average final compensation in calculating a member's retirement allowance.)) Unpaid authorized leave of absence. For information about purchasing service credit for periods of unpaid authorized leave of absence, see:~~

- (a) Plan 2: WAC 415-02-175 and RCW 41.35.470; and
- (b) Plan 3: WAC 415-02-175 and RCW 41.35.650.

(2) Periods of disability. See RCW 41.35.070 for information about establishing service credit for periods of disability covered by industrial insurance.

(3) **Military leave.** Salary imputed to a member for purposes of calculating contributions owing for periods of interrupted military service is not reportable compensation. Federal law requires that if a member elects to purchase credit for such periods of military service, and that period falls in the member's average final compensation period, the member is entitled to have the imputed salary he or she would have earned during the period of absence used in the calculation of his or her average final compensation.

**WSR 04-20-012**

**PERMANENT RULES**

**DEPARTMENT OF LICENSING**

[Filed September 24, 2004, 1:47 p.m., effective October 25, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Adds a new section to chapter 308-104 WAC to establish eligibility requirements for applicants to renew driver's licenses or identicards by electronic commerce. Makes a conforming amendment to WAC 308-104-010 to permit a waiver of the vision test for applicants renewing driver's licenses by mail or electronic commerce.

Citation of Existing Rules Affected by this Order: Amending WAC 308-104-010.

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 04-17-121 on August 17, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 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 1, Amended 1, Repealed 0.

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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.

Date Adopted: September 24, 2004.

Denise M. Movius  
Assistant Director

**AMENDATORY SECTION** (Amending Order 2, filed 6/26/68)

**WAC 308-104-010 Vision test.** ~~((All applicants))~~ (1) A person applying for a driver's license or renewal shall be required to take a vision test administered by the department.

(a) Any person having less than a 20/40 Snellen vision acuity with both eyes combined either corrected or uncorrected, or having some apparent significant visual limitation, must have an eye examination by an ophthalmologist or optometrist.

(b) If an applicant's vision cannot be corrected so that it will be within the 20/40 Snellen range for visual acuity or other vision problems cannot be corrected, then he or she must submit to a special examination in order to determine if a license ~~((or renewal))~~ shall be issued and ~~((if so what))~~ whether limitations or restrictions should be ~~((placed on the driving privilege))~~ imposed.

(2) The department may waive the requirement for a vision test for any person applying to renew his or her driver's license by mail or electronic commerce if the person certifies on the application that his or her vision acuity is no less than 20/40 as measured on the Snellen test for visual acuity, either corrected or uncorrected, and that there are no other vision problems.

#### NEW SECTION

**WAC 308-104-019 Renewal of driver's license or identicard by electronic commerce—Eligibility.** An applicant for a driver's license renewal or identicard renewal may apply by electronic commerce if he or she has received an authorization notice from the department.

(1) The department may send an authorization notice to a person whose valid driver's license is about to expire if the person:

(a) Is eligible to renew his or her driver's license by electronic commerce under the provisions of RCW 46.20.120 (3)(b) or (4)(b);

(b) Has previously been issued a digital driver's license;

(c) Is at least twenty-four and not more than sixty-five years of age;

(d) Has a valid social security number on file with the department;

(e) Has a valid mailing address on his or her driving record as maintained by the department;

(f) Does not have a commercial driver's license, instruction permit, or agricultural permit;

(g) Has not paid a fee owed to the department with a check that has been dishonored;

(h) Has not failed to appear, respond, or comply with the terms of or in response to a traffic citation or notice of traffic infraction; and

(i) Does not have any actions pending against his or her driver's license or driving privileges.

(2) A person applying for driver's license renewal by electronic commerce must:

(a) Certify that within the last six months he or she has not had a loss of consciousness or control that could impair his or her ability to operate a motor vehicle safely;

(b) Make the necessary certification under WAC 308-104-010(2); and

(c) Complete the required application and pay all applicable fees.

(3) The department may send an authorization notice to a person whose valid identicard is about to expire if the person:

(a) Is eligible to renew his or her identicard by electronic commerce under the provisions of RCW 46.20.117 (3)(b);

(b) Is at least twenty-four years of age; and

(c) Has previously been issued a digital identicard.

(4) A person applying for identicard renewal by electronic commerce must complete the required application and pay all applicable fees.

(5) The department may specify the means and establish procedures by which a person may make an application under this section.

#### **WSR 04-20-013**

#### **PERMANENT RULES**

#### **DEPARTMENT OF LICENSING**

[Filed September 24, 2004, 1:48 p.m., effective October 25, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amends WAC 308-103-040 to clarify the time period in which a driver may request a hearing when the department proposes to suspend or revoke the persons's driving privileges following an arrest for an alcohol-related traffic offense.

Citation of Existing Rules Affected by this Order: Amending WAC 308-103-040.

Statutory Authority for Adoption: RCW 46.01.110 and 46.20.308.

Adopted under notice filed as WSR 04-17-122 on August 17, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 24, 2004.

Denise M. Movius  
Assistant Director

**AMENDATORY SECTION** (Amending WSR 02-11-011, filed 5/3/02)

**WAC 308-103-040 Requests for hearings.** The request for a hearing shall be in compliance with the following requirements:

(1) The petitioner must file his or her formal request for hearing:

(a) Within thirty days of ~~((arrest))~~ the date notice is given under RCW 46.20.308(6) if the petitioner submitted to a breath test;

(b) Within thirty days of ~~((arrest))~~ the date notice is given under RCW 46.20.308(6) if the petitioner is alleged to have refused the breath or blood test; or

(c) Within thirty days of the date notice of the department's intention to suspend, revoke, or deny the petitioner's license, permit, or privilege to drive is given in the event notice is given by the department following a blood test;

(2) If a request for hearing is mailed, it must be received by the department within seven days of the date the request was postmarked in order to be considered timely under this section. This provision may be waived if the request is received by the department within thirty days of the date of arrest, or within thirty days of the date notice is given in the event notice is given by the department following a blood test, or if the petitioner and the department agree to a waiver of the sixty-day hearing requirement;

(3) The request for a hearing shall be in writing. The petitioner may use the form provided by the department for this purpose or any other writing;

(4) The hearing request form provided by the department shall include a statement that if the parties or witness(es) are hearing or speech impaired and/or non-English speaking, a qualified interpreter will be appointed at no cost to the parties or witnesses. The form shall include a section where the petitioner may request an interpreter and where he or she may identify the language and/or nature of the interpretive services needed;

(5) The request for hearing shall include the following information with respect to the petitioner:

- (a) Full name;
- (b) Mailing address;
- (c) Daytime telephone number, including area code;
- (d) Date of birth; and
- (e) Driver's license number;

(6) If petitioner will have legal representation at the administrative hearing, the request shall also include the legal representative's name, mailing address, and daytime telephone number, including area code;

(7) The request for hearing shall be submitted to the Department of Licensing, Driver Services Division, Hearings

& Interviews, P.O. Box 9031, Olympia, Washington 98507-9031;

(8) The written request for hearing shall be accompanied by a filing fee of one hundred dollars, unless the petitioner is entitled to a waiver of the filing fee because of indigence, in which case a request and justification for the fee waiver shall accompany the hearing request;

(9) A petitioner who has been denied a court-appointed attorney on the underlying related criminal charge because he or she is deemed "not indigent" is not eligible for a fee waiver;

(10) Indigence may be established as follows:

(a) Written verification of court-appointed legal counsel on the associated underlying criminal charge;

(b) Written verification of current involuntary commitment to a public mental health facility;

(c) Verification of current receipt of general assistance, temporary assistance for needy families, refugee resettlement benefits, food stamps, supplemental security income, or Medicaid; or

(d) Submission and approval of the department's "Application for Waiver of Hearing Fee" form;

(11) Failure to timely submit a hearing request and/or failure to include the filing fee or application for waiver with the hearing request shall be deemed a waiver of the petitioner's right to a hearing; and

(12) If a request for hearing is denied, the department shall notify the petitioner and the petitioner's legal representative, if any, stating the reason(s) for denial.

**WSR 04-20-020  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 04-250—Filed September 27, 2004, 3:25 p.m., effective October 28, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amend wildlife rehabilitation rules to address the rehabilitation of oiled birds.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-275.

Statutory Authority for Adoption: RCW 77.12.047.

Other Authority: RCW 90.56.110.

Adopted under notice filed as WSR 04-13-167 on June 23, 2004.

Changes Other than Editing from Proposed to Adopted Version: Subsection (1)(d), strike the term "Heating, ventilation, and air-conditioning" and its associated definition, and realphabetize the remaining subsections.

Subsection (1)(e), after "which the" insert "air."

Subsection (1)(l), strike "heating, ventilation and air-conditioning" and replace with "air temperature and air exchange."

Subsection (2)(b), strike the paragraph beginning with "In the latter case...."

Subsection (24)(a), strike "heating, ventilation and air-conditioning" and replace with "air temperature and air

exchange"; strike "ventilation" and replace with "air exchange."

Subsection (24)(a)(i), insert "air" before "temperature" each time in this subsection; insert "also" between "shall" and "apply."

Subsection (24)(a)(i)(A), (B) and (C), insert "air" before "temperature."

Subsection (24)(a)(ii), strike "Ventilation" and replace with "Air exchange"; insert "also" between "shall" and "apply."

Subsection (24)(b), end third sentence at "impermeable"; strike "and" and begin fourth sentence with "Water"; strike "allow accumulation of water" and replace with "be allowed to accumulate on the floor."

Subsection (24)(c)(i), insert "and" after "width."

Subsection (24)(c)(ii), end second sentence at "impermeable"; strike "and" and begin third sentence with "Water"; strike "allow accumulation of water" and replace with "be allowed to accumulate on the floor."

Subsection (24)(d)(i), strike "the" before "wash/rinse space" and replace with "each"; strike "each wash/rinse nozzle; and the"; strike "at each nozzle shall be"; insert "a" between "at" and "flow."

Subsection (24)(d)(iii), end second sentence at "impermeable"; strike "and" and begin third sentence with "Water"; strike "allow accumulation of water" and replace with "be allowed to accumulate on the floor."

Subsection (24)(e)(ii), end second sentence at "impermeable"; strike "and" and begin third sentence with "Water"; strike "allow accumulation of water" and replace with "be allowed to accumulate on the floor."

Subsection (24)(g)(i), end second sentence at "impermeable"; strike "and" and begin third sentence with "Water"; strike "allow accumulation of water" and replace with "be allowed to accumulate on the floor."

Subsection (24)(h)(i), end second sentence at "impermeable"; strike "and" and begin third sentence with "Water"; strike "allow accumulation of water" and replace with "be allowed to accumulate on the floor."

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.

Date Adopted: August 7, 2004.

Susan Yeager  
for Will Roehl, Chair  
Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 97-251, filed 12/23/97, effective 1/23/98)

**WAC 232-12-275 Wildlife rehabilitation permits.** (1)

For the purposes of this rule, the following definitions apply:

(a) ("~~Wildlife rehabilitation~~" means the care and treatment of injured, diseased, or abandoned wildlife, including but not limited to capture, transporting, veterinary treatment, feeding, housing, exercise therapy, and any other treatment or training necessary for release back to the wild.

(b) "~~Wildlife rehabilitation facility~~" means the authorized sites as shown on the wildlife rehabilitation permit where the treatment and rehabilitation takes place.

(c) "~~Wildlife rehabilitator~~" means a person who conducts wildlife rehabilitation.

(d) "~~Wildlife rehabilitation permit~~" means a permit issued by the director that authorizes a person to conduct wildlife rehabilitation.

(e) "~~Principal veterinarian~~" means a licensed veterinarian who provides in writing their willingness to assist the rehabilitator in conducting wildlife rehabilitation.

(f) "~~Public display~~" means to place or locate wildlife so that it may be viewed by the public.

(g) "~~Imping~~" means a method of repairing broken feathers.

(h) "~~Orphan imprinting~~" means to use wildlife for the purpose of feeding, socializing, and teaching appropriate behavior to young wildlife.

(2) ~~It is unlawful to possess wildlife for the purpose of rehabilitation without first obtaining a valid Washington state "wildlife rehabilitation permit". A wildlife rehabilitation permit may be issued to a person to conduct wildlife rehabilitation and is valid so long as the information in the permit remains current, the permit holder continues to meet the conditions and requirements of the permit, and provisions of this rule. Any change to the information on the permit must be reported in writing within 10 working days or the permit may be invalidated.~~

(3) ~~The director may issue and condition a wildlife rehabilitation permit if the applicant complies with the following:~~

(a) ~~The applicant is either a licensed veterinarian or can demonstrate 6 months of experience in wildlife rehabilitation, which must include 3 months during the spring or summer and has a principal veterinarian as a sponsor. The director may consider education in wildlife rehabilitation as a substitute for experience.~~

(b) ~~The applicant must successfully complete a wildlife rehabilitator's examination(s) as prescribed by the director.~~

(c) ~~The wildlife rehabilitation facility is inspected by the department and meets the wildlife rehabilitation care and facility standards in the Washington State Wildlife Rehabilitation Care and Facility Standards pamphlet.~~

(4) ~~The wildlife rehabilitation permit holder must maintain and upon request make available to the department a wildlife rehabilitation daily ledger. The ledger must include the date the wildlife is received, the species and nature of the illness, the location where the wildlife was found, the date and disposition of the wildlife, the release location, and if any, tags and/or band numbers. It is unlawful for a wildlife rehabilitation permit holder to fail to enter required information in the wildlife rehabilitation ledger within 24 hours of the~~



day wildlife is received and on the day of all subsequent activities as required in the ledger.

(5) The wildlife rehabilitation permit holder must submit to the department no later than January 31, of each year an annual report providing information as required by the director and a copy of the daily ledger.

(6) All permits and records held pursuant to statutes and rules dealing with wildlife rehabilitation will be kept on file at the wildlife rehabilitation facility. The records will be retained for a period of five years.

(7) A copy of the valid wildlife rehabilitation permit must be in possession of any person possessing or transporting wildlife for the wildlife rehabilitation facility.

(8) The wildlife rehabilitation permit holder will notify the department within 24 hours of receiving a state or federally endangered or threatened species; within 72 hours of receiving a state sensitive species or marked, tagged, or banded wildlife; and prior to release of threatened or endangered species.

(9) The wildlife rehabilitation permit holder will notify the department within 24 hours after the death of a state or federally endangered or threatened species; or as soon as an endangered or threatened species is determined to be non-releasable to the wild. Endangered or threatened species will not be disposed of or euthanized without prior department approval.

(10) Rehabilitated wildlife may be banded or otherwise identified by the department.

(11) The wildlife rehabilitation permit holder will notify the department, within five working days from the date of death, of any wildlife known to have died of the following diseases: avian cholera, avian pox, duck viral enteritis, environmental contaminants, ornithosis, Newcastle's disease, rabies, canine distemper or tuberculosis (in species other than birds).

(12) Rehabilitated wildlife will be released as soon as possible into its proper habitat in the same area as recovered, except as provided by written authorization from the director.

(13) It is unlawful to hold wildlife for longer than 180 days, except as provided by written authorization from the director.

(14) Dead wildlife will be disposed of through deposit at an approved Washington state university or college, a permitted research project or through burial, incineration, or a licensed rendering facility.

(15) It is unlawful to publicly display wildlife while it is undergoing rehabilitation.

(16) It is unlawful to retain wildlife for the purpose of orphan imprinting or to retain feathers of protected or endangered wildlife for the purpose of "imping", except as provided by written authorization from the director.

(17) It is unlawful for wildlife being held for rehabilitation to be used for propagation.

(18) Wildlife being held for the purposes of rehabilitation must be kept separate from wildlife held under other licenses and domestic animals, except as provided by written authorization from the director.

(19) The wildlife rehabilitation permit holder may receive from the department and possess at the wildlife reha-

bilitation facility, dead wildlife for the purpose of feeding wildlife being rehabilitated.

(20) Fish and wildlife enforcement officers may inspect at reasonable times and in a reasonable manner the wildlife, permits, records, and wildlife rehabilitation facility of any wildlife rehabilitator.

(21) Any wildlife rehabilitation permit holder who fails to comply with with any condition within the holder's permit or any provision of this rule is in violation of the permit and the permit may be revoked. Any wildlife rehabilitation permit holder found in violation of the permit may provide to the department a plan for corrective action, within 10 days, to return to compliance. Any wildlife rehabilitation permit holder with an acceptable plan for corrective action will be given a minimum of 30 days to correct a permit violation prior to revocation.

(22) All wildlife held by a wildlife rehabilitation permit holder remains the property of the state, is subject to control by the state and will not be offered for sale or sold.)) "Bird" means any wild animal of the class Aves.

(b) "Dedicated workspace" means the minimum amount of floor space necessary to maintain access to oiled bird rehabilitation pens.

(c) "Drying resources" mean the floor space and pen requirements associated with the removal of water from the skin and feathers of a bird.

(d) "Imping" means a method of repairing broken feathers.

(e) "Indoor area" means the space within an oiled bird rehabilitation facility in which the air temperature and exchange of air can be controlled and maintained. Indoor areas may consist of space for: Intake, prewash holding, wash/rinse, drying, oiled bird rehabilitation pools, morgue/necropsy, bird food preparation, storage, freezers, isolation/intensive care unit, medical laboratory, laundry, electrical, and mechanical areas.

(f) "Intake space" means the minimum amount of floor space necessary to admit live or dead birds into an oiled bird rehabilitation facility.

(g) "Mesh size" means the measured distance between the centers of the two opposing vertices in the same mesh of a piece of netting when pulled taut.

(h) "Oil" means oil of any kind and any form, such as petroleum and nonpetroleum oils including, but not limited to, crude oil and refined petroleum products, animal fats and vegetable oil, other oils of animal or vegetable origin, and other nonpetroleum oils.

(i) "Oiled bird" means a bird that has come in contact with oil.

(j) "Oiled bird rehabilitation pen" means an enclosure used to hold birds during oiled bird rehabilitation.

(k) "Oiled bird rehabilitation pool" means a container filled with unheated fresh water used during the rehabilitation of oiled birds.

(l) "Oiled bird rehabilitation" is a specialized form of wildlife rehabilitation and means the process of caring for oiled birds during intake, prewash holding, washing and rinsing, drying; while in pools; by providing semi-static and static areas; and by maintaining air temperature and air



exchange while the birds are in an oiled bird rehabilitation facility.

(m) "Oiled bird rehabilitation facility" is a type or portion of a wildlife rehabilitation facility and means the contiguous indoor and outdoor areas used for the rehabilitation of oiled birds.

(n) "Outdoor area" means an area within an oiled bird rehabilitation facility that does not fit the definition of an indoor area.

(o) "Orphan-imprinting" means to use wildlife for the purpose of feeding, socializing, and teaching appropriate behavior to young wildlife.

(p) "Prewash holding resources" mean the floor space and oiled bird rehabilitation pen requirements within an oiled bird rehabilitation facility necessary to hold birds after intake and prior to washing.

(q) "Principal veterinarian" means a licensed veterinarian who provides in writing their willingness to assist the rehabilitator in conducting wildlife rehabilitation activities.

(r) "Public display" means to place or locate wildlife so that they may be viewed by the public.

(s) "Semi-static areas" mean dedicated indoor spaces within an oiled bird rehabilitation facility where the required size of the space will vary relative to the number of birds to be rehabilitated. These include areas for bird food preparation, morgue/necropsy, storage, and freezers.

(t) "Static areas" mean dedicated indoor spaces within an oiled bird rehabilitation facility where the required size of the space does not vary regardless of the number of birds to be rehabilitated. These include areas for the isolation/intensive care unit, medical laboratory, laundry, electrical, and mechanical spaces.

(u) "Wash/rinse resources" mean the water, cleaning agent, and space requirements necessary to remove oil from the skin and feathers of a bird.

(v) "Wildlife rehabilitation" means the care and treatment of injured, diseased, oiled, or abandoned wildlife, including, but not limited to, capture, transporting, veterinary treatment, feeding, housing, exercise therapy, and any other treatment or training necessary for release back to the wild.

(w) "Wildlife rehabilitation facility" means the authorized sites as shown on the wildlife rehabilitation permit where the treatment and rehabilitation takes place.

(x) "Wildlife rehabilitator" means a person who conducts wildlife rehabilitation or someone who conducts wildlife rehabilitation under the supervision of a valid wildlife rehabilitation permit holder.

(y) "Wildlife rehabilitation permit" means a permit issued by the director, or director's designee, that authorizes a person, or someone under the supervision of a valid wildlife rehabilitation permit holder, to conduct wildlife rehabilitation.

(2) It shall be unlawful for any person to possess wildlife for the purpose of rehabilitation unless:

(a) They have a valid wildlife rehabilitation permit; or

(b) They are working under the supervision of a person who has a valid wildlife rehabilitation permit.

(3) A wildlife rehabilitation permit may be issued to a person to conduct or oversee wildlife rehabilitation and is valid so long as the information in the permit remains current,

the permit holder continues to meet the conditions and requirements of the permit, and provisions of this rule are followed. Any change to the information on the permit must be reported in writing within ten working days or the permit may be invalidated.

(4) The director, or director's designee, may issue and condition a wildlife rehabilitation permit if the applicant complies with the following:

(a) The applicant is either a licensed veterinarian or can demonstrate six months of experience in wildlife rehabilitation, which must include three months during the spring or summer and has a principal veterinarian as a sponsor. The director, or director's designee, may consider education in wildlife rehabilitation as a substitute for experience.

(b) The applicant must successfully complete a wildlife rehabilitator's examination(s) as prescribed by the director, or director's designee.

(c) The wildlife rehabilitation facility is inspected by the department and meets the wildlife rehabilitation care and facility standards for wildlife in the *Washington State Wildlife Rehabilitation Facility and Care Standards* pamphlet. In order for the wildlife rehabilitation permit to allow for the rehabilitation of oiled birds, the facility also needs to meet the requirements in subsection (24) of this section. When facility requirements in subsection (24) of this section conflict with requirements in the *Wildlife Rehabilitation Facility and Care Standards* pamphlet, subsection (24) of this section shall take precedence.

(5) The wildlife rehabilitation permit holder must maintain and upon request make available to the department, a wildlife rehabilitation daily ledger. The ledger must include the date the wildlife is received, the species and nature of the illness, the location where the wildlife was found, the date and disposition of the wildlife, the release location, and if any, tags and/or band numbers. It is unlawful for a wildlife rehabilitation permit holder to fail to enter required information in the wildlife rehabilitation ledger within twenty-four hours of the day wildlife is received and on the day of all subsequent activities as required in the ledger.

(6) The wildlife rehabilitation permit holder must submit to the department no later than January 31 of each year an annual report providing information as required by the director, or director's designee, and a copy of the daily ledger.

(7) All permits and records held pursuant to statutes and rules dealing with wildlife rehabilitation will be kept on file at the wildlife rehabilitation facility. The records will be retained for a period of five years.

(8) A copy of the valid wildlife rehabilitation permit must be in possession of any person possessing or transporting wildlife for the wildlife rehabilitation facility.

(9) The wildlife rehabilitation permit holder will notify the department within twenty-four hours of receiving a state or federal endangered or threatened species or an oiled bird; within seventy-two hours of receiving a state sensitive species or marked, tagged, or banded wildlife; and prior to release of threatened or endangered species or oiled birds. The release notification information relative to oiled birds shall include the number of birds being released, the species of birds being released, the proposed location of the release, and the proposed date/time of release.

(10) The wildlife rehabilitation permit holder will notify the department within twenty-four hours after the death of an oiled bird or a state or federal endangered or threatened species; or as soon as an endangered or threatened species is determined to be nonreleasable to the wild. Oiled birds or endangered or threatened species will not be disposed of or euthanized without prior department approval.

(11) Rehabilitated wildlife may be banded or otherwise identified by the department.

(12) The wildlife rehabilitation permit holder will notify the department, within five working days from the date of death, of any wildlife known to have died of the following diseases: Avian cholera, avian pox, duck viral enteritis, environmental contaminants, ornithosis, Newcastle's disease, rabies, canine distemper or tuberculosis (in species other than birds).

(13) Rehabilitated wildlife will be released as soon as possible into its proper habitat in the same area as recovered, except as provided by written authorization from the director or director's designee. Rehabilitated oiled birds shall only be released in the same area as recovered when the threat of becoming reoiled no longer exists. If the area that they were recovered in is not clean enough to allow for their release at that location, department approval is required prior to releasing rehabilitated oiled birds in another location.

(14) It is unlawful to hold wildlife for longer than one hundred eighty days, except as provided by written authorization from the director, or director's designee.

(15) Dead wildlife, excluding oiled birds, will be disposed of through deposit at an approved Washington state university or college, a permitted research project or through burial, incineration, or a licensed rendering facility. The wildlife rehabilitation permit holder shall notify the department when in possession of dead oiled birds. Dead oiled birds shall not be disposed of without prior department approval.

(16) It is unlawful to publicly display wildlife while it is undergoing rehabilitation.

(17) It is unlawful to retain wildlife for the purpose of orphan imprinting or to retain feathers of protected or endangered wildlife for the purpose of "imping," except as provided by written authorization from the director, or director's designee.

(18) It is unlawful for wildlife being held for rehabilitation to be used for propagation.

(19) Wildlife being held for the purposes of rehabilitation must be kept separate from wildlife held under other licenses and domestic animals, except as provided by written authorization from the director, or director's designee.

(20) The wildlife rehabilitation permit holder may receive from the department and possess at the wildlife rehabilitation facility, dead wildlife for the purpose of feeding wildlife being rehabilitated.

(21) Fish and wildlife enforcement officers may inspect at reasonable times and in a reasonable manner the wildlife, permits, records, and wildlife rehabilitation facility of any wildlife rehabilitator.

(22) Any wildlife rehabilitation permit holder who fails to comply with any condition within the holder's permit or any provision of this rule is in violation of the permit and the

permit may be revoked. Any wildlife rehabilitation permit holder found in violation of the permit conditions, with the exception of oiled bird facility requirements, may provide to the department a plan for corrective action, within ten days, to return to compliance. Any wildlife rehabilitation permit holder with an acceptable plan for corrective action to violations other than oiled bird facility requirements will be given a minimum of thirty days to correct a permit violation prior to revocation. Wildlife rehabilitation permit holders found in violation of oiled bird rehabilitation facility requirements shall correct these violations within twenty-four hours to avoid revocation of their authorization to rehabilitate oiled birds.

(23) All wildlife held by a wildlife rehabilitation permit holder remains the property of the state, is subject to control by the state and will not be offered for sale or sold.

(24) Oiled bird rehabilitation facility requirements:

(a) Air temperature and air exchange requirements: This section refers to the air temperature and air exchange requirements within indoor areas.

(i) Air temperature: All indoor areas shall have the means to control air temperature and shall be adjustable and maintainable at any given air temperature between 65°F - 85°F. When the number of birds in an oiled bird rehabilitation facility at a given time exceeds fifty, the following shall also apply:

(A) Intake and prewash holding areas shall be air temperature controlled independently of other oiled bird rehabilitation facility areas but may be controlled together;

(B) Wash/rinse and drying areas shall be air temperature controlled independently of other oiled bird rehabilitation facility areas but may be controlled together; and

(C) The isolation/intensive care unit shall be air temperature controlled independently of other oiled bird rehabilitation facility areas.

(ii) Air exchange: All indoor areas shall have the means to exchange the air volume a minimum of ten times per hour with fresh air from outside. When the number of birds in an oiled bird rehabilitation facility at a given time exceeds fifty, the following shall also apply:

(A) Intake and prewash holding areas may be combined on the same air exchange system. Air exchange systems in the intake and prewash holding areas shall be independent of other oiled bird rehabilitation facility air exchange systems; and

(B) Wash/rinse and drying areas may be combined on the same air exchange system. Air exchange systems in the wash/rinse and drying areas shall be independent of other oiled bird rehabilitation facility air exchange systems; and

(C) The isolation/intensive care unit air exchange system shall be independent of other oiled bird rehabilitation facility areas; and

(D) The morgue/necropsy air exchange system shall be independent of other oiled bird rehabilitation facility areas.

(b) Intake space requirement: Intake shall occur in an indoor area. Forty square feet of contiguous floor space shall be provided for each group of sixty live or dead oiled birds, or portion of each group of sixty, that have been collected and are awaiting intake. The floor of the intake space shall be

impermeable. Water shall not be allowed to accumulate on the floor.

(c) Prewash holding resource requirements: Prewash holding shall occur in an indoor area. Oiled bird rehabilitation pen space and the associated dedicated workspace shall be provided in the prewash holding area.

(i) Oiled bird rehabilitation pen requirements: Prewash oiled bird rehabilitation holding pens shall be no smaller than two feet in length by two feet in width; and a minimum of two feet high. Prewash oiled bird rehabilitation holding pens shall be constructed with knotless nylon net-bottoms with a stretched mesh size of one-half inch and shall provide 1.6 square feet of pen space per bird. Oiled bird rehabilitation holding pens shall be constructed in a manner such that no point within the pen is greater than two feet from a pen wall. Oiled bird rehabilitation holding pens shall be elevated a minimum of twelve inches above the floor surface.

(ii) Space requirements: In addition to the space required for prewash oiled bird rehabilitation holding pens, an additional 3.2 square feet of dedicated workspace shall be provided in the prewash holding area for each bird held in the prewash holding area. The floor of the prewash holding area shall be impermeable. Water shall not be allowed to accumulate on the floor.

(d) Wash/rinse resource requirements: Wash/rinse shall occur in an indoor area. A bird shall be provided wash/rinse space and associated resources within twenty-four hours after intake.

(i) Water requirements: A minimum of three hundred gallons of fresh water with the following characteristics shall be made available within each wash/rinse space for each oiled bird being washed and rinsed: The water temperature shall be maintained between 104°F - 106°F; the water hardness shall be maintained between 30 mg - 50 mg calcium carbonate/liter (2-3 grain hardness); the water pressure shall be maintained between 40-60 p.s.i. at a flow rate not less than six gallons per minute. All water requirements listed above shall remain within the specified ranges at all times.

(ii) Cleaning agent requirements: Liquid dishwashing detergents are the only cleaning agents that shall be used to remove oil from birds. Other detergents, including, but not limited to, machine dishwasher soaps and detergents, hand soaps, powdered products, and antibacterial dishwashing detergents shall not be used.

(iii) Space requirements: One hundred square feet of contiguous floor space shall be provided for each group of sixteen live oiled birds, or portion of each group of sixteen, that are ready to be washed and rinsed. The floor of the wash/rinse area shall be impermeable. Water shall not be allowed to accumulate on the floor.

(e) Drying resource requirements: Drying shall occur in an indoor area. Oiled bird rehabilitation pen space and the associated dedicated workspace shall be provided in the drying area. Drying shall be accomplished by warming the air in the drying pen to between 90°F - 95°F.

(i) Oiled bird rehabilitation drying pen requirements: Oiled bird rehabilitation drying pens shall be no smaller than three feet in length by two feet in width; and a minimum of two feet high. Oiled bird rehabilitation drying pens shall be constructed with knotless nylon net-bottoms with a stretched

mesh size of one-half inch and shall provide 2.7 square feet of pen space per bird. Each oiled bird rehabilitation pen shall be constructed in a manner such that no point within the pen is greater than two feet from a pen wall. Oiled bird rehabilitation drying pens shall be elevated a minimum of twelve inches above the floor surface. If prewash oiled bird rehabilitation holding pens meet the criteria for use as oiled bird rehabilitation drying pens and are used in the drying process, they must be cleaned of oil residue prior to use.

(ii) Space requirements: In addition to the space required for oiled bird rehabilitation drying pens, an additional 3.2 square feet of dedicated workspace shall be provided in the drying area for each bird held in the drying area. The floor of the drying area shall be impermeable. Water shall not be allowed to accumulate on the floor.

(f) Oiled bird rehabilitation pool resource requirements: Oiled bird rehabilitation pools shall be filled with unheated fresh water. Oiled bird rehabilitation pool space shall be provided immediately after a bird has been dried, and shall be provided until the bird is released.

(i) Oiled bird rehabilitation pool requirements: Oiled bird rehabilitation pool water shall be a minimum of four feet deep. Each bird shall be afforded a minimum of 7.5 square feet of water surface space (e.g., a twelve-foot diameter oiled bird rehabilitation pool shall house not more than fifteen birds). Each oiled bird rehabilitation pool shall be of dimensions such that no point within the pool is greater than eight feet from a side of the pool. In addition, each oiled bird rehabilitation pool shall have a breathable cover to prevent birds from escaping. Each oiled bird rehabilitation pool shall be constantly supplied with water sufficient to maintain a depth of four feet and an exchange rate of not less than four and one-quarter times per day. Water exiting the oiled bird rehabilitation pool shall come from the surface of the pool so that floating debris and oil are removed. Water from oiled bird rehabilitation pools may be reused within a facility if made oil free.

(ii) Space requirements: Oiled bird rehabilitation pools shall be within the oiled bird rehabilitation facility. Oiled bird rehabilitation pools shall be no closer than four feet from another structure.

(g) Semi-static areas:

(i) Space requirements: Semi-static areas shall be indoor areas. The floors in semi-static areas shall be impermeable. Water shall not be allowed to accumulate on the floor. When the total number of birds in an oiled bird rehabilitation facility, on a given day, is less than fifty, there are no minimum space requirements for semi-static areas. When the total number of birds in an oiled bird rehabilitation facility, on a given day, is between fifty and one thousand, each semi-static area listed in Table 1 shall be allocated the associated space. When the total number of birds in an oiled bird rehabilitation facility, on a given day, is between one thousand one and two thousand, each semi-static area listed in Table 1 shall be allocated two times the associated space, and, when the total number of birds in the oiled bird rehabilitation facility, on a given day, is between two thousand one and three thousand, each semi-static area listed in Table 1 shall be allocated three times the associated space, etc. Space for the semi-static areas listed in Table 1 shall be accommodated

within an oiled bird rehabilitation facility with the exception of the morgue/necropsy.

**Table 1:**

Semi-static area space requirements by activity type.

<u>Area</u>	<u>Space</u>
<u>Morgue/necropsy</u>	<u>250 sq. ft.</u>
<u>Bird food preparation</u>	<u>300 sq. ft.</u>
<u>Storage</u>	<u>100 sq. ft.</u>
<u>Freezers</u>	<u>100 sq. ft.</u>

(h) Static areas:

(i) Space requirements: Static areas shall be indoor areas. The floors in static areas shall be impermeable. Water shall not be allowed to accumulate on the floor. When the total number of birds in an oiled bird rehabilitation facility, on a given day, is less than fifty, there are no minimum space requirements for static areas. When the number of birds in an oiled bird rehabilitation facility, on a given day, exceeds fifty, each static area listed in Table 2 shall be allocated the associated space. All of the space associated with the areas listed in Table 2 shall be accommodated within an oiled bird rehabilitation facility with the exception of the laundry.

**Table 2:**

Static area space requirements by activity type.

<u>Area</u>	<u>Space</u>
<u>Isolation/intensive care unit</u>	<u>200 sq. ft.</u>
<u>Medical laboratory</u>	<u>200 sq. ft.</u>
<u>Laundry</u>	<u>200 sq. ft.</u>
<u>Electrical</u>	<u>100 sq. ft.</u>
<u>Mechanical</u>	<u>250 sq. ft.</u>

**WSR 04-20-021**

**PERMANENT RULES**

**WASHINGTON STATE PATROL**

[Filed September 28, 2004, 9:01 a.m., effective October 29, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The anticipated effect of the amendments to chapter 204-91A WAC are to clarify procedures for inspections; applying for a letter of appointment; issuance of a letter of appointment; suspension or revocation of a letter of appointment; hearing procedures; business hours; handling personal property; tow truck equipment standards; and to make some necessary changes in wording.

Citation of Existing Rules Affected by this Order: Amending WAC 204-91A-030, 204-91A-040, 204-91A-050, 204-91A-060, 204-91A-070, 204-91A-080, 204-91A-090, 204-91A-120, 204-91A-130, 204-91A-140, and 204-91A-170.

Statutory Authority for Adoption: RCW 46.37.005.

Adopted under notice filed as WSR 04-13-040 on June 10, 2004.

Changes Other than Editing from Proposed to Adopted Version: WAC 204-91A-030(20), additional wording was

taken in part from WAC 204-91A-140 "The hourly rate for each class of truck shall be the only charge for services performed for initial tows and secondary tows performed during business hours.... The hourly rate shall:... (b) Apply when the call is made by the state patrol, for whatever reason, including but not limited to accidents, incidents, disableds, and impound requests...."

WAC 204-91A-060(1), included that an application for a letter of appointment will be considered if new owners "will keep in place the existing management team/employees for a minimum of one year upon purchasing the businesses." Also added that the owner/operator shall "outline which requirement listed above fits their situation. If the owner/operator doesn't have the two years experience and is granted a waiver, it will be a probationary waiver for a period of one year."

WAC 204-91A-060(2), added that the state patrol may revoke a letter of appointment/contract if the applicant, partner, or any employee who operates a tow truck or assists in vehicle auctions has "within the last three years been convicted or found guilty of driving under the influence for alcohol and/or drug(s), or within the last five years have been found guilty of driving under the influence of alcohol and/or drugs two or more times."

WAC 204-91A-070 (3)(c), the twenty-four hour requirement for employees to work for only one company was replaced with a requirement to work for only one company during a "designated shift - must work the entire shift from beginning to end for only one company."

WAC 204-91A-070 (3)(e), added that each business must have its own entrance, "or when the building has one main entrance, the offices must have doors clearly marking and separating each business (not acceptable to walk in the main door and be hit with a counter or one office for the multiple tow companies housed in the building.)"

WAC 204-91A-090(2), reinstated the language that was originally struck out. Also included the option for the chief to authorize a designee to take action. Included the RCW citation for chapter 34.12 RCW.

WAC 204-91A-120(2), left in the thirty minute requirement in order to maintain consistency with the response time for WSP impounds.

These changes were agreed upon by members of the towing industry and other stakeholders.

A final cost-benefit analysis is available by contacting Ms. Christine Fox, P.O. Box 42614, Olympia, WA 98504-2614, phone (360) 753-3697, fax (360) 586-3697, e-mail Christine.Fox@wsp.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 11, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 11, Repealed 0.

PERMANENT

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 11, Repealed 0.

Date Adopted: September 28, 2004.

Lowell M. Porter  
Chief

**AMENDATORY SECTION** (Amending WSR 02-07-056, filed 3/15/02, effective 4/15/02)

**WAC 204-91A-030 Definitions.** The following definitions shall apply throughout this chapter:

(1) "Patrol" means the Washington state patrol as defined in RCW 43.43.010.

(2) "Chief" means the chief of the Washington state patrol or designee.

(3) "Department" means the Washington state department of licensing.

(4) "Director" means the director of the department of licensing.

(5) "Tow truck permit" means the permit issued annually by the department that has the classification of service the tow truck may provide stamped upon it.

(6) "Registered tow truck operator" or "operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles, or in the disposal of abandoned vehicles.

(7) "Tow truck" means a motor vehicle that is equipped for and used in the business of towing or otherwise transporting other vehicles with specific equipment approved by the state patrol.

(8) "Tow truck number" means the number issued by the department to tow trucks used by a registered tow truck operator in the state of Washington.

(9) "Tow truck service" means the towing, moving, transporting, or impounding of vehicles, together with personal effects and cargo, by a registered tow truck operator utilizing equipment approved by the patrol.

(10) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(11) "Place of business" means a building which the registered tow truck operator occupies, either continuously or at regular times, where tow business books and records are kept and tow business is transacted in each assigned tow zone.

(12) "Vehicle storage area" means the approved yard/buildings (primary and secondary) where stored vehicles are kept. The storage areas and fencing will comply with the requirements as established by the department and all local zoning rules and regulations. Both primary and secondary storage areas must be physically located within tow zone assigned to the operator.

(13) "Special event" means any event which causes an unusually large number of impounded vehicles and/or tow calls in a short period of time and is so declared by the district commander or designee.

(14) "Special event storage area" means an area used for temporarily storing vehicles impounded/towed from special

events. Approval for such areas shall be obtained from the department, the patrol, and appropriate city and county jurisdictions.

(15) "District commander" means the commanding officer of an area established by the Washington state patrol.

(16) "Inspector" means a commissioned officer of the Washington state patrol who has been designated as a tow truck inspector by the patrol.

(17) "Tow zone" means that specific geographical area designated by the district commander for the removal of vehicles as defined in Title 46 RCW and this chapter.

(18) "Section" means the section designated by the chief of the Washington state patrol to coordinate the tow truck inspection program, maintain tow truck files, and issue letters of appointment.

(19) "Letter of appointment" means a letter issued by the section that authorizes a registered tow truck operator to tow and store vehicles on a rotational or contractual basis, in a specific area, for the Washington state patrol. The letter of appointment must have an attached valid contractual agreement listing the maximum rates that will be charged by the operator for services provided as a result of state patrol originated calls.

(20) "Initial tow" means services provided including, but not limited to, accidents, incidents, disableds, and impound requests, as a result of an original call, on a particular vehicle, that the tow operator receives from the patrol (~~as a result of contract or~~) using a copy of a current rotational call list for the particular zone. Any vehicles of combination oversized/weight requiring a permit, may only be moved to the nearest safe location agreed upon by all parties involved, until such time a permit is acquired or until the load can be made legal by reducing.

(21) "Secondary tow" means towing services from an operator's storage facility or place of business, to another location designated by the owner/agent of a vehicle that was initially towed as a result of call from the patrol.

(22) "Letter of contractual agreement" means the document, attached to the letter of appointment, that specifies the maximum tow rates that may be charged for services provided as a result of state patrol originated calls.

(23) "Owner/operator" means owner is active in the general management of the towing business.

**AMENDATORY SECTION** (Amending WSR 94-18-083, filed 9/2/94, effective 10/3/94)

**WAC 204-91A-040 Inspections.** Upon the request of a registered tow operator or applicant, the patrol shall conduct an inspection of the applicant's place of business, facilities, and equipment to determine if the applicant meets the requirements of chapter 46.55 RCW, or Titles 308 and/or 204 WAC. Verification must be shown to the inspector that the applicant complies with all applicable local laws and regulations as prescribed for the geographical area where the towing business will be established. If local zoning regulations are applicable, a copy of the certification of approval from the local zoning commission will be furnished to the inspector. This certification may be included in the department's application form for license. The certification will become a

part of the permanent record maintained on each approved towing firm by the section.

(1) Reinspections will be conducted at least once a year. Unscheduled inspections may be conducted without notice at the operator's place of business by an inspector to determine the fitness of tow trucks, facilities, and business records.

(2) If reinspection of a previously-approved tow truck reveals equipment defects, one of the following procedures shall apply:

(a) In the event of a safety-related defect which would render the tow truck a safety hazard upon the public highway, a red "out-of-service" sticker shall be affixed immediately by the inspector.

(b) In the event of missing or defective equipment that does not constitute a safety hazard but is required, the inspector shall advise the operator of the defect. If after ten days the operator fails or refuses to repair the defect, the red out-of-service sticker shall be affixed.

(c) Upon confirming the satisfactory repair of the defect or defects that caused the tow truck to be taken out of service, the inspector shall remove the red sticker. In the event that the original inspector is not available to reinspect the equipment, another patrol officer appointed by the appropriate supervisor may do so. The reinspection shall be completed as soon as possible after the operator advises the patrol that the defect has been repaired. Whenever practicable this shall be done within three days and may require the operator to bring the truck to the inspector.

(d) Upon sale or other transfer of a tow truck from the business, the operator shall so advise the inspector who will ~~((obtain))~~ request the issued cab card permit ~~((and))~~ be forwarded to the inspector via U.S. mail or other arrangement agreed upon by the parties involved, within three days of any changes. The operator will remove any decals indicating truck class, district and/or zone. The ~~((permit will be forwarded to))~~ inspector will notify the department ~~((by the inspector who will also advise))~~ and the section of ~~((the action taken))~~ any changes in vehicles.

(e) Upon the purchase or acquisition of any additional or replacement tow truck(s) to be used pursuant to this chapter, the operator shall immediately notify the patrol and request an inspection of the new unit. The new unit shall not be used for public or private impound calls until satisfactory inspection is completed and a cab card permit and/or decals for the vehicle has been issued by the department and/or patrol.

(3) On original inspection, and subsequent reinspection, the inspector shall confirm the identities and status of driving privilege of all persons that operate the tow trucks. The inspector shall notify the operator if any person does not meet the minimum license requirements.

(a) In the event that an operator becomes aware that the driving privilege of an employee, or owner no longer meets the minimum requirements, the operator shall prohibit that person from operating any tow truck.

(b) An operator shall, within three days of employing a new driver, advise the inspector in writing of the identity, including name, address and date of birth, of the new employee. The inspector shall notify the operator if the new employee does not meet the minimum license requirements.

AMENDATORY SECTION (Amending Order 89-04-ESR, filed 6/23/89)

**WAC 204-91A-050 Certification.** After inspection of the towing business facilities and equipment, the inspector will certify one of the following:

(1) The towing operation of the applicant ~~((fully conforms to))~~ meets the requirements and qualification standards established by ~~((the Revised Code of Washington))~~ chapter 46.55 RCW, chapters 204-91A and 308-61 WAC, the department of licensing, master licensing services, and the patrol; or

(2) The towing operation of the applicant does not ~~((conform to))~~ meet the requirements and qualification standards established by the Revised Code of Washington 46.55, Washington Administrative Codes 204-91A and 308-61, the department of licensing, master licensing services, and the patrol. The inspector shall state the reasons for failure to qualify in a separate report which shall be attached to the application/inspection form.

In the event the applicant fails to meet the established requirements for approval, the applicant may, after correcting all deficiencies, request a reinspection for certification.

AMENDATORY SECTION (Amending WSR 02-07-056, filed 3/15/02, effective 4/15/02)

**WAC 204-91A-060 Application for letter of appointment.** (1) An application for a letter of appointment to be placed on the rotational tow list, will not be considered or approved unless the ~~((operator))~~ owner/operator of the towing company can demonstrate that he/she has been a registered tow truck operator for a minimum of two years prior to the date of application with at least one approved "A" or "B" class tow truck~~((-)),~~ additional trucks are optional; or has worked as an employee of a tow company on the state patrol's rotational tow list and gained experience within the towing industry including, but not limited to, the operation of vehicles, complying with the state and federal standards and regulations, and processing of paperwork for auditing and other purposes; or will keep in place the existing management team/employees for a minimum of one year upon purchasing the business. The owner/operator shall submit a letter with the application outlining their experience within the towing industry and outline which requirement listed above fits their situation. If the owner/operator doesn't have the two years experience and is granted a waiver, it will be a probationary waiver for a period of one year.

Note: An exception may be made if an operator desires a letter of appointment for class "C" tows only. In such situations, only a class "C" truck is required.

Upon request, the section shall advise the applicant of the contents of the department's regulations and of the standards established for the issuance of a letter of appointment.

(2) An application for a letter of appointment to provide towing service for the patrol shall be filed by the applicant with the local state patrol district office on a form prescribed by the patrol. The state patrol may refuse to approve or may revoke a letter of appointment/contract if the applicant, partner, or any employee who operates a tow truck or assists in vehicle auctions has within the last ten years has mispre-



sented or concealed a fact in obtaining a letter of appointment, violated any state or federal statute or rule regulating the tow industry, or ~~((in the last ten years))~~ been convicted of any class "A" felony, or in the last ten years been convicted or found guilty of any lesser felony or misdemeanor involving assault, sexual abuse, ((or)) theft, burglary, stealing, embezzlement, fraud, driving under the influence of alcohol and/or drug(s), or any violent or sexual act toward a man, woman, or minor child, or within the last three years been convicted or found guilty of driving under the influence of alcohol and/or drug(s), or within the last five years have been found guilty of driving under the influence of alcohol and/or drugs two or more times as defined in the criminal code ~~((under which the conviction would have been a felony in the state of Washington at the time of conviction))~~ as they existed at the time of the violation, as they now exist or may later be amended in the state of Washington. In the case of a partnership, each partner shall apply on the form prescribed. In the case of a corporation, the patrol may require that each of the present and any subsequent officers, managers, and stockholders holding ten percent or more of the total issued and outstanding stock of the applicant corporation complete an application form. A signed "letter of contractual agreement" listing the maximum tow rates to be charged for services resulting from state patrol originated calls will be attached to the application.

(3) Only one application per year to tow on the Washington state patrol rotational tow list will be accepted and considered for an applicant who has had their previous application denied or had their letter/contract of appointment revoked. The year shall run from the date of application denial or the date of the letter of appointment's revocation.

(4) The district commander or designee shall complete tow zone portion of the form. He/she will enter "approved" or "disapproved" and will sign the form next to the zone designation. The application and "letter of contractual agreement" will be forwarded to the section.

(5) The application form will be assigned a docket number, by the section, which shall be its permanent identification number for all matters relating to appointments, granted or denied, and any other correspondence with the section thereafter.

(6) The filing of an application for a letter of appointment does not in itself authorize the operator to provide towing services pursuant to this chapter until a letter of appointment has been issued by the section. However, nothing herein shall prohibit the patrol from calling the towing business upon the specific request of a person responsible for a vehicle or his agent.

**AMENDATORY SECTION** (Amending WSR 94-18-083, filed 9/2/94, effective 10/3/94)

**WAC 204-91A-070 Issuance of a letter of appointment.** (1) No towing operator shall be called to perform a towing service at the request of the patrol unless such operator has a letter of appointment as described in this chapter. No such letter of appointment will be issued unless all qualifications set out in this chapter have either been met by the appli-

cant, or a waiver of those qualifications not met has been granted by the section.

(2) The section commander shall have the authority to issue letters of appointment upon request after receiving certification from the inspector, an application for a letter of appointment endorsed by the district commander, and notice from the department that the requestor has been licensed as a registered tow truck operator.

If the section shall find the requestor does not or will not meet all requirements and is not qualified for a waiver of the requirements, then such request shall be denied. The section shall notify the requestor of its decision in writing, stating the reasons. If the request is approved, the section commander will issue the letter of appointment and forward it to the tow operator. The tow company will be admitted to the patrol's call list for the appropriate tow zone on the effective date of the letter.

If the district commander recommends denial of a request for a letter of appointment, the section commander shall notify the applicant and provide an opportunity for applicant to have a hearing as provided in chapter 34.05 RCW.

(3) A letter of appointment will be valid for one business, in a single tow zone, assigned by the district commander. Requests for additional letters of appointment in the same or another zone must be based on a complete and separate place of business capable of independent operation within the appropriate zone.

(a) Each business must be operated independently. One company cannot be dependent upon another for any required operation.

(b) If an individual, partnership, corporation, or other business entity owns more than one business, each business must have a different identifiable name, address, and telephone number, which are answered at the business location during normal business hours. There may, however, be a central dispatch center for multiple companies.

Note: A different identifiable name may include the parent company name but must also have an additional name to identify and separate that company. Example: Joe's Towing and Joe's Towing South. Joe's Towing I and Joe's Towing II will not be adequate for this purpose.

(c) There must be separate personnel for each company. Employees of that company must adequately staff each business office during normal business office hours to answer all incoming phone calls and to release impounded vehicles. Each business must be staffed by a sufficient number of drivers for twenty-four hour day operation. Employees and drivers cannot work for more than one company at a time during a designated shift - must work the entire shift from beginning to end for only one company and there must be a separate time card for each business for an individual working for more than one company.

(d) There must be adequate equipment for each company to operate independently. Tow trucks must only be used for the company for which they are registered. All trucks must be clearly marked with the company's identity.

(e) Separate businesses in the same tow zone may be housed in one building; however, there must be a solid wall from floor to ceiling physically separating each business.

Each business must have its own outside entrance, or when the building has one main entrance, the offices must have doors clearly marking and separating each business (not acceptable to walk in the main door and be hit with a counter or one office for the multiple tow companies housed in the building), with a sign at the front door and a sign plainly visible from the street indicating the company's name, phone number, and office hours. Companies currently not meeting these standards will have twelve months from July 1, 2004, to comply.

(f) Each business must maintain their own set of required records and books as outlined in RCW 46.55.150 including, but not limited to, a master log, vehicle transaction file, and billing invoices at its place of business. If there is a corporate accountant/bookkeeper for more than one company, all records and/or files for each company, other than those records, which are required to be maintained at the business location, must be maintained separately.

(g) Impound/storage areas must meet the requirements of WAC 308-61-026(2) at all times, including proper segregation.

All registered tow truck operators providing service to WSP must be in compliance with these requirements. Failure to comply will result in the cancellation of your letter of appointment to tow on the patrol's rotational tow list.

(4) A tow operator (or a district commander) may petition the section in writing for a waiver of one or more requirements. The section may grant a waiver if it finds that:

- (a) The towing service available to the patrol without the waiver is inadequate to meet the needs of the public;
- (b) The request is otherwise reasonable; and
- (c) The request has the district commander's approval.

In the event a qualified tow operator meeting all requirements and qualifications receives a letter of appointment in the same zone as a tow operator that had earlier been granted a waiver, the tow operator with a waiver will have the letter of appointment rescinded by the section and after notification will not be called for patrol-initiated tows.

(5) Every letter of appointment shall be issued in the name of the applicant and the holder thereof shall not allow any other person or business to use the letter of appointment.

(6) The letter of appointment will only be valid for the place of business named on the application and will not apply to any other place of business.

(7) A letter of appointment shall be valid until suspended, superseded, or revoked by the section.

(8) The holder of each letter of appointment must maintain at least one tow truck meeting the minimum class "A," "B," or "C" standards as listed in WAC 204-91A-170.

(9) All storage areas, primary and secondary, for each place of business must be in the tow zone assigned to that place of business.

AMENDATORY SECTION (Amending WSR 94-18-083, filed 9/2/94, effective 10/3/94)

**WAC 204-91A-080 Suspension or revocation of letter of appointment.** (1) Upon receiving evidence that any appointee has failed to comply or no longer complies with any requirement or provision of law or this chapter, the sec-

tion may deny, suspend, or revoke the letter of appointment. The appointee shall be given notice of the action and an opportunity to be heard as prescribed in chapter 34.05 RCW, prior to denial, suspension, or revocation of the letter of appointment.

(a) Upon receiving notice of the action, the appointee may request a hearing on the denial, suspension or revocation of the letter of appointment. Such request must be made in writing within twenty days from the date of the notice. An adjudicative proceeding will be commenced within ninety days of the receipt of a hearing request. Failure to request a hearing, or failure to appear at a requested hearing, a prehearing conference, or any other stage of an adjudicative proceeding, shall constitute default and may result in the entry of a final order under RCW 34.05.440.

(b) Upon receiving a hearing request, the section may, at the request of the appointee, or on its own initiative, schedule an informal settlement conference which shall be without prejudice to the rights of the parties.

(c) The holder of a letter of appointment may voluntarily relinquish the letter. The section and the district commander will be advised in writing of this voluntary relinquishment. After receiving written notice, the district commander will cause the inspector to physically obtain the original letter of appointment and forward it to the section.

(2) The section may summarily suspend a letter of appointment without prior notification if it finds that there is danger to the public health, safety, or welfare which requires immediate action. In every summary suspension of a letter of appointment, the section shall enter an order, signed by the chief, which is in compliance with the provisions of RCW 34.05.479. Administrative proceedings consistent with chapter 34.05 RCW for revocation or other action shall be promptly instituted and determined. The section shall give notice as is practicable to the appointee.

(3) A tow company may be immediately removed from the state patrol's rotational tow list for the following - revocation or cancellation of their registered tow truck operator license by the department or cancellation of the tow company's insurance certificate or bond.

AMENDATORY SECTION (Amending WSR 02-07-056, filed 3/15/02, effective 4/15/02)

**WAC 204-91A-090 Hearing procedure.** ~~((Pursuant to RCW 34.05.482 through 34.05.494, the patrol will use brief adjudicative proceedings where not violative of the law and where protection of the public interest does not require the patrol to give notice and an opportunity to participate to persons other than the parties. The brief adjudicative proceedings may include: Denial of application for a letter of appointment, suspension, or revocation of letter of appointment.))~~ Hearings under this chapter shall be pursuant to chapters 34.05 RCW, 446-08, and 10-08 WAC.

(1) The presiding officer shall conduct the hearing and any prehearing conference(s).

(2) The burden of proof in any hearing before the chief shall be on the applicant seeking a letter of appointment, or the person or agency seeking the suspension or revocation of a letter of appointment, or other action by the chief or design-



nee. The chief or designee, after having heard and considered all pertinent evidence, or if the hearing is conducted by an administrative law judge, after having considered a record of a hearing conducted by an administrative law judge duly appointed pursuant to chapter 34.12 RCW, shall make written findings of facts and conclusions based on evidence presented.

(3) Oral proceedings shall be recorded on tape and such tape shall become part of the hearing record.

(4) This section is intended to supplement the procedures contained in the Administrative Procedure Act, chapter 34.05 RCW, the model rules of procedure, chapter 446-08 WAC, and chapter 10-08 WAC.

AMENDATORY SECTION (Amending WSR 02-07-056, filed 3/15/02, effective 4/15/02)

**WAC 204-91A-120 Business office hours and records.** Business hours for purposes of inspection of records, place of business, and towing equipment ((shall)) must be 8 a.m. to 5 p.m., excluding weekends and holidays.

(1) When an operator is not open for business and does not have personnel present at the place of business, the operator ((shall)) must post a clearly visible telephone number at the business location for the purpose of advising the public how to make contact for the release of vehicles or personal property.

The owner/operator will have personnel at the place of business during business hours to answer phone calls and to release vehicles and/or personal property. Persons from adjoining businesses or neighboring businesses may not be used to meet this requirement. Phones may not be forwarded to an answering service during normal business hours, with the exception of the lunch hour. Lunch hours will be posted and will be consistent on a monthly basis.

(2) The owner/operator ((shall)) must maintain personnel who can be contacted twenty-four hours a day to release impounded vehicles within a thirty-minute period of time. The personnel must be identifiable as representing the company.

(3) All billing invoices shall be ((consecutively)) numbered and shall contain the following information:

- (a) Date of service and tow truck operator's name.
- (b) Time of departure in response to the call.
- (c) Time service completed.
- (d) Class of tow truck.
- (e) If the towing call is for a Washington state patrol request, another police agency, a private impound, or the result of a private citizen request.
- (f) All fees for service shall be itemized.
- (g) The date and time the vehicle was released.

Note: Yard cards containing the above information may be used for internal control of vehicles by the operator until the vehicle is released, sold, or otherwise disposed of. Yard cards shall be supplemental to, and shall not replace the invoice required above.

A copy of the invoice shall be filed by invoice number at the business location and a copy of any voided invoice shall be retained in this same file. Another copy of the invoice shall

be included with the transaction file items identified in RCW 46.55.150.

AMENDATORY SECTION (Amending WSR 02-07-056, filed 3/15/02, effective 4/15/02)

**WAC 204-91A-130 Personal property handling procedures.** All personal belongings and contents in the vehicle and not permanently attached, shall be kept intact, and shall be returned to the vehicle's owner or agent during normal business hours upon request and presentation of a driver's license or other sufficient identification. ~~((Personal property not being held for evidence purposes by the impounding agency, shall be released to the vehicle's owner or agent by the tow operator without charge, upon demand,))~~ The tow operator without charge, upon demand, shall release personal property not being held for evidence purposes by the impounding agency, to the vehicle's owner or agent during normal business hours of 8:00 a.m. to 5:00 p.m. except for weekends and legal holidays. Release procedures will also follow guidelines as set forth in chapter 308-61 WAC and chapter 46.55 RCW.

The vehicle and contents within, less items listed in WAC and RCW, and personal property not picked up prior to the vehicle going to auction, stays with the vehicle. Personal property will be sold with the vehicle at auction, unless arrangements with the legal/registered owner are made for pick-up of items. The items may not be sold at auction to fulfill a lien against the vehicle.

(1) The items of personal property which the state patrol will not accept in response to RCW 46.55.090 include but are not limited to the following:

- (a) Tire chains;
- (b) Spare tire/wheels;
- (c) Used auto parts and/or accessories;
- (d) Seat covers;
- (e) Fuel containers;
- (f) Jacks, lug wrenches;
- (g) Radios, stereos, and other items attached to the vehicle by bolts, screws, or some other manner which incorporates them to the vehicle shall remain with the vehicle;
- (h) Refuse;
- (i) Trash;
- (j) Garbage;
- (k) Open alcohol containers;
- (l) Soiled or mildewed clothing, shoes, blankets, tarps, etc., having no actual value;
- (m) Miscellaneous unofficial papers and other items having no actual value.

(2) Items which must be turned over to the patrol and inventoried include but are not limited to:

- (a) Money;
- (b) Wallets or purses;
- (c) Bank or check books;
- (d) Bank or credit cards;
- (e) Official identification cards, operator's license, or passports;
- (f) Jewelry items;
- (g) Firearms and any type weapon;
- (h) Contraband and/or controlled substances;

(i) Stocks, bonds, money orders, bank certificates, travelers checks, postage stamps, food stamps, etc.;

(j) Other items of obvious value.

(3) The tow operator shall not remove or damage any vehicle parts permanently affixed to the vehicle, i.e., trunk locks or door locks.

**AMENDATORY SECTION** (Amending WSR 02-07-056, filed 3/15/02, effective 4/15/02)

**WAC 204-91A-140 Fees.** (1) All towing fees shall be based on a flat, hourly rate only and shall apply without regard for the hour of day, day of the week or whether the service was performed on a Saturday, Sunday, or holiday. The hourly rate for each class of truck shall be the only charge for services performed for initial tows and secondary tows performed during business hours. Charges for secondary tows performed during nonbusiness hours, on weekends or holidays, if different from the hourly rate, shall be negotiated and agreed upon with the vehicle owner/agent before the tow is made.

(2) The chief of the state patrol shall, prior to October 15 of each year, establish maximum hourly towing rates for each class of tow truck and maximum daily storage rates that tow operators may charge for services performed as a result of state patrol calls. The maximum rates shall be determined after consulting with members of the towing industry, review of current private towing rates, and such other economic factors as the chief may deem appropriate.

When signed by the chief (or his/her designee) and the tow operator, a contractual agreement to charge no more than the maximum rates shall become part of the operator's letter of appointment. The tow operator may, however, adopt a rate schedule charging less than the maximum rates established by the chief.

The hourly rate shall:

(a) Be the only basis used to compute total charges for towing services.

(b) Apply when the call is made by the state patrol, for whatever reason, including but not limited to accidents, incidents, disableds, and impound requests.

(c) Include all ancillary activities such as, but not limited to, removal of glass and debris from the roadway and any other area referred to as the "scene or incident," necessary winching, dolly service, drive line removal, installing chains on the tow truck, installation of portable lights, vehicle hookup for towing or transporting, tire replacement (on vehicle to be towed) and standby time.

(d) Be considered to include one person (~~the driver~~) per truck. When responding with a class "C" or a S-1 rotator truck to major collisions and incidents, a second person is allowed at the hourly labor rate per contract for an extra RTO employee. Any charges for additional labor and/or ancillary vehicles (trailers, pickups, etc.), for removing debris, cargo, etc., must have prior authorization from the legal or registered owner/agent, or a member of the patrol at the scene.

(e) Be computed from the actual time the truck departs in response to a call until ~~(it returns to the starting location or it begins responding to another call minus any down time.)\*~~ the truck returns to its normal area/zone, responds to another

call, or the tow yard. The hourly rate shall be applied to the resulting net time and, after the first hour, shall be rounded to the nearest fifteen minutes. The operator may charge the hourly rate for the first hour or any portion thereof. After the first hour, no more than one-quarter of the hourly rate may be charged for each fifteen minutes of tow or service work performed.

~~(\*\* Down time includes coffee or meal breaks, personal errands by the operator, and/or any mechanical failure on the truck or equipment.)~~

(3) The basic storage fee: (Vehicles shall be measured bumper to bumper; trailers shall be measured tongue to bumper.)

(a) Shall be calculated on a twenty-four-hour basis clock and shall be charged to the nearest half day from the time the vehicle arrived at the secure storage area. Vehicles stored over twelve hours on any given day within the twenty-four-hour clock shall constitute a full day's storage. Vehicles stored for less than twelve hours on any give day, shall be charged for twelve hours of storage; and

(b) Shall be the same for all three and four-wheel vehicles less than twenty feet in length; and

(c) For vehicles or combinations exceeding twenty feet, the storage fee shall be computed by multiplying each twenty feet of vehicle length, or any portion thereof, by the basic storage fee;

(d) For two-wheel motorcycles shall be one-half the basic storage fee for three and four-wheel vehicles.

(4) After hours release fee. If an operator or employee is already present, for other reasons, at the storage facility after business hours when a customer arrives, the vehicle and/or property shall be released as if it were during business hours. No "after hours fee" may be assessed. If the operator or employee is called to the place of business specifically for the purpose of releasing the vehicle and/or property, an "after hours fee," equivalent to one-half of the maximum Class "A" hourly rate, may be assessed.

(5) Any tow operator who charges the general public (i.e., private citizens) rates lower than those identified in the contractual agreement for services listed below shall charge the same lower rate for similar services performed as a result of state patrol originated calls.

(a) Roadside mechanical service, including fuel transfer, tire and belt changes, etc.;

(b) Disabled vehicle tow/transportation;

(c) Storage;

(d) After hours release fees.

Any such price requirement shall not be imposed for unoccupied vehicle situations in which the owner/operator has had no prior contact with either the state patrol or the tow operator.

**AMENDATORY SECTION** (Amending WSR 02-07-056, filed 3/15/02, effective 4/15/02)

**WAC 204-91A-170 Minimum tow truck equipment standards.** All tow/recovery trucks used by a registered tow operator for public or private impounds or in response to patrol requests shall meet the minimum standards as listed in this section.

Note: Equipment standards will be effective one year from the date of adoption.

**(1) Minimum standards:**

(a) All equipment used in conjunction with the tow truck winching system shall have a working load limit at least twenty-five percent more than the working load limit of the wire rope being used. All equipment shall comply with the Washington safety and health administration (WSHA) regulation if applicable.

Note: Industry standards set the working load limit of wire rope at 1/5 of its nominal or breaking strength.

(b) Each wire rope shall be capable of being fully extended from and fully wound onto its drum. Each wire rope shall meet the industry standards for type of use with equipment.

Note: OSHA (1410.179 (h)(2)(iii)) requires no less than two wraps of rope remain on drum when rope is "fully extended." This is to ensure the full load never bears on the rope to drum connection.

(c) All wire rope shall be 6 X 19 or 6 X 37 classification graded "extra improved plow steel" (XIP).

Notes: Documentation from the supplier must be kept on file showing the type of wire rope installed and the date of installation for each truck.

6 X 19 wire rope classification includes wire ropes with six strands having wire combinations from fifteen through twenty-six wires per strand but not more than twelve outer wires in each strand.

6 X 37 wire rope classification includes wire ropes with six strands having wire combinations from twenty-seven through forty-nine wires per strand but not more than eighteen outer wires in each strand.

(d) All wire rope shall be in good working order. The following industry standards for **out-of-service** criteria shall apply:

(i) No more than six randomly distributed broken wires in one rope lay, or more than three broken wires in one strand in one rope lay.

(ii) Excessive abrasion causing the loss of more than one-third the original diameter of an outside individual wire.

(iii) Evidence of rope deterioration from corrosion.

(iv) Kinking, crushing, or other damage that results in detrimental distortion of the rope structure.

(v) Any evidence of heat damage.

(vi) Any marked reduction in diameter either along the entire main length or in one section.

(vii) Unlaying or opening up of a tucked splice.

(viii) Core protrusion along the entire length.

(ix) End attachments that are cracked, deformed, worn, or loosened.

Note: Hooks must be replaced if the throat opening has increased beyond manufacturer recommendations, the load bearing point has been worn by ten percent, or the hook is twisted by more than ten degrees.

(x) Any indication of strand or wire slippage in end attachments.

(xi) More than one broken wire in the vicinity of fittings.

(e) Wire rope end connections shall be swaged or, if clamped, shall have a minimum of three forged clamps spaced a minimum of six rope diameters apart and attached with the base or saddle of the clamp against the longer or "live" end of the cable. The "U" bolt will be placed over the

short or "dead" end of the rope and will be of the proper size for the cable being clamped.

Note: Wire rope clamps must be installed and torqued per manufacturer specifications.

(f) All wire rope related equipment, sheaves, etc., must conform to the diameter of the wire rope being used or to the original tow truck equipment manufacturer specifications.

(g) All winching equipment, booms, snatch blocks, etc., shall have permanently affixed durable factory identification, stating working load limit (WLL). If this identification has been removed or is no longer readable, it is criteria for placing the item out-of-service. Equipment may be reinspected by a recognized recertification company. If the equipment is acceptable, it may be reidentified with a working load limit (WLL) and a recertification company identifier.

(h) All block and tackle equipment used in the winching system which shows signs of permanent deformation, significant wear or damage is criteria for placing the item out-of-service.

(i) All "J" hook chain assemblies must (~~only be used with a sling lift system and~~) be grade "7" chain or better.

(j) Safety chains must only be used for the securing of vehicles to the truck. Must be minimum grade "4" chain or meet the original manufacturer's recommendations (~~and be permanently attached to the truck~~).

(k) Comply with legal lighting, equipment, and license requirements.

(l) Portable tail, stop, and turn signal lights for vehicles being towed.

(m) Have department of licensing registration and truck numbers painted or permanently affixed to both sides of the truck. Have firm's name, city of address, and phone number permanently affixed to both sides of the vehicle. Letters must be a minimum of three inches high with one-half inch strokes.

(n) Have a revolving/intermittent red light with three hundred sixty degrees visibility. May also be equipped with flashing amber and/or white lights which may be used in conjunction with the red lamps. Must also be equipped with a warning light visible from the driver seat which is energized when the red revolving light or flashing amber lights are activated.

(o) Have a broom, minimum twelve inches wide, handle four feet long.

(p) Have a scoop type shovel, minimum seven inches wide, overall length minimum three feet long and a minimum of a three-gallon bucket for debris.

(q) Be maintained in a reasonably clean condition.

(r) Have two tempered steel pinch bars or equivalent devices, one tapered and one flattened; one at least three feet long and one at least four feet long, with a minimum diameter of three-quarters of an inch.

(s) Have a two-way radio or mobile telephone system capable of communicating with a base station. A citizen band radio does not suffice. A mobile telephone system is acceptable if:

(i) The equipment is of a recognized and established manufacture and is properly installed.

(ii) The equipment is in proper working order and functions correctly throughout the assigned tow areas.

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(iii) The equipment does not utilize a siren to signal incoming calls.

(iv) The equipment is used in a correct and lawful manner.

(t) Have one 20 BC rated or two 10 BC rated fire extinguishers.

(u) Axle weight must comply with the requirements of RCW 46.37.351.

(2) **Class "A" tow trucks:** Trucks that are capable of towing and recovery of passenger cars, pickup trucks, small trailers, or equivalent vehicles. Class "A" tow trucks shall meet the requirements of subsection (1)(a) through (u) of this section and in addition shall have:

(a) A ten thousand minimum manufacturer's gross vehicle weight rating.

(b) Dual tires on the rear axle.

(c) A minimum of one hundred feet of three-eighths inch continuous length XIP wire rope on each drum, measured from the point of attachment at the drum to the hook.

(d) A minimum six-ton boom rating with single or dual booms. Dual winches to control a minimum of two service drums.

(e) A minimum of two snatch blocks.

(f) A tow sling or other comparable device made of material and used in such manner so as to protect vehicles being towed or recovered.

(g) A portable dolly or its equivalent for hauling vehicles that are not otherwise towable.

(h) If equipped with a wheel lift system, it must have a fully extended working load rating of at least three thousand pounds and a seven thousand pound tow rated capacity.

(i) A minimum of one ten-foot or two five-foot recovery chains used in the winching system and must be minimum grade "7" chain with matching fittings.

(3) **Class "B" tow trucks:** Trucks that are capable of towing and/or recovery of medium size trucks, trailers, motor homes, or equivalent vehicles. Class "B" tow trucks shall meet the requirements of subsection (1)(a) through (u) of this section and in addition shall have:

(a) Seventeen thousand pounds minimum manufacturer's gross vehicle rating.

(b) Minimum ten-ton boom rating, single or dual booms, with two independent winches and drums.

(c) A minimum of one hundred feet of seven-sixteenths inch continuous length XIP wire rope on each drum, measured from points of attachment at the drum to the hook.

(d) Minimum of four standard release tools (caging stud assemblies).

(e) A minimum of two snatch blocks.

(f) A tow sling or other comparable device made of material and used in such manner so as to protect vehicles being towed or recovered.

(g) A portable dolly or its equivalent for hauling vehicles that are not otherwise towable when the class B tow truck is being used for class A tows.

(h) If equipped with a wheel lift system, it must have a fully extended working load limit of at least six thousand pounds and a twenty thousand pound tow rated capacity when operating as a class B truck. May be equipped with a three thousand pound fully extended working load wheel lift

system with a seven thousand pound tow rated capacity if operating as a class A truck.

(i) A minimum of one ten-foot or two five-foot recovery chains used in the winching system and must be grade "8" chain with matching fittings.

(4) Class B\*\* trucks are rated at 30,000 GVWR (or more) with air brakes. Class B\*\* trucks shall meet the requirements of subsection (1)(a) through (u) of this section and in addition shall have a minimum of one hundred fifty feet of seven-sixteenths inch continuous length XIP wire rope on each drum, measured from points of attachment at the drum to the hook.

Class B\*\* trucks shall also meet the requirements of subsection (3)(b), (d), (e), (f), (g), (h), and (i) of this section.

(5) **Class "C" tow trucks and class "C" rotator trucks:** Are trucks that are capable of towing and/or recovery of large trucks, trailers, buses, motor homes, or similar vehicles. Class "C" trucks shall meet the requirements of subsection (1)(a) through (u) of this section and in addition shall have:

(a) A forty thousand pound manufacturer's gross vehicle weight rating or equivalent.

(b) Tandem rear axle truck chassis (both drive axles).

(c) A minimum of twenty-five-ton boom rating with single or dual booms. Dual winches to control a minimum of two service drums.

(d) A minimum of one hundred fifty feet of nine-sixteenths inch continuous length XIP wire rope on each drum measured from the point of attachment at the drum to the hook.

(e) Air brakes and a system capable of supplying air to towed vehicles.

(f) A minimum of four standard release tools (caging stud assemblies).

(g) If equipped with a wheel lift system, it must have a fully extended working load limit of at least twelve thousand pounds.

(h) A minimum of one ten-foot or two five-foot recovery chains used in the winching system and must be grade "8" chain with matching fittings.

(i) A tow sling or other comparable device used in such a manner as to protect the vehicle being towed or recovered.

(j) A minimum of two snatch blocks.

(6) **Class "D" tow trucks:** Trucks that are equipped for and primarily used as "wheel lift" trucks.

Class "D" trucks shall meet the requirements of subsection (1)(a) through (u) of this section and in addition shall have:

(a) A wheel lift assemble with a fully extended manufacturer's working load limit of three thousand pounds and a seven thousand pound tow rated capacity.

(b) One winch and drum with one hundred feet of three-eighths inch XIP wire rope meeting class "A" requirements.

(c) One snatch block.

(d) A minimum of one five-foot recovery chain for use in the winching system and must be a minimum of grade "7" chain with matching fittings.

(7) **Class "E" tow trucks:** Trucks that are primarily designed and intended to transport other vehicles by loading the vehicle entirely onto the truck. These vehicles may be a

flatbed, slide back, tilt bed, or rail design truck. Class "E" trucks shall meet the requirements of subsection (1)(a) through (u) of this section and in addition shall have:

(a) Four securing devices with a minimum working load limit of three thousand nine hundred pounds. The devices may be chain (minimum grade "4"), wire rope, nylon strap, or steel strap. The tie downs shall be attached to the axle or frame member of the transported vehicle both front and rear. All ends shall be secured to the truck bed or rail in a manner that will prevent movement of the transported vehicle. Factory style "T" hook tie-downs may also be used (front and rear).

(b) One snatch block.

(c) Dual tires on the rear axle.

(d) If used in a towing mode (as opposed to carrying), a sling, tow bar, and/or wheel lift assembly can be used and must have a manufacturers' rating appropriate to the vehicle being towed.

(e) Additional minimum requirements include:

(i) Gross vehicle weight rating	14,500
(ii) Purchased tonnage	14,500
(iii) Winch rating	4 ton
(vi) XIP wire rope	50 feet 3/8 inch
(v) One five-foot chain use in the winching system and must be a minimum of grade "7" chain with matching fittings.	
(v) Car carrier (bed)	17 feet

Note: Bed may be shorter in a collapsed mode, but must be capable of telescoping to a minimum of seventeen feet.

(8) **Class "S" tow/recovery trucks:** Tow/recovery trucks that cannot meet the requirements of class "A," "B," "C," "D," or "E" and are not eligible for appropriate waiver as outlined in WAC 204-91A-070(4), may be approved as class "S" (special).

To have a truck designated as class "S" the tow operator must submit a request for approval through the district commander to the section. The written request shall indicate why the truck is needed, what it will be used for, its size, purchased tonnage (if appropriate), capability, and the equipment carried or used with the truck. Gross vehicle weight rating of the class "S" truck will determine the appropriate equipment required.

If the district commander approves the request, the request will be forwarded with recommendations for equipment and/or operation instructions or limitations to the patrol for review and final approval. If approval is granted, the equipment shall be inspected as outlined in WAC 204-91A-040 with reports forwarded in the normal manner.

Note: If the provisions of this section require a change in classification for a previously approved tow truck, such change may be made upon the next annual reinspection. In any case, all tow trucks shall be correctly classified within one year of adoption of these rules.

**WSR 04-20-023**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed September 28, 2004, 10:57 a.m., effective November 1, 2004]

Effective Date of Rule: November 1, 2004.

Purpose: Employer fraud and abuse, the legislature passed chapter 243, Laws of 2004 (ESHB 3188) clarifying an employer's liability to the Department of Labor and Industries for premiums, overpayments, and penalties. This adoption implements this legislation and adds four new risk classifications.

New Section:

WAC 296-17-31030, (1) defines "a major part" with regard to successorship; (2) addresses multiple successorship; and (3) defines intangible property.

Amended Sections:

WAC 296-17-31004, (1) explains prime contractor liability; (2) provides criteria prime contractor protection; (3) defines what the law means by "in good standing"; (4) tells how to know when an account is in "good standing"; (5) establishes time line for checking accounts; and (6) established prime contractor liability.

WAC 296-17-31013, prime contractors and construction contractors.

WAC 296-17-52102, add subcode "99" to classification 0510.

WAC 296-17-517, add subcode "99" to classification 0502.

WAC 296-17-52002, add subcode "99" to classification 0507.

WAC 296-17-52150, add subcode "99" to classification 0550.

Citation of Existing Rules Affected by this Order: Amending 6 [WAC 296-17-31004, 296-17-31013, 296-17-517, 296-17-52002, 296-17-52102, and 296-17-52150].

Statutory Authority for Adoption: Chapter 243, Laws of 2004 (ESHB 3188), RCW 51.04.020 General authority, 51.16.035 Classification plan.

Adopted under notice filed as WSR 04-14-081 on July 6, 2004.

Changes Other than Editing from Proposed to Adopted Version: WAC 296-17-31030, added a paragraph explaining when successorship comes into place.

WAC 296-17-517 Classification 0502, changed references; "drainboard" to "countertop" and "rugs" to "carpet" to adhere to flooring industry standard terms.

Corrected numbering of WACs.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 6, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 6, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 28, 2004.

Paul Trause  
Director

**AMENDATORY SECTION** (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

**WAC 296-17-31004 Coverage requirements.** (1) I own a business. Am I required to have workers' compensation insurance coverage for my employees? Nearly every employer doing business in the state of Washington is required to have workers' compensation insurance for ((their)) his/her employees. Washington law (RCW 51.12.020) does exempt certain types of employment from coverage. A copy of this law can be found in Appendix A of the workers' compensation manual. If you employ only individuals who are excluded from mandatory workers' compensation insurance coverage, you are not required to have workers' compensation insurance coverage.

**(2) I hire contractors to perform work for me. Do I need to be concerned about premiums on their work?** Yes. There are two ways you may be liable for premiums on the work they do.

First, they may be "workers" for whom you are required to report and pay premiums. The law defines worker to include both your employees and independent contractors you hire, when the essence of the contract is personal labor. See RCW 51.08.070, 51.08.180 and 51.08.195 for more guidance about when independent contractors will be considered workers.

Second, the Industrial Insurance Act imposes premium liability on anyone who contracts with another to have work performed. Even if the contractor you hire is not your worker (for example, if the contractor uses one or more workers on the job), you could be liable for their premiums if they fail to pay.

**(3) Is there any way for me to protect myself from being held liable for premiums owed by construction contractors I hire?** Yes, if you are a registered construction contractor or licensed electrical contractor, and you hire a registered construction contractor or a licensed electrical contractor to do construction work that requires licensing or registration, you can protect yourself from being found liable for the premiums on the work that contractor does for you if:

(a) They have a principal place of business eligible for IRS deduction;

(b) They keep books and records that reflect all items of income and all expenses of the business; and

(c) You have verified that they have an industrial insurance account in good standing, or are a self-insured employer approved by the department.

**(4) What does "in good standing" mean?** For someone's account to be in good standing, they must:

(a) Be registered with the department of labor and industries for industrial insurance coverage with the state fund;

(b) Have a certificate of coverage, also known as a liability certificate, that has not been revoked or canceled;

(c) Have submitted all reports and supplements required by the department within the past year; and

(d) Be current with all payments due to the state fund, or are current with an approved written payment agreement with the department regarding all unpaid amounts due the state fund.

**(5) How do I know that someone's account is considered to be "in good standing"?** You can find out whether someone's account is in good standing by visiting the department's website or calling your account manager. If the account is in good standing, we will give you a confirmation number you can keep as proof that you verified their status.

**(6) I use the same subcontractors over and over. Do I have to verify that they have an industrial insurance account in good standing every time I use them?** No. In RCW 51.12.070 protection for construction contractors only requires that you have confirmed a subcontractor's account within a year prior to letting a contract. When you check out your subcontractors on the department's website or by calling your account manager, a confirmation number will be provided as proof you checked them out. This confirmation number is valid for one year from the time it is issued.

If you are notified by the department of labor and industries that a subcontractor's account is no longer in good standing, you may be liable for their industrial insurance premiums from the date of notification forward.

**(7) Can I, as a construction contractor, be held liable if I verify that the accounts of construction contractors I hire are in good standing, but they fail to confirm the accounts of the construction subcontractors they hire?** No. If you make sure you and your construction subcontractors meet the requirements of RCW 51.12.070, you cannot be held liable if they fail to make sure their construction subcontractors meet the requirements.

**AMENDATORY SECTION** (Amending WSR 04-13-017, filed 6/4/04, effective 7/5/04)

**WAC 296-17-31013 Building construction.** (1) Does this same classification approach apply to building and construction contractors?

Yes, but it may not appear that way without further explanation. We classify contractors by phase and type of construction since it is common for each contract to vary in scope.

*Example: A contractor who builds and remodels private residences may frame the structure and work on no other phases of the project. On another job the same contractor may do only the interior finish carpentry. On still another job the contractor may install a wood deck or build a garden arbor. Each of these carpentry activities is covered by a different classification code. To ensure that contractor businesses receive the same treatment as other businesses, we assign classifications according to the phases and types of construction they contract to perform. Since some contractors specialize in one area of construction, such as plumbing, roofing, insulation, or electrical services, this classification approach mirrors that of nonbuilding contractor businesses.*

The policy of assigning several basic classifications to contractors engaged in multiple phases of construction may seem to be in conflict with the classification approach used for nonbuilding contractor businesses, but we have simply used the multiple business classification approach.

If we have assigned multiple classifications to your construction business you should take special care in maintaining the records required in the auditing and recordkeeping section of this manual. If we discover that you have failed to keep the required records we will assign all worker hours for which the records were not maintained to the highest rated classification applicable to the work that was performed.

**(2) Who does this rule apply to?**

If you are a building, construction or erection contractor and we have assigned one or more of the following classifications to your business, this rule applies to you: 0101, 0103, 0104, 0105, 0107, 0108, 0201, 0202, 0210, 0212, 0214, 0217, 0219, 0301, 0302, 0303, 0306, 0307, 0403, 0502, 0504, 0506, 0507, 0508, 0509, 0510, 0511, 0512, 0513, 0514, 0516, 0517, 0518, 0519, 0521, 0540, 0541, 0550, 0551, 0601, 0602, 0603, 0607, 0608, and 0701.

**(3) Can I have a single classification assigned to my business to cover a specific construction project?**

Yes, to simplify recordkeeping and reporting requirements we will assign a single classification to cover an entire project.

**(4) How do I request the single classification for one of my construction projects?**

You should send your request to the attention of your policy manager at the address below:

Department of Labor and Industries  
P.O. Box 44144  
Olympia, Washington 98504-4144

**(5) If I have asked for a single classification on one of my construction projects, how do you determine which classification will apply?**

You must supply us with a description of the project and a break down of the total number of hours of exposure by phase of construction that you are responsible for.

*Example: You notify us that your company will be responsible for all plumbing and iron erection work on a commercial building site. You have requested a single classification for this project. In your request you tell us that you estimate that it will take one thousand work hours to perform all the plumbing work and five hundred work hours to do the steel erection work.*

With this information we will estimate the premiums by classification.

*Example: We determine that the plumbing work is covered under classification 0306 and the steel erection work is covered under classification 0518. Assume that classification 0306 has an hourly premium rate of \$1.50 and classification 0518 has an hourly premium rate of \$2.55. We estimate the total premium on this job to be \$2,775 (1,000 hours x \$1.50 = \$1,500 + 500 hours x \$2.55 = \$1,275).*

Our next step in this process is to develop an average hourly rate for the project. We will use this information to select the single classification which will apply to this project.

*Example: We will take the estimated premium (\$2,775) and divide this number by the estimated hours (1,500) and arrive at an average hourly rate of \$1.85.*

To select the single classification that will apply to a construction project, we will compare the average hourly rate that we have computed to the rates of the classifications applicable to the project. We will select the classification whose hourly rate is the closest to the average hourly rate that we computed from the information you supplied us with.

*Example: From the information you supplied, we have determined that the average hourly rate for this project is \$1.85. We also know that the rate for the plumbing classification (0306) is \$1.50 per hour and the rate for steel erection is \$2.55 per hour. We would assign classification 0306 as the single classification applicable to this project.*

**(6) How will I know what classification will apply to my construction project?**

We will send you a written notice which will specify the basic classification and premium rate that will apply to this project.

**(7) If I have asked for a single classification to cover one of my construction projects, am I required to use the single classification which you gave me?**

No, but you should call your policy manager to verify what other classifications would apply to the project. The name and phone number of your policy manager can be found on your quarterly premium report or your annual rate notice. For your convenience you can call us at (360) 902-4817 and we will put you in contact with your assigned policy manager.

**(8) I am a general construction or erection contractor, I subcontract all my work and have no employees of my own. Do I have to report to the department of labor and industries?**

No, since you do not have employees, you do not need to report to the department of labor and industries. You should be aware that the workers' compensation insurance laws of Washington include certain independent contractors as workers. If we determine that an independent contractor that you used qualifies as a covered worker, you will be responsible for the premium due for their work time. You can also be held responsible for premiums due to labor and industries if you subcontract with an unregistered contractor and they fail to pay premiums on behalf of their employees. It is in your best interest to make sure that your subcontractors are registered contractors (~~by contacting us at 1-800-647-0982~~) in good standing by confirming their status on the department's website or contacting your account manager.

**(9) Am I required to keep any special records of subcontractors that I use?**

Yes, you are required to keep certain information about the subcontractors that you use. The information required is:

- Subcontractor's legal name;
- Contractor registration number and expiration date;
- UBI number (or labor and industries account ID number).

If you supply materials to a subcontractor, also keep a record of the:

- Amount of material supplied;
- Project name or location;



- Date material was supplied; and
- Completion date of contracted work.

Failure to maintain these records may result in the sub-contractor being considered a covered worker for whom you must report hours.

(10) **What classification should I use to report construction site cleanup by my employees?** You should report the cleanup of construction debris in the same classification that applied to the work which generated the debris unless another classification treatment is provided for in other rules. For example, if you are a roofing contractor and you have an employee pick up roofing debris at the construction (project) site, you would report the employee involved in the site cleanup in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or classification 0518 "nonwood frame building construction" assigned to your business, you would report site cleanup in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single-family wood frame dwelling, you would report construction site cleanup by your employees in classification 0510 "wood frame building construction."

(11) **I am a construction site clean-up contractor, my employees only pick up construction debris, we do no construction work, what classification do I report site cleanup in?** If your employees are cleaning a construction site where a wood frame building was erected, you would report their work time in classification 0510 "wood frame building construction." If your employees are cleaning a construction site where a nonwood frame building was erected, you would report their work time in classification 0518 "nonwood frame building construction." If your employees are cleaning other nonbuilding construction sites, you would report their work time in the same classification that applied to the construction work that generated the nonbuilding construction debris. For example, if you are doing site cleanup for a concrete contractor that was involved in pouring and finishing sidewalks and driveways, you would report the work time of your employees involved in this construction site clean-up project in classification 0217 "concrete flat-work."

(12) **What classification should I use to report the work time of my employees when they are involved in the set up of scaffolding, hoists, cranes, towers or elevators at a construction site?** We use the same classification treatment for this type of work as we do with construction site cleanup. For example, if you are a roofing contractor and you have an employee set up scaffolding at the construction (project) site, you would report the employee involved in the set up of scaffolding in the roofing classification (0507). If you are the general contractor at a construction site and have either classification 0510 "wood frame building construction" or classification 0518 "nonwood frame building construction" assigned to your business, you would report the set up of scaffolding at the construction in the classification applicable to the type of building you are constructing. For example, if you are a general contractor and you are engaged in building a single-family wood frame dwelling, you would

report scaffolding set up by your employees in classification 0510 "wood frame building construction." Helicopter services that are engaged to assist in lifting beams, air conditioning units, statues and other objects onto buildings or structures are to be reported separately in classification 6803.

(13) **Is preoccupancy cleanup of a building by my employees classified the same as debris cleanup at a construction site?** Since your understanding of what preoccupancy clean-up work is may be different from ours, we need to share with you our understanding before we can answer this question. Our understanding in this area is that preoccupancy cleanup occurs after the building is finished. The clean-up work consists of washing paint and overspray from windows, vacuuming carpets, washing floors and fixtures, and dusting woodwork, doors and cabinets. If you have employees whose duties are limited to this type of cleaning, we will allow you to report their work time in classification 6602 "janitors."

(14) **If I have an employee who does some construction work, construction site cleanup and preoccupancy cleanup, can I divide their work time between the janitor and a construction classification?** No, we will not permit you to divide the work time of an employee between the janitor classification and a construction classification. If you have an employee who does preoccupancy clean-up work for you, and that employee also performs other nonpreoccupancy clean-up work for you such as construction work, shop work or construction site debris clean-up work, then you must report all of their work time in the applicable construction or nonshop classification.

#### NEW SECTION

**WAC 296-17-31030 Successorship and other transfers of ownership.** RCW 51.16.200 requires a taxpayer to make a return and pay the tax due to the department of labor and industries within ten days of quitting business, selling out, exchanging, or otherwise disposing of the employer's business or stock of goods. If this tax is not paid by the employer, any successor to the employer becomes liable for the full amount of the tax. RCW 51.08.177 defines the term "successor." Subsections (1) through (3) of this section provide an interpretation of successorship issues.

(1) **What does the term "a major part" mean as that term is used in RCW 51.08.177?** A major part refers to a significant or substantial portion of a business's property. Major does not mean more than half.

*Example:* A sand and gravel business owns several trucks and a gravel pit as its primary assets. Each may be considered "a major part" of the property of the taxpayer.

(2) **Can a taxpayer/employer have more than one successor?** Yes.

*Example:* Using the sand and gravel business in the example above, if the gravel pit were to be sold to one business (A) and the fleet of trucks to another business (B), both A and B would be considered successors.

(3) **What is intangible property?** Intangible property is property that has no physical existence, but may have value.

*Example:* The most common example is "goodwill." Goodwill is the value of a trade or business based on



*expected continued customer patronage due to its name, reputation, or any other factor. Other examples of intangible property include literary rights, bank accounts, customer lists, and internet domain names.*

**AMENDATORY SECTION** (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

**WAC 296-17-517 Classification 0502.**

**0502-04 ((~~Rug, linoleum~~)) Carpet, vinyl, tile and other floor or ((~~drainboard~~)) counter top covering: Installation or removal**

Applies to contractors engaged in the installation or removal of floor or ((~~drainboard~~)) counter top coverings such as, but not limited to, ((~~rugs~~)) wall to wall carpet, ((~~linoleum~~)) vinyl, laminate, or tile((~~, parquet or astroturf~~)) in residential or commercial settings. Work contemplated by this classification includes, but is not limited to, the installation and/or removal of foam or rubber padding, floor coverings such as rugs or carpet, tack strips, door strips, subflooring (particle board or plywood), linoleum, vinyl, base board or door strips, and hauling existing floor covering debris away. This classification also includes the installation of ((~~counter tops and the installation of~~)) clay or ceramic tiles on ((~~drainboards~~)) counter tops and backsplashes.

This classification excludes contractors engaged in the installation of counter tops as part of an interior finish carpentry or cabinetry contract which is to be reported separately in classification 0513; the installation of hardwood floors which is to be reported separately in classification 0513; the installation of decorative brick, slate, marble or granite which is to be reported separately in classification 0302; installation of roofing tiles which is to be reported separately in classification 0507; and floor covering stores which are to be reported separately in the applicable classification.

**0502-99 Carpet, vinyl, tile and other floor or counter top covering: Installation or removal (only to be assigned by the floor covering specialist)**

Applies to floor covering contractors who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for "account in good standing" status for prime contractor liability.

**Special note:** Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

**AMENDATORY SECTION** (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

**WAC 296-17-52002 Classification 0507.**

**0507-05 Roofwork construction and repair**

Applies to contractors engaged in the installation or repair of roofing material on all types of new or existing buildings or structures. Roofing materials include, but are not limited to, felt roofing paper, rolled composition, wood, fiberglass or composition shingles or shakes, aluminum or

sheet metal, masonry or ceramic tile, tar, and polyurethane foam. Installation of roofing materials varies with the product. Wood, fiberglass and composition shingles are nailed; masonry, slate or ceramic tiles require drilling, nailing or cementing; polyurethane foam is applied by spray then coated with a protective layer of paint-like material; hot tar requires melting in tanks, usually at ground level, then it is pumped or raised by bucket to the roof top and applied by spray or mop; cold apply uses an adhesive to bond roofing membranes to form a roofing system; cold tar is applied by brush, spray or mop; single ply involves large sheets of roofing material which are unrolled on the roof with edges overlapping and seamed; and metal roofing is seam welded or nailed. For purposes of this classification the term "roofwork" includes repairs to the subroof such as the replacement of trusses, rafters, supports, and sheathing, but excludes the placement of trusses, rafters, supports or sheathing on new building construction. Essentially, when removing the existing roof material from an existing building or structure it is not uncommon to find dry rot or deterioration to parts of the subroof. The repair of the subroof is part of the roof repair or replacement project and is included in this classification. By contrast, when a subroof is constructed on new buildings or structures, this activity is to be reported separately in the classification applicable to the work being performed such as 0510 for wood frame construction or 0518 for nonwood frame construction.

This classification excludes roof cleaning, moss or snow removal on single story buildings not incidental to, or part of, a roofing contract which is to be reported separately in classification 6602; roof cleaning or moss removal of multiple story buildings not incidental to, or part of, a roofing contract which is to be reported separately in classification 0504; the installation of gutters and downspouts which is to be reported separately in classification 0519; waterproofing parts of buildings other than roofs which is to be reported separately in classification 0504 and/or 0101; placing roof trusses, rafters, supports and sheathing on new wood frame buildings which is to be reported separately in classification 0510; the application of polystyrene strips used as insulation on mobile homes which is to be reported separately in classification 0512; and placing roof trusses, rafters, supports and sheathing on new buildings, N.O.C. which is to be reported separately in classification 0518.

**0507-99 Roofwork construction and repair (only to be assigned by the roofing specialist)**

Applies to roofing contractors who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for "account in good standing" for prime contractor liability.

**Special note:** Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

**AMENDATORY SECTION** (Amending WSR 00-14-052, filed 7/1/00, effective 7/1/00)

**WAC 296-17-52102 Classification 0510.**

**0510-00 Wood frame building: Construction or alterations, N.O.C.**

Applies to contractors engaged in wood frame building construction or alterations not covered by another classification (N.O.C.). For the purposes of this classification, wood frame building construction means buildings erected exclusively of wood or wood products. This classification includes all building framing activities done in connection with wood frame building construction including the placement of roof trusses, sheathing roofs, installation of exterior building siding, and the installation of exterior doors and door frames. This classification also includes the installation of windows, window frames, and skylights when performed by framing workers as part of the framing contract on a wood frame building.

This classification excludes all other phases of wood frame building construction not listed as part of the framing activities above such as, but not limited to, site preparation and excavation (0101); overhead or underground utilities, asphalt work, or concrete work which is to be reported separately in the applicable classification; new landscape work (0301); brick work (0302); stucco work (0303); plumbing work (0306); HVAC work (0307); carpet and tile work (0502); exterior painting (0504); roof work (0507); insulation work (0512); interior finish carpentry - interior doors, cabinets, fixtures or molding (0513); installation of garage doors (0514); installation of sheet metal siding, gutters, and non-structural sheet metal patio covers/carports (0519); interior painting (0521); electrical work (0601) or wallboard installation, taping or texturing which are to be reported separately in the applicable classifications. For a more thorough description of the activities included and excluded from wood frame building construction, review the Construction Industry Guide.

**Special note:** Classification 0510 also includes wood frame building alterations or remodel work when the activity involves building new additions. The term "new additions" is defined as adding on to an existing wood frame building (upwards or outwards) in which the use of structural supports and main bearing beams is required. This is distinguishable from classification 0516 - building repair or carpentry work that typically does not require the placement of structural supports or main bearing beams. The purpose of classification 0516 is to build or rebuild with nonstructural or bearing beams, or to replace an existing portion (including existing structural and bearing beams) of a wood frame building for appearances or as a result of deterioration to make it appear new again. Care should be exercised as the terminology to build, rebuild, remodel, construct or reconstruct is irrelevant to assignment of classification which should recognize what the project actually involves.

**Guidelines:**

Constructing a new wood frame building that never existed - 0510

Altering all or part of an existing wood frame building by adding on new additions - 0510

Remodeling all or part of an existing wood frame building *without* adding on new additions - 0516

Installation of wood or vinyl siding on a new or existing wood frame building - 0510

Constructing a new wood garage that never existed - 0510

Altering all or part of an existing wood garage by adding on new additions - 0510

Remodeling all or part of an existing wood garage without adding on new additions - 0516

Constructing a new wood carport or wood shed that never existed - 0510

Rebuilding an existing wood carport or wood shed (all or part) with or without new additions - 0516

Construction of a new wood deck by the framing contractor when a new wood house is being built - 0510

Constructing or replacing a wood deck on an existing wood house - 0516

Constructing or replacing a wood deck for any type of nonwood building - 0516

Altering the existing interior of a wood frame building by adding exterior additions - 0510

Remodeling the existing interior of a wood frame building without adding exterior additions - 0516

Constructing, altering, or remodeling the interiors of nonwood frame buildings - 0516

Installation of windows, window frames, and skylights when performed by framing workers as part of the framing contract of a wood frame building - 0510.

**0510-99 Wood frame building: Construction or alteration, N.O.C. (only to be assigned by the wood framing specialist)**

Applies to framing contractors, who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for "account in good standing" status for prime contractor liability.

**Special note:** Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

**AMENDATORY SECTION** (Amending WSR 02-09-093, filed 4/17/02, effective 7/1/02)

**WAC 296-17-52150 Classification 0550.**

**0550-00 Wallboard installation, including scrapping - nondiscounted rate (to be assigned only by the drywall underwriter)**

Applies to contractors engaged in the installation or repair of wallboard. This classification includes the installation of wallboard, drywall, or sheetrock in all types of residential or commercial buildings or structures. The process consists of cutting wallboard with a utility knife, hacksaw, or power saw to the desired size and then butting material into place and nailing or screw fastening to wood or metal wall

studs. Electrical box, window, or door openings are cut out where needed. Installation may require the use of scaffolding, ladders, specialty lifts, or stilts when working at heights, including the use of T holders or hydraulic lifts to hold material being installed on ceilings. This classification also includes wallboard scrapping (picking up and discarding unused portions of wallboard remnants or scraps) at the construction site when performed by employees of the wallboard contractor.

This classification excludes delivery of materials to the construction site by material dealer employees which is to be reported separately in the applicable delivery classification; delivery and stocking of materials to the construction site when performed by employees of the wallboard contractor which is to be reported separately in classification 1101; wallboard taping (including priming and texturing when performed by employees of the wallboard contractor) which is to be reported separately in classification 0541 or 0551; wallboard scrapping by nonwallboard contractor employees which is to be reported separately in the applicable construction debris cleanup classification; plastering, stuccoing or lathing work which is to be reported separately in classification 0303; and the framing of nonbearing walls when performed by the drywall contractor which is to be reported separately in classification 0516.

**0550-99 Wallboard installation (only to be assigned by the drywall specialist)**

Applies to drywall contractors who consider themselves to be independent contractors, have no employees, and have not elected owner coverage for themselves.

The purpose of assigning this classification is to allow the independent contractor the opportunity to be checked for account in good standing for prime contractor liability.

Special note: Any contractor who hires employees or elects owner coverage is required to report in the applicable construction classification.

**WSR 04-20-024**

**PERMANENT RULES**

**DEPARTMENT OF**

**LABOR AND INDUSTRIES**

[Filed September 28, 2004, 10:59 a.m., effective November 1, 2004]

Effective Date of Rule: November 1, 2004.

Purpose: Claimant willful misrepresentation, chapter 296-14 WAC, the rules provide a consistent means to implement chapter 243, Laws of 2004 (ESHB 3188), thus reducing inconsistent interpretation and application of the law and potentially unnecessary litigation by defining terms used in the statute, and clarifying when and how wages are imputed and overpayments are established.

Statutory Authority for Adoption: RCW 51.04.010, 51.04.020, and chapter 243, Laws of 2004 (ESHB 3188).

Adopted under notice filed as WSR 04-14-082 on July 6, 2004.

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 9, 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.

Date Adopted: September 28, 2004.

Paul Trause  
Director

**NEW SECTION**

**WAC 296-14-4121 What does the term "willful misrepresentation" mean with regard to the receipt of workers' compensation benefits?** This term is found in RCW 51.32.240(5) which provides a fifty percent penalty, in addition to any overpayment, whenever any payment of benefits has been induced by "willful misrepresentation." The law goes on to state that it is willful misrepresentation for a person to obtain payments or other benefits in an amount greater than that to which he or she would have otherwise been entitled. Willful misrepresentation includes making a willful false statement or the willful misrepresentation, omission, or concealment of any material fact.

(1) Willful means a conscious or deliberate false statement, misrepresentation, omission, or concealment of a material fact with the specific intent of obtaining, continuing, or increasing workers' compensation benefits. Failure to disclose a work-type activity must be willful in order for a misrepresentation to have occurred.

(2) The assessment of the fifty percent penalty does not apply to those instances where the misrepresentation is not willful, as defined above. For example, a worker receives wages at the time of injury of \$10.25 per hour, but he inadvertently indicates on the report of industrial injury or occupational disease that his pay is \$10.75 per hour. The state fund employer fails to submit a completed report form and the time-loss compensation benefit rate is based on wages of \$10.75 per hour. When this information is provided to the employer, worker, and medical provider by legal order, no interested party submits a protest within the statutory time frame, but further investigation later reveals the misinformation. An overpayment determination under RCW 51.32.240 (1) may be appropriate upon discovery of the correct hourly pay rate, but the worker has not engaged in willful misrepresentation with specific intent to obtain benefits to which he would have otherwise not been entitled.

**NEW SECTION**

**WAC 296-14-4122 For purposes of determining willful misrepresentation, what does the term "specific intent" mean?** "Specific intent" means the commission of an

act or the omission of information with the knowledge that such an act or omission will lead to wrongfully obtaining benefits. For example, a worker who completes a document knowingly misrepresenting that he/she is unable to perform work or work-type activities has committed an act. Submitting this document to the department or self-insurer in order to wrongfully receive workers' compensation benefits under Title 51 RCW represents specific intent.

Examples of the omission of information with the intent of obtaining benefits include, but are not limited to, failure of the worker to advise the department or self-insurer of a return to work or of self-employment; or failure to provide the department or self-insurer with complete information about skills and abilities that would have changed the outcome of a vocational assessment or the department's decision to provide vocational services. Not providing this information to the department or self-insurer represents specific intent because the omission of it can cause continued workers' compensation benefits to which the worker would not have been entitled had the information been provided.

The following is an example of a situation that does not represent "specific intent": An injured worker's wife is hired to manage the mobile home park where they live. Wages were paid to her for the management duties. The injured worker would occasionally answer the telephone when his wife was not available and he opened and closed the park gates each morning. He did not engage in the maintenance work of the park, provide tours of the park to prospective customers or perform any other park management duties. The worker did not report this activity to the department, his physician or his vocational counselor. The worker's omission of information is not considered "willful misrepresentation" with "specific intent" to receive benefits to which he would not be otherwise entitled.

#### NEW SECTION

**WAC 296-14-4123 What is meant by "work-type activity"?** (1) Work-type activity means any activity for which a reasonable person would expect to be compensated or for which a reasonable employer would expect to pay compensation.

(2) Work-type activity does not mean exploration of a job for a short period of time to determine whether the worker can do the job so long as:

(a) The worker does not receive wages, income, or anything of value; and

(b) The worker or his/her family has no financial interest in or benefits from the worker's job exploration.

Activity done intermittently or as a hobby that does not generate income will not generally rise to the level of repeated work-type activity.

For example, a worker who is receiving wage replacement benefits volunteers two hours each day for a recognized charity greeting customers and operating the cash register. His treating physician is aware of this activity and encourages it to keep him more active, but does not release him to work or to perform this function more than two hours daily. The worker does not initially inform the department of his activity because he receives no compensation and would not

expect to. The department learns of the volunteer work when the worker completes a worker verification form indicating the volunteer activity. No willful misrepresentation of a work-type activity has occurred in this case.

#### NEW SECTION

**WAC 296-14-4124 What are considered as "wage replacement benefits"?** Wage replacement benefits include temporary total disability (time-loss compensation benefits), temporary partial disability (loss-of-earning power benefits), and total permanent disability or survivor benefits (pension).

#### NEW SECTION

**WAC 296-14-4125 How does the department calculate the amount of overpayment charged to a claimant when a determination of "willful misrepresentation" has been made in initial claim adjudication?** Overpayments are assessed in cases where there has been willful misrepresentation.

When it is determined that a claim was initially accepted as an industrial injury or occupational disease based on willful misrepresentation, the overpayment calculation includes all wage replacement benefits, permanent partial disability benefits, medical benefits, vocational benefits, and other medical aid fund benefits paid on the claim.

#### NEW SECTION

**WAC 296-14-4126 How does the department calculate the amount of overpayment charged to a claimant when a determination of "willful misrepresentation" has been made after initial claim adjudication?** (1) Overpayments are assessed in cases where there has been willful misrepresentation. The overpayment calculation in these claims includes all or part of wage replacement benefits and may include permanent partial disability benefits, vocational, medical benefits, and/or other medical aid fund benefits paid on the claim for the period as described below.

(a) The period of overpayment will begin with either the first date of willful misrepresentation or the first date of the repeated pattern of work or work-type activities.

(b) Medical benefits: Medical benefits paid on a claim may be included when a treating physician's opinion of the need for further treatment related to the claim, or his/her opinion of a condition's maximum medical improvement was changed by the willful misrepresentation. Only those medical services to which the worker would not have been otherwise entitled are included in the overpayment.

(c) Vocational benefits: Vocational benefits may be included when it is determined, because of the willful misrepresentation, that the vocational services would not have been provided but for the misrepresentation.

(d) Permanent partial disability benefits: Permanent partial disability benefits will be included when the worker's willful misrepresentation results in the receipt of permanent partial disability benefits to which the worker would not otherwise have been entitled.

(e) Other medical aid fund benefits: Other medical aid fund benefits may be included such as travel and lodging.

(f) Wage replacement benefits:

(i) The overpayment will include all of the wage replacement benefits resulting from willful misrepresentation when the worker has:

(A) Misrepresented his/her physical restrictions or engaged in a repeated pattern of work or work-type activities; and

(B) The worker would have been released by a physician to return to the job of injury had the repeated pattern of work or work-type activities been disclosed. In cases where a treating physician is unwilling or unable to render an opinion in this situation, the opinion of a consulting physician or independent medical examiner may be used; or

(C) In the case of total permanent disability benefits, the work or work-type activity is such that the imputed wages are equivalent to gainful employment; or

(D) In the case of survivor benefits, the willful misrepresentation was such that the beneficiary would not have been entitled to benefits were it not for the misrepresentation.

(ii) The overpayment will include all or part of the wage replacement benefits to which the worker would not otherwise have been entitled were it not for the repeated pattern of work or work-type activities when the worker has:

(A) Misrepresented his/her physical restrictions or has engaged in a repeated pattern of work or work-type activities; and

(B) The department would have determined that the worker returned to work; or

(C) A vocational counselor would have determined that the worker was employable in accordance with department rules.

(2) In cases, other than pension, when the wages or imputed wages are less than the total wage at the time of injury, the wage replacement portion of the overpayment equals the wage replacement benefit paid less the entitled loss-of-earning power benefits. However, this reduction will cease either the date the department had evidence of or a physician would have determined the worker had reached maximum medical improvement (MMI) had the repeated pattern of work or work-type activity been disclosed. In cases where a treating physician is unwilling or unable to render an opinion in this situation, the opinion of a consulting physician or independent medical examiner may be used. From that date forward, the wage replacement portion of the overpayment includes all wage replacement benefits paid.

#### NEW SECTION

##### **WAC 296-14-4127 How are penalties determined?**

As provided in RCW 51.32.240, the penalties equal fifty percent of the total overpayment amount.

#### NEW SECTION

**WAC 296-14-4128 When may the department impute wages in cases where willful misrepresentation has been determined?** The department may impute wages when:

- The worker is self-employed; or
- Appropriate payroll records are not available; or

- The employer is paying the worker in cash or material without maintaining appropriate payroll records; or

- There is no employer but the worker has engaged in a repeated pattern of work-type activities or has willfully misrepresented his or her physical restrictions.

#### NEW SECTION

**WAC 296-14-4129 How will imputed wages be determined?** (1) When the worker has performed work or work-type activities within the state of Washington, the department imputes wages based on information collected and reported by the department of employment security. This information may include wages for the same or similar jobs within the geographic area proximate to the worker and for the same or most proximate time period as the work or work-type activities performed.

(2) When the worker performed work or work-type activities outside the state of Washington for which wages are to be imputed, the department will use information collected and reported by the United States Department of Labor Statistics to determine the correct imputed wage.

(3) In no case shall the imputed wages equal less than the hourly minimum wage for the proximate time period and geographic area used.

(4) If the worker engaged in reduced work or work-type activities when compared to the employment at the time of injury, except in pension cases, the department shall calculate the loss-of-earning power benefits consistent with RCW 51.32.090(3) to which the worker would have been entitled based on the imputed wage.

**Example of imputed wage:** A worker received time-loss compensation benefits and contended he was unable to work in his regular job as a construction laborer. Investigation showed that he was working painting houses on a regular full-time basis. The work he performed was ongoing over an extended period of time. Payments for this work were reportedly on a cash basis and no records were kept.

Wages would be imputed based on the average wage of a painter in his local area as reported by the department of employment security.

**Example of reduced work or work-type activity:** A worker was receiving time-loss compensation benefits for a shoulder injury she suffered while working as a registered nurse. She contended she was unable to perform nursing duties. The department received evidence that she had in fact been working on a regular basis as a cashier in her husband's delicatessen. There were no wages reported for this work. The evidence also showed she had worked there for several months.

The medical and vocational providers were shown the investigative evidence and they determined the worker was able to work and had returned to work as a cashier.

The department would impute wages based on the average wage paid by the business owner to other employees in the same position. If there were no other employees, wages would be imputed based on the average wage of a cashier in the local area as reported by the department of employment security.

**Example of release for work and no imputed wage:** A worker, who was a carpenter on the date of injury, was receiving time-loss compensation benefits based on his alleged inability to return to work. He contended he had to use a wheelchair to get around.

Video evidence was obtained showing him performing extensive remodeling work on a rental home he owned. He did not use the wheelchair and there was no indication he had any difficulties performing the work. His activities included installing siding and windows, painting, and performing other activities inconsistent with his alleged level of disability. He received no wages as the work was done on his personal property.

The video was shown to his attending physician. The physician withdrew his certification of the worker's entitlement to time-loss compensation benefits and released him to return to work at his job of injury effective the first date of the video surveillance.

There is no need to impute wages because the release for work was to the job of injury.

**WSR 04-20-027  
PERMANENT RULES  
PUGET SOUND  
CLEAN AIR AGENCY**

[Filed September 28, 2004, 1:54 p.m., effective November 1, 2004]

Effective Date of Rule: November 1, 2004.

Purpose: Article 3, to adjust the maximum Civil Penalty amount for inflation; and to update the Federal Regulation Reference Date; Article 11, to repeal Ambient Air Quality Standards; Article 12, to delete "control officer" and remove reference language in the Continuous Emission Monitoring Systems rules; and Article 13, to adopt by reference chapter 173-433 WAC, Solid fuel burning devices.

Citation of Existing Rules Affected by this Order: Repealing Regulation I, Sections 11.01, 11.02, 13.02, 13.03, 13.04, and 13.05; and amending Regulation I, Sections 3.11, 3.25, 12.03, and recodified Section 13.07 as Section 13.03.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 04-17-080 on August 16, 2004.

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.

Date Adopted: September 23, 2004.

James Nolan  
Director - Compliance

**AMENDATORY SECTION**

**REGULATION I SECTION 3.11 CIVIL PENALTIES**

(a) Any person who violates any of the provisions of ~~((C))~~chapter 70.94 RCW or any of the rules or regulations in force pursuant thereto, may incur a civil penalty in an amount not to exceed ~~(((\$14,243.00))~~) \$14,300.00 per day for each violation.

(b) Any person who fails to take action as specified by an order issued pursuant to ~~((C))~~chapter 70.94 RCW or Regulations I, II, and III of the Puget Sound Clean Air Agency shall be liable for a civil penalty of not more than ~~(((\$14,243.00))~~) \$14,300.00 for each day of continued noncompliance.

(c) Within ~~((15))~~ 30 days after receipt of a Notice and Order of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. Any such request must contain the following:

(1) The name, mailing address, telephone number, and telefacsimile number (if available) of the ~~((appealing))~~ party requesting mitigation;

(2) A copy of the Notice and Order of Civil Penalty ~~((appealed from))~~ involved;

(3) A short and plain statement showing the grounds upon which the ~~((appealing))~~ party requesting mitigation considers such order to be unjust or unlawful;

(4) A clear and concise statement of facts upon which the ~~((appealing))~~ party requesting mitigation relies to sustain his or her grounds for ~~((appeal))~~ mitigation;

(5) The relief sought, including the specific nature and extent; and

(6) A statement that the ~~((appealing))~~ party requesting mitigation has read the ~~((notice of appeal))~~ mitigation request and believes the contents to be true, followed by the party's signature.

Upon receipt of the application, the Control Officer shall remit or mitigate the penalty only upon a demonstration by the requestor of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(d) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to ~~((C))~~chapter 43.21B RCW and ~~((C))~~chapter 371-08 WAC if the appeal is filed with the Hearings Board and served on the Agency within 30 days after receipt by the person penalized of the notice imposing the penalty or 30 days after receipt of the notice of disposition on the application for relief from penalty.

(e) A civil penalty shall become due and payable on the later of:

(1) 30 days after receipt of the notice imposing the penalty;

(2) 30 days after receipt of the notice of disposition on application for relief from penalty, if such application is made; or

(3) 30 days after receipt of the notice of decision of the Hearings Board if the penalty is appealed.

(f) If the amount of the civil penalty is not paid to the Agency within 30 days after it becomes due and payable, the Agency may bring action to recover the penalty in King County Superior Court or in the superior court of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(g) Civil penalties incurred but not paid shall accrue interest beginning on the 91st day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the 31st day following final resolution of the appeal.

(h) To secure the penalty incurred under this section, the Agency shall have a lien on any vessel used or operated in violation of Regulations I, II, and III which shall be enforced as provided in RCW 60.36.050.

### **AMENDATORY SECTION**

#### **REGULATION I SECTION 3.25 FEDERAL REGULATION REFERENCE DATE**

Whenever federal regulations are referenced in Regulation I, II, or III, the effective date shall be July 1, ~~((2003))~~ 2004.

### **REPEALER**

#### **REGULATION I SECTION 11.01 AMBIENT AIR QUALITY STANDARDS**

### **REPEALER**

#### **REGULATION I SECTION 11.02 AMBIENT AIR MONITORING**

### **AMENDATORY SECTION**

#### **REGULATION I SECTION 12.03 CONTINUOUS EMISSION MONITORING SYSTEMS**

(a) **Continuous Monitoring.** It shall be unlawful for any person to cause or allow the operation of any equipment required to have a continuous emission monitoring system unless the emissions are continuously monitored in accordance with the requirements of this section.

(b) **Data Recovery.** The owner or operator shall recover valid hourly monitoring data for at least 95% of the hours that the equipment (required to be monitored) is operated during each calendar month except for ~~((:))~~

~~((1-P))~~ periods of monitoring system downtime, provided that the owner or operator demonstrates ~~((to the Control Officer))~~ that the downtime was not a result of inadequate design, operation, or maintenance, or any other reasonably preventable condition, and any necessary repairs to the monitoring system are conducted in a timely manner ~~((:))~~ and

~~((2-Periods authorized under Section 3.03 or Article 6 of this regulation:))~~

(c) **Quality Assurance.** The owner or operator shall install a continuous emission monitoring system that meets the performance specification in 40 CFR Part 60, Appendix B in effect at the time of its installation, and shall operate this monitoring system in accordance with the quality assurance procedures in Appendix F of 40 CFR Part 60 in effect ~~((July 1, 1997))~~ as of the federal regulation reference date listed in Section 3.25 of this regulation herein incorporated by reference, and the U.S. Environmental Protection Agency's "Recommended Quality Assurance Procedures for Opacity Continuous Monitoring Systems" (EPA 340/1-86-010).

(d) **Data Recording.** Monitoring data commencing on the clock hour and containing at least 45 minutes of monitoring data shall be reduced to 1-hour averages. Monitoring data for opacity shall also be reduced to 6-minute averages. All monitoring data shall be included in these averages except for data collected during calibration drift tests and cylinder gas audits, and for data collected subsequent to a failed quality assurance test or audit.

(e) **Data Retention.** The owner or operator shall retain all monitoring data averages for at least 2 years, including copies of all reports submitted to the Agency and records of all repairs, adjustments, and maintenance performed on the monitoring system. All such data collected after October 1, 1998 shall be retained for at least 5 years.

(f) **Data Reporting.** The owner or operator shall submit a monthly report to the Agency within 30 days after the end of the month in which the data were recorded. This report shall include:

(1) The date, time period, magnitude (in the units of the standard) and cause of each emission that exceeded an applicable emission standard;

(2) The date and time of all actions taken to correct the problem, including any actions taken to minimize the emissions during the exceedance and any actions taken to prevent its recurrence;

(3) The number of hours that the equipment (required to be monitored) operated each month and the number of valid hours of monitoring data that the monitoring system recovered each month;

(4) The date, time period, and cause of each failure to meet the data recovery requirements of Section 12.03(b) and any actions taken to ensure adequate collection of such data;

(5) The date, time period, and cause of each failure to recover valid hourly monitoring data for at least 90% of the hours that the equipment (required to be monitored) was operated each day;

(6) The results of all cylinder gas audits conducted during the month; and

(7) A certification of truth, accuracy, and completeness signed by an authorized representative of the owner or operator.

(g) **Relative Accuracy Tests.** All relative accuracy tests shall be subject to the provisions of Section 3.07 of this regulation.

(h) **Exemptions.** The data recording and reporting requirements of Sections 12.03(d) and 12.03(f) shall not apply to continuous VOC monitoring systems required under Section 2.05 of Regulation II. Further, relative accuracy tests shall not be required of these monitoring systems and may be



waived for any other monitoring system not otherwise subject to 40 CFR Part 60, Appendix F, provided that the owner or operator demonstrates to the Control Officer that the emissions are consistently below 10% of the applicable emission standard.

**REPEALER****REGULATION I SECTION 13.02 DEFINITIONS****REPEALER****REGULATION I SECTION 13.03 OPACITY STANDARDS****REPEALER****REGULATION I SECTION 13.04 PROHIBITED FUEL TYPES****REPEALER****REGULATION I SECTION 13.05 CURTAILMENT****NEW SECTION****REGULATION I SECTION 13.02 GENERAL CONDITIONS FOR SOLID FUEL BURNING DEVICES**

In addition to the provisions of this regulation, the Agency adopts by reference and enforces the following provisions for solid fuel burning devices established by the Washington State Department of Ecology:

WAC 173-433-030	Definitions. (effective 4/20/91)
WAC 173-433-110	Opacity standards. (effective 3/6/93)
WAC 173-433-120	Prohibited fuel types. (effective 4/20/91)
WAC 173-433-130	General emission standards. (effective 4/20/91)
WAC 173-433-140	Impaired air quality criteria. (1)(b), (2), (3), and (4) (effective 4/20/91)
First Stage of Impaired Air Quality has the meaning contained in RCW 70.94.473(b)	
WAC 173-433-150	Curtailment. (effective 4/20/91)

**AMENDATORY SECTION****REGULATION I SECTION (~~13.07~~) 13.03 CONTINGENCY PLAN**

The following provision is established for the sole purpose of a contingency measure to meet the requirements of Section 172 (c)(9) of the federal Clean Air Act. If the U.S. Environmental Protection Agency makes written findings

that: (1) an area has failed to attain or maintain the national ambient air quality standard, and (2) in consultation with the Washington Department of Ecology and the Agency, finds that the emissions from solid fuel burning devices are a contributing factor to such failure to attain or maintain the standard, the use of woodstoves not meeting the standards set forth in RCW 70.94.457 shall be prohibited within the area determined by the Agency to have contributed to the violation. This provision shall take effect one year after such a determination.

**WSR 04-20-045****PERMANENT RULES****DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES****(Medical Assistance Administration)**

[Filed September 30, 2004, 4:15 p.m., effective October 31, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is repealing WAC 388-519-0120 Spenddown—Medically indigent program, since the medically indigent program was eliminated by the 2003 legislature.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-519-0120.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: RCW 34.05.353(2).

Adopted under notice filed as WSR 04-15-012 on July 8, 2004.

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 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 1.

Date Adopted: September 27, 2004.

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 388-519-0120

Spenddown—Medically indigent program.



**WSR 04-20-049**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed October 1, 2004, 10:43 a.m., effective November 1, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amendments are necessary to accurately reflect and provide clear exam standards for the exam of dental hygienists and to reflect the current approval process for the expanded functions education programs. The Dental Hygiene Examining Committee recently adopted the central regional dental testing service exam for endorsement applicants. Removing time restrictions will streamline the application process for applicants and expanded function education programs.

Citation of Existing Rules Affected by this Order: Amending WAC 246-815-020, 246-815-050, 246-815-100, 246-815-110, and 246-815-115.

Statutory Authority for Adoption: RCW 43.70.280.

Other Authority: RCW 18.29.120, 18.29.140, and 18.29.150.

Adopted under notice filed as WSR 04-12-122 on June 2, 2004.

Changes Other than Editing from Proposed to Adopted Version: Changes were made to clarify which parts of the examinations are required by did not change exam requirements. Standards for examiners were retained.

A final cost-benefit analysis is available by contacting Vicki Brown, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4865, fax (360) 664-9077, e-mail vicki.brown@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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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.

Date Adopted: October 1, 2004.

Bill White  
Deputy Secretary  
for Mary C. Selecky  
Secretary

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-815-020 Dental hygiene examination eligibility.** (1) To be eligible to take the ~~((Washington))~~ approved dental hygiene examination, the applicant must meet the following requirements:

(a) The applicant must have successfully completed a dental hygiene education program approved by the secretary of the department of health pursuant to WAC 246-815-030.

(b) Applicants must complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

(c) The applicant must demonstrate knowledge of Washington law pertaining to the practice of dental hygiene including the administration of legend drugs.

(d) The applicant must complete the required application materials and pay the required fee.

~~((Applications for the dental hygiene examination are available from the department of health dental hygiene program. The completed application must be received by the department of health sixty days prior to the examination.))~~  
The application must include:

(a) The required examination fee.

(b) Either the national board IBM card reflecting a passing score or a notarized copy of the national board certificate.

(c) ~~((Two))~~ One photograph~~((s))~~ of the applicant taken within one year preceding the application.

(3) An official transcript or certificate of completion constitutes proof of successful completion from an approved dental hygiene education program. ~~((Applicants who will successfully complete the dental hygiene education program within forty five days preceding the examination for which they are applying may provide documentation of successful completion by inclusion of their names on a verified list of students successfully completing the program from the dean or director of the education program.))~~ No other proof of successful completion is acceptable. ~~((An applicant may complete the application and be scheduled for the examination, but will not be admitted to the examination if the department of health has not received the required proof of successful completion.))~~

**AMENDATORY SECTION** (Amending WSR 95-16-102, filed 8/1/95, effective 9/1/95)

**WAC 246-815-050 Examination.** (1) The dental hygiene examination will consist of both written and practical tests approved by the committee, as described in this section. An applicant seeking licensure in Washington by examination must successfully complete all of the following:

(a) The dental hygiene national board examination.

(b) The Washington ~~((written))~~ drug and law examination.

(c) ~~((The Washington restorative examination.~~

~~((d) The Western Regional Examining Board (WREB) dental hygiene patient evaluation/prophylaxis and local anesthetic examinations.~~

~~((2))~~ The ~~((successful completion of the))~~ Western Regional Examining Board (WREB) dental hygiene practical examinations from May 8, 1992~~((, and thereafter will be accepted))~~.

(i) Patient evaluation clinical competency;

(ii) Prophylaxis clinical competency;

(iii) Anesthesia clinical competency; and

(iv) Restorative clinical competency.

(d) In lieu of the WREB examination (or any of its subparts), the secretary may accept a substantially equivalent examination (or substantially equivalent subparts).

~~((3))~~ (2) The committee may, at its discretion, give a test in any other phase of dental hygiene. Candidates will receive information concerning each examination.

~~((4))~~ (3) The applicant will comply with all written instructions provided by the department of health.

**AMENDATORY SECTION** (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-815-100 Licensure by interstate endorsement of credentials.** A license to practice as a dental hygienist in Washington may be issued pursuant to RCW 18.29.045 provided the applicant meets the following requirements:

(1) The applicant has successfully completed a dental hygiene education program which is approved by the secretary of the department of health pursuant to WAC 246-815-030.

(2) The applicant has been issued a valid, current, non-limited license by successful completion of a dental hygiene examination in another state. The other state's current licensing standards must be substantively equivalent to the licensing standards in the state of Washington. The other state's examination must have included the following portions and minimum level of competency standards.

(a) Written tests - the written tests include:

(i) The National Board of Dental Hygiene examination.

(ii) A state written test covering the current dental hygiene subjects that are tested for Washington state.

(b) Practical tests - all portions shall be graded anonymously by calibrated practicing dental hygienists or dental hygienists and dentists. The calibration process shall consist of training sessions which include components to evaluate and confirm each examiners ability to uniformly detect known errors on pregraded patients and/or dentofoms. Examiners will be calibrated to the established standard of minimum level of competency. The examination must have equivalent patient selection criteria for the patient evaluation, prophylaxis and anesthesia portions. ~~((The current Washington state patient selection criteria for examination will be used as the basis of comparison at the time of application for licensure by interstate endorsement of credentials.))~~ The Western Regional Examining Board (WREB) practical tests. In lieu of the WREB practical tests, the secretary may accept substantially equivalent tests. The practical tests include:

(i) Patient evaluation clinical competency ~~((test which includes what is currently tested for the Washington state dental hygiene examination.))~~;

(ii) Prophylaxis clinical competency ~~((test which includes what is currently tested for the Washington state dental hygiene examination.))~~;

(iii) Anesthesia clinical competency ~~((test which includes what is currently tested for the Washington state dental hygiene examination.))~~; and

(iv) Restorative ~~((test which includes what is currently tested for the Washington state dental hygiene examination))~~ clinical competency.

(3) The applicant holds a valid current license, and has been currently engaged in clinical practice at any time within the previous year as a dental hygienist in another state or in the discharge of official duties in the United States Armed Services, Coast Guard, Public Health Services, Veterans' Bureau, or Bureau of Indian Affairs. Verification of licensure must be obtained from the state of licensure, and any fees for verification required by the state of licensure must be paid by the applicant.

(4) The applicant has not engaged in unprofessional conduct as defined in the Uniform Disciplinary Act in RCW 18.130.180 or is not an impaired practitioner under RCW 18.130.170 in the Uniform Disciplinary Act.

(5) Applicants must complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

(6) The applicant demonstrates to the secretary knowledge of Washington law pertaining to the practice of dental hygiene.

(7) The applicant completes the required application materials and pays the required application fee. Applications for licensure by interstate endorsement are available from the department of health dental hygiene program.

(8) If the secretary of the department of health finds that the other state's licensing standards are substantively equivalent except for a portion(s) of the examination, the applicant may take that portion(s) to qualify for interstate endorsement. That portion(s) of the exam must be successfully completed to qualify for interstate endorsement and an additional examination fee as well as the licensure by interstate endorsement fee shall be required.

**AMENDATORY SECTION** (Amending Order 224, filed 12/23/91, effective 1/23/92)

**WAC 246-815-110 Application procedures for approval of dental hygiene expanded functions education programs.** (1) The representative of the education program must complete the required application materials and pay the required nonrefundable fee.

(2) Applications for approval of dental hygiene expanded functions education programs are available from the department of health, ~~((professional licensing services.))~~ dental hygiene program.

(3) The application shall include but is not limited to a self study guide which reflects WAC 246-815-120 and 246-815-130.

(4) The application may include a site visit and evaluation at the discretion of the secretary of the department of health.

(5) An approved dental hygiene expanded function education program shall report in writing all modifications of the approved program to the department of health and shall be required to pay the nonrefundable evaluation fee if the secretary of the department determines that the modification(s) substantially affects an area included in WAC 246-815-120.

~~((6) An approved dental hygiene expanded function education program shall apply for evaluation sixty days prior to the month and day of the initial approval date every four years and shall pay the required nonrefundable evaluation fee. Provided, That the approved dental hygiene expanded~~

~~function education program has not been required to be evaluated due to modifications within one year prior to the required four year evaluation date.)~~

**AMENDATORY SECTION** (Amending Order 236, filed 1/21/92, effective 2/21/92)

**WAC 246-815-115 Exception application procedures for approval of dental hygiene expanded functions education programs.** (1) This section applies only to dental hygiene programs:

- (a) Currently accredited by the American Dental Association Commission on Dental Accreditation; and
- (b) With accredited program curriculum that includes the administration of local anesthetic, administration of nitrous oxide analgesia and restorative dentistry.

(2) A program representative may apply for approval of a dental hygiene expanded function(s) education program by submitting to the department:

- (a) An application on forms available from the department of health, (~~professional licensing services,~~) dental hygiene program(~~(- Olympia, Washington)~~).
- (b) The current and the proposed expanded function course outlines and syllabuses, and:
  - (i) An identification of the differences between the current and proposed courses;
  - (ii) Documentation of the differences between the current and proposed courses.

(3) The program representative shall not submit a self study guide or an application fee.

(4) The department may, at the secretary's discretion, conduct a site visit and evaluation.

(5) The representative of an approved expanded function education program shall(~~(-and)~~) report all modifications of the approved program to the department in writing(~~(-and~~

~~(b) Apply for evaluation every four years, sixty days prior to the month and day of the initial approval date. Provided, that the program has not been evaluated due to modifications within the year previous to the required evaluation date)).~~

**WSR 04-20-055  
PERMANENT RULES  
DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed October 1, 2004, 12:45 p.m., effective November 1, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of amending this rule is to be consistent with recently passed legislation SSB 6466 (chapter 34, Laws of 2004), an act regarding the admission of residents to nursing facilities.

Citation of Existing Rules Affected by this Order: Amending WAC 388-97-017 Nursing homes—Discrimination prohibited.

Statutory Authority for Adoption: RCW 18.51.070 and 74.42.620.

Other Authority: Chapter 34, Laws of 2004.

Adopted under notice filed as WSR 04-17-107 on August 17, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: September 30, 2004.

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 00-06-028, filed 2/24/00, effective 3/26/00)

**WAC 388-97-017 Discrimination prohibited.** (1) A nursing facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services covered under the state Medicaid plan for all individuals regardless of source of payment.

(2) A nursing facility must not require or request:

(a) Residents or potential residents to waive their rights to Medicare or Medicaid;

(b) Oral or written assurance that residents or potential residents are not eligible for, or will not apply for Medicare or Medicaid benefits; and

(c) A third party guarantee of payment to the facility as a condition of admission or expedited admission, or continued stay in the facility. However, the facility may require an individual who has legal access to a resident's income or resources available to pay for facility care to sign a contract, without incurring personal financial liability, to provide facility payment from the resident's income or resources.

(3) A nursing facility must inform, in writing, a prospective resident, and where applicable, the resident's representative, before or at the time of admission, that a third party may not be required or requested to personally guarantee payment to the nursing home, as specified in subsection (2)(c) of this section.

(4) A nursing facility must readmit a resident, who has been hospitalized or on therapeutic leave, immediately to the first available bed in a semiprivate room if the resident:

(a) Requires the services provided by the facility; and

(b) Is eligible for Medicaid nursing facility services.

(5) A nursing facility must not:

(a) Deny or delay admission or readmission of an individual to the facility because of the individual's status as a Medicaid recipient;

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(b) Transfer a resident, except from a single room to another room within the facility, because of the resident's status as a Medicaid recipient;

(c) Discharge a resident from a facility because of the resident's status as a Medicaid recipient; or

(d) Charge Medicaid recipients any amounts in excess of the Medicaid rate from the date of eligibility, except for any supplementation that may be permitted by department regulation.

~~((5))~~ (6) A nursing facility must maintain only one list of names of individuals seeking admission to the facility, which is ordered by the date of request for admission, and must:

(a) Offer admission to individuals in the order they appear on the list, ~~((provided))~~ except as provided in subsection (7), as long as the facility can meet the needs of the individual with available staff or through the provision of reasonable accommodations required by state or federal laws;

(b) Retain the list of individuals seeking admission for one year from the month admission was requested; and

(c) Offer admission to the portions of the facility certified under Medicare and Medicaid without discrimination against persons eligible for Medicaid(-

~~(6))~~ , except as provided in subsection (7).

(7) A nursing facility is permitted to give preferential admission to individuals who seek admission from a boarding home, licensed under chapter 18.20 RCW, or from independent retirement housing, if:

(a) The nursing facility is owned by the same entity that owns the boarding home or independent housing; and

(b) They are located within the same proximate geographic area; and

(c) The purpose of the preferential admission is to allow continued provision of culturally or faith-based services, or services provided by a continuing care retirement community as defined in RCW 74.38.025.

(8) A nursing facility must develop and implement written policies and procedures to ensure nondiscrimination in accordance with this section and RCW 74.42.055.

**WSR 04-20-057**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)

[Filed October 1, 2004, 12:48 p.m., effective November 1, 2004]

Effective Date of Rule: November 1, 2004.

Purpose: (Part 1 of 3) The department is no longer using the twenty-four-hours-or-less criteria in the definition for "outpatient short stay." The definition and related definitions are deleted or updated with alternative language as applicable. Hospital admissions are based on medical criteria rather than on time (twenty-four-hours-or-less criteria) in order to bring the department's policies in line with industry standards and promote administrative simplicity for providers. Amendments to WAC 388-550-1050 update current definitions relating to reimbursement for outpatient hospital ser-

vices in order to be consistent with the filing of a new rule to implement the outpatient prospective payment system (OPPS) program.

Citation of Existing Rules Affected by this Order: Amending WAC 388-550-1050.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.500.

Adopted under notice filed as WSR 04-17-111 on August 17, 2004.

A final cost-benefit analysis is available by contacting Linda Ayers, P.O. Box 45506, Olympia, WA 98504, phone (360) 725-1680, fax (360) 586-1471, e-mail ayerslr@dshs.wa.gov. The cost-benefit analysis (CBA) is unchanged from the preliminary version.

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.

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Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: September 27, 2004.

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 03-19-043, filed 9/10/03, effective 10/11/03)

**WAC 388-550-1050 Hospital services definitions.** The following definitions and abbreviations and those found in WAC 388-500-0005, Medical definitions, apply to this chapter.

"**Accommodation costs**" means the expenses incurred by a hospital to provide its patients services for which a separate charge is not customarily made. These expenses include, but are not limited to, room and board, medical social services, psychiatric social services, and the use of certain hospital equipment and facilities.

"**Acute**" means a medical condition of severe intensity with sudden onset.

"**Acute care**" means care provided for patients who are not medically stable or have not attained a satisfactory level of rehabilitation. These patients require frequent monitoring by a health care professional in order to maintain their health status (see WAC 248-27-015).

"**Acute physical medicine and rehabilitation (Acute PM&R)**" means a twenty-four hour inpatient comprehensive program of integrated medical and rehabilitative services provided during the acute phase of a client's rehabilitation.

"**ADATSA/DASA assessment center**" means an agency contracted by the division of alcohol and substance

abuse (DASA) to provide chemical dependency assessment for clients and pregnant women in accordance with the alcoholism and drug addiction treatment and support act (ADATSA). Full plans for a continuum of drug and alcohol treatment services for pregnant women are also developed in ADATSA/DASA assessment centers.

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

**"Administrative day"** means a day of a hospital stay in which an acute inpatient level of care is no longer necessary, and noninpatient hospital placement is appropriate.

**"Admitting diagnosis"** means the medical condition before study, which is initially responsible for the client's admission to the hospital, as defined by the ICD-9-CM diagnostic code.

**"Advance directive"** means a document, such as a living will executed by a client. The advanced directive tells the client's health care providers and others the client's decisions regarding the client's medical care, particularly whether the client or client's representative wishes to accept or refuse extraordinary measures to prolong the client's life.

**"Aggregate capital cost"** means the total cost or the sum of all capital costs.

**"Aggregate cost"** means the total cost or the sum of all constituent costs.

**"Aggregate operating cost"** means the total cost or the sum of all operating costs.

**"Alcoholism and drug addiction treatment and support act (ADATSA)"** means the law and the state-funded program it established which provides medical services for persons who are incapable of gainful employment due to alcoholism or substance addiction.

**"Alcoholism and/or alcohol abuse treatment"** means the provision of medical social services to an eligible client designed to mitigate or reverse the effects of alcoholism or alcohol abuse and to reduce or eliminate alcoholism or alcohol abuse behaviors and restore normal social, physical, and psychological functioning. Alcoholism or alcohol abuse treatment is characterized by the provision of a combination of alcohol education sessions, individual therapy, group therapy, and related activities to detoxified alcoholics and their families.

**"All-patient grouper (AP-DRG)"** means a computer program that determines the DRG assignments.

**"Allowed charges"** means the maximum amount for any procedure that the department allows as the basis for payment computation.

**"Ambulatory surgery"** means a surgical procedure that is not expected to require an inpatient hospital admission.

**"Ancillary hospital costs"** means the expenses incurred by a hospital to provide additional or supporting services to its patients during their hospital stay. See **"ancillary services."**

**"Ancillary services"** means additional or supporting services provided by a hospital to a patient during the patient's hospital stay. These services include, but are not limited to, laboratory, radiology, drugs, delivery room, operating room, postoperative recovery rooms, and other special items and services.

**"Appropriate level of care"** means the level of care required to best manage a client's illness or injury based on the illness presentation and the services received.

**"Approved treatment facility"** means a treatment facility, either public or private, profit or nonprofit, approved by DSHS.

**"Audit"** means an assessment, evaluation, examination, or investigation of a health care provider's accounts, books and records, including:

(1) Medical, financial and billing records pertaining to billed services paid by the department through Medicaid or other state programs, by a person not employed or affiliated with the provider, for the purpose of verifying the service was provided as billed and was allowable under program regulations; and

(2) Financial, statistical and medical records, including mathematical computations and special studies conducted supporting Medicare cost reports, HCFA Form 2552, submitted to MAA for the purpose of establishing program rates of reimbursement to hospital providers.

**"Audit claims sample"** means a subset of the universe of paid claims from which the sample is drawn, whether based upon judgmental factors or random selection. The sample may consist of any number of claims in the population up to one hundred percent. See also **"random claims sample"** and **"stratified random sample."**

**"Authorization"** - See **"prior authorization"** and **"expedited prior authorization (EPA)."**

**"Average hospital rate"** means the average of hospital rates for any particular type of rate that MAA uses.

**"Bad debt"** means an operating expense or loss incurred by a hospital because of uncollectible accounts receivables.

**"Beneficiary"** means a recipient of Social Security benefits, or a person designated by an insuring organization as eligible to receive benefits.

**"Billed charge"** means the charge submitted to the department by the provider.

**"Blended rate"** means a mathematically weighted average rate.

**"Border area hospital"** means a hospital located outside Washington state and located in one of the ((border areas)) bordering cities listed in WAC 388-501-0175.

**"BR"** - See **"by report."**

**"Bundled services"** mean interventions which are integral to the major procedure and are not reimbursable separately.

**"Buy-in premium"** means a monthly premium the state pays so a client is enrolled in part A and/or part B Medicare.

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

**"Callback"** means keeping hospital staff members on duty beyond their regularly scheduled hours, or having them return to the facility after hours to provide unscheduled services which are usually associated with hospital emergency room, surgery, laboratory and radiology services.

**"Capital-related costs"** mean the component of operating costs related to capital assets, including, but not limited to:

- (1) Net adjusted depreciation expenses;
- (2) Lease and rentals for the use of depreciable assets;
- (3) The costs for betterment and improvements;
- (4) The cost of minor equipment;
- (5) Insurance expenses on depreciable assets;
- (6) Interest expense; and
- (7) Capital-related costs of related organizations that provide services to the hospital.

Capital costs due solely to changes in ownership of the provider's capital assets are excluded.

**"Case mix complexity"** means, from the clinical perspective, the condition of the treated patients and the difficulty associated with providing care. Administratively, it means the resource intensity demands that patients place on an institution.

**"Case mix index (CMI)"** means the arithmetical index that measures the average relative weight of a case treated in a hospital during a defined period.

**"Charity care"** means necessary hospital health care rendered to indigent persons, to the extent that these persons are unable to pay for the care or to pay the deductibles or coinsurance amounts required by a third-party payer, as determined by the department.

**"Chemical dependency"** means an alcohol or drug addiction; or dependence on alcohol and one or more other psychoactive chemicals.

**"Children's hospital"** means a hospital primarily serving children.

**"Client"** means a person who receives or is eligible to receive services through department of social and health services (DSHS) programs.

**"Comorbidity"** means of, relating to, or caused by a disease other than the principal disease.

**"Complication"** means a disease or condition occurring subsequent to or concurrent with another condition and aggravating it.

**"Comprehensive hospital abstract reporting system (CHARS)"** means the department of health's hospital data collection, tracking and reporting system.

**"Contract hospital"** means a licensed hospital located in a selective contracting area, which is awarded a contract to participate in MAA's hospital selective contracting program.

**"Contractual adjustment"** means the difference between the amount billed at established charges for the services provided and the amount received or due from a third-party payer under a contract agreement. A contractual adjustment is similar to a trade discount.

**"Cost proxy"** means an average ratio of costs to charges for ancillary charges or per diem for accommodation cost centers used to determine a hospital's cost for the services where the hospital has Medicaid claim charges for the services, but does not report costs in corresponding centers in its Medicare cost report.

**"Cost report"** means the HCFA Form 2552, Hospital and Hospital Health Care Complex Cost Report, completed and submitted annually by a provider:

(1) To Medicare intermediaries at the end of a provider's selected fiscal accounting period to establish hospital reimbursable costs for per diem and ancillary services; and

(2) To Medicaid to establish appropriate DRG and RCC reimbursement.

**"Costs"** mean MAA-approved operating, medical education, and capital-related costs as reported and identified on the HCFA 2552 form.

**"Cost-based conversion factor (CBCF)"** means a hospital-specific dollar amount that reflects a hospital's average cost of treating Medicaid clients. It is calculated from the hospital's cost report by dividing the hospital's costs for treating Medicaid clients during a base period by the number of Medicaid discharges during that same period and adjusting for the hospital's case mix. See also **"hospital conversion factor"** and **"negotiated conversion factor."**

**"County hospital"** means a hospital established under the provisions of chapter 36.62 RCW.

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

**"Customary charge payment limit"** means the limit placed on aggregate DRG payments to a hospital during a given year to assure that DRG payments do not exceed the hospital's charges to the general public for the same services.

**"Day outlier"** means a case that requires MAA to make additional payment to the hospital provider but which does not qualify as a high-cost outlier. See **"day outlier payment"** and **"day outlier threshold."**

**"Day outlier payment"** means the additional amount paid to a disproportionate share hospital for a client five years old or younger who has a prolonged inpatient stay which exceeds the day outlier threshold but whose covered charges for care fall short of the high cost outlier threshold. The amount is determined by multiplying the number of days in excess of the day outlier threshold and the administrative day rate.

**"Day outlier threshold"** means the average number of days a client stays in the hospital for an applicable DRG before being discharged, plus twenty days.

**"Deductible"** means the amount a beneficiary is responsible for, before Medicare starts paying; or the initial specific dollar amount for which the applicant or client is responsible.

**"Department"** means the state department of social and health services (DSHS).

**"Detoxification"** means treatment provided to persons who are recovering from the effects of acute or chronic intoxication or withdrawal from alcohol or other drugs.

**"Diabetic education program"** means a comprehensive, multidisciplinary program of instruction offered by an MAA-approved facility to diabetic clients on dealing with diabetes, including instruction on nutrition, foot care, medication and insulin administration, skin care, glucose monitoring, and recognition of signs/symptoms of diabetes with appropriate treatment of problems or complications.

**"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.

**"Diagnosis-related group (DRG)"** means a classification system which categorizes hospital patients into clinically coherent and homogenous groups with respect to resource use, i.e., similar treatments and statistically similar lengths of stay for patients with related medical conditions. Classification of patients is based on the International Classification of Diseases (ICD-9), the presence of a surgical procedure, patient age, presence or absence of significant comorbidities or complications, and other relevant criteria.

**"Direct medical education costs"** means the direct costs of providing an approved medical residency program as recognized by Medicare.

**"Discharging hospital"** means the institution releasing a client from the acute care hospital setting.

**"Disproportionate share payment"** means additional payment(s) made by the department to a hospital which serves a disproportionate number of Medicaid and other low-income clients and which qualifies for one or more of the disproportionate share hospital programs identified in the state plan.

**"Disproportionate share program"** means a program that provides additional payments to hospitals which serve a disproportionate number of Medicaid and other low-income clients.

**"Dispute conference"** - See **"hospital dispute conference."**

**"Distinct unit"** means a Medicare-certified distinct area for psychiatric or rehabilitation services within an acute care hospital or a department-designated unit in a children's hospital.

**"Division of alcohol and substance abuse (DASA)"** is the division within DSHS responsible for providing alcohol and drug-related services to help clients recover from alcoholism and drug addiction.

**"DRG"** - See **"diagnosis-related group."**

**"DRG-exempt services"** means services which are paid for through other methodologies than those using cost-based conversion factors (CBCF) or negotiated conversion factors (NCF).

**"DRG payment"** means the payment made by the department for a client's inpatient hospital stay. This payment calculated by multiplying the hospital-specific conversion factor by the DRG relative weight for the client's medical diagnosis.

**"DRG relative weight"** means the average cost or charge of a certain DRG divided by the average cost or charge, respectively, for all cases in the entire data base for all DRGs.

**"Drug addiction and/or drug abuse treatment"** means the provision of medical and rehabilitative social services to an eligible client designed to mitigate or reverse the effects of drug addiction or drug abuse and to reduce or eliminate drug addiction or drug abuse behaviors and restore normal physical and psychological functioning. Drug addiction or drug abuse treatment is characterized by the provision of a combination of drug and alcohol education sessions, individual therapy, group therapy and related activities to detoxified addicts and their families.

**"DSHS"** means the department of social and health services.

**"Elective procedure or surgery"** means a nonemergent procedure or surgery that can be scheduled at convenience.

**"Emergency room" or "emergency facility"** means an organized, distinct hospital-based facility available twenty-four hours a day for the provision of unscheduled episodic services to patients who present for immediate medical attention, and is capable of providing emergency services including trauma care.

**"Emergency services"** means medical services required by and provided to a patient after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention 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. For hospital reimbursement purposes, inpatient maternity services are treated as emergency services.

**"Equivalency factor (EF)"** means a conversion factor used, in conjunction with two other factors (cost-based conversion factor and the ratable factor), to determine the level of state-only program payment.

**"Exempt hospital—DRG payment method"** means a hospital that for a certain patient category is reimbursed for services to MAA clients through methodologies other than those using cost-based or negotiated conversion factors.

**"Exempt hospital—Hospital selective contracting program"** means a hospital that is either not located in a selective contracting area or is exempted by the department from the selective contracting program.

**"Expedited prior authorization (EPA)"** means the MAA-delegated process of creating an authorization number for selected medical/dental procedures and related supplies and services in which providers use a set of numeric codes to indicate which MAA-acceptable indications, conditions, diagnoses, and/or MAA-defined criteria are applicable to a particular request for service.

**"Expedited prior authorization (EPA) number"** means an authorization number created by the provider that certifies that MAA-published criteria for the medical/dental procedures and related supplies and services have been met.

**"Experimental"** means a term to describe a procedure, or course of treatment, which lacks scientific evidence of safety and effectiveness. See WAC 388-531-0500. 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.

**"Facility triage fee"** means the amount MAA will pay a hospital for a medical evaluation or medical screening examination, performed in the hospital's emergency department, for a nonemergent condition of a *healthy options* client covered under the primary care case management (PCCM) program. This amount corresponds to the professional care level A or level B service.

**"Fee-for-service"** means the general payment method the department uses to reimburse providers for covered medical services provided to medical assistance clients when



these services are not covered under MAA's *healthy options* program.

**"Fiscal intermediary"** means Medicare's designated fiscal intermediary for a region and/or category of service.

**"Fixed per diem rate"** means a daily amount used to determine payment for specific services.

**"Global surgery days"** means the number of preoperative and follow-up days that are included in the reimbursement to the physician for the major surgical procedure.

**"Graduate medical education costs"** means the direct and indirect costs of providing medical education in teaching hospitals.

**"Grouper"** - See **"all-patient grouper (AP-DRG)."**

**"HCFA 2552"** - See **"cost report."**

**"Health care team"** means a group of health care providers involved in the care of a client.

**"High-cost outlier"** means a claim paid under the DRG method that did not meet the definition of "administrative day," and has extraordinarily high costs when compared to other claims in the same DRG, in which the allowed charges, before January 1, 2001, exceed three times the applicable DRG payment and exceed twenty-eight thousand dollars. For dates of service January 1, 2001 and after, to qualify as a high-cost outlier, the allowed charges must exceed three times the applicable DRG payment and exceed thirty-three thousand dollars.

**"Hospice"** means a medically-directed, interdisciplinary program of palliative services for terminally ill clients and the clients' families. Hospice is provided under arrangement with a Title XVIII Washington state-licensed and Title XVIII-certified Washington state hospice.

**"Hospital"** means an entity which is licensed as an acute care hospital in accordance with applicable state laws and regulations, and which is certified under Title XVIII of the federal Social Security Act.

**"Hospital base period"** means, for purposes of establishing a provider rate, a specific period or timespan used as a reference point or basis for comparison.

**"Hospital base period costs"** means costs incurred in or associated with a specified base period.

**"Hospital conversion factor"** means a hospital-specific dollar amount that reflects the average cost for a DRG paid case of treating Medicaid clients in a given hospital. See cost-based conversion factor (CBCF) and negotiated conversion factor (NCF).

**"Hospital covered service"** means a service that is provided by a hospital, included in the medical assistance program and is within the scope of the eligible client's medical care program.

**"Hospital cost report"** - See **"cost report."**

**"Hospital dispute resolution conference"** means a meeting for deliberation during a provider administrative appeal.

(1) The first dispute resolution conference is usually a meeting between medical assistance administration and hospital staff, to discuss a department action or audit finding(s). The purpose of the meeting is to clarify interpretation of regulations and policies relied on by the department or hospital, provide an opportunity for submission and explanation of additional supporting documentation or information, and/or

to verify accuracy of calculations and application of appropriate methodology for findings or administrative actions being appealed. Issues appealed by the provider will be addressed in writing by the department.

(2) At the second level of dispute resolution:

(a) For hospital rates issues, the dispute resolution conference is an informal administrative hearing conducted by an MAA administrator for the purpose of resolving contractor/provider rate disagreements with the department's action at the first level of appeal. The dispute resolution conference in this regard is not a formal adjudicative process held in accordance with the Administrative Procedure Act.

(b) For hospital audit issues, the audit dispute resolution hearing will be held by the office of administrative hearings in accordance with WAC 388-560-1000. This hearing is a formal proceeding and is governed by chapter 34.05 RCW.

**"Hospital facility fee"** - See **"facility triage fee."**

**"Hospital market basket index"** means a measure, expressed as a percentage, of the annual inflationary costs for hospital services, as measured by Data Resources, Inc. (DRI).

**"Hospital peer group"** means the peer group categories adopted by the former Washington state hospital commission for rate-setting purposes:

(1) Group A - rural hospitals paid under a ratio of costs-to-charges (RCC) methodology (same as peer group 1);

(2) Group B - urban hospitals without medical education programs (same as peer group 2);

(3) Group C - urban hospitals with medical education programs; and

(4) Group D - specialty hospitals and/or hospitals not easily assignable to the other three peer groups.

**"Hospital selective contracting program"** or **"selective contracting"** means a negotiated bidding program for hospitals within specified geographic areas to provide inpatient hospital services to medical assistance clients.

**"Indigent patient"** means a patient who has exhausted any third-party sources, including Medicare and Medicaid, and whose income is equal to or below two hundred percent of the federal poverty standards (adjusted for family size), or is otherwise not sufficient to enable the individual to pay for his or her care, or to pay deductibles or coinsurance amounts required by a third-party payer.

**"Indirect medical education costs"** means the indirect costs of providing an approved medical residency program as recognized by Medicare.

**"Inflation adjustment"** means, for cost inflation, the hospital inflation adjustment. This adjustment is determined by using the inflation factor method and guidance indicated by the legislature in the budget notes to the biennium appropriations bill. For charge inflation, it means the inflation factor determined by comparing average discharge charges for the industry from one year to the next, as found in the comprehensive hospital abstract reporting system (CHARS) standard reports three and four.

**"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 patient's diagnosis;

(2) Offered the patient an opportunity to ask questions about the procedure and to request information in writing;



(3) Given the patient a copy of the consent form;

(4) Communicated effectively using any language interpretation or special communication device necessary per 42 C.F.R. 441.257; and

(5) Given the patient oral information about all of the following:

(a) The patient's right to not obtain the procedure, including potential risks, benefits, and the consequences of not obtaining the procedure;

(b) Alternatives to the procedure including potential risks, benefits, and consequences; and

(c) The procedure itself, including potential risks, benefits, and consequences.

**"Inpatient hospital"** means a hospital authorized by the department of health to provide inpatient services.

**"Inpatient hospital admission"** means an admission ((as an inpatient)) to a hospital ((for a stay longer than twenty-four hours, or for a stay twenty-four hours or less with cases including:

(1) The death of a client;

(2) Obstetrical delivery;

(3) Initial care of a newborn; or

(4) Transfer to another acute care facility.

To qualify for inpatient reimbursement, even when the stay is longer than twenty-four hours, the medical care record must evidence the need for inpatient care) based on an evaluation of the client using objective clinical indicators for the purpose of providing medically necessary inpatient care, including assessment, monitoring, and therapeutic services as required to best manage the client's illness or injury, and that is documented in the client's medical record.

**"Inpatient services"** means ~~((all)) healthcare services provided directly or indirectly ((by the hospital)) to a ((patient)) client subsequent to the client's inpatient hospital admission and prior to discharge((, and includes, but is not limited to, the following services: Bed and board; medical, nursing, surgical, pharmacy and dietary services; maternity services; psychiatric services; all diagnostic and therapeutic services required by the patient; the technical and/or professional components of certain services; use of hospital facilities, medical social services furnished by the hospital, and such drugs, supplies, appliances and equipment as required by the patient; transportation services subsequent to admission and prior to discharge; and services provided by the hospital within twenty-four hours of the patient's admission as an inpatient)).~~

~~((**"Inpatient stay"** - See "inpatient hospital admission.")~~

**"Intermediary"** - See **"fiscal intermediary."**

**"International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) Edition"** means the systematic listing that transforms verbal descriptions of diseases, injuries, conditions and procedures into numerical or alpha numerical designations (coding).

**"Length of stay (LOS)"** means the number of days of inpatient hospitalization. See also **"PAS length of stay (LOS)."**

**"Length of stay extension request"** means a request from a hospital provider for the department, or in the case of psychiatric admission, the appropriate regional support net-

work (RSN), to approve a client's hospital stay exceeding the average length of stay for the client's diagnosis and age.

**"Lifetime hospitalization reserve"** means, under the Medicare Part A benefit, the nonrenewable sixty hospital days that a beneficiary is entitled to use during his or her lifetime for hospital stays extending beyond ninety days per benefit period. See also **"reserve days."**

**"Low-cost outlier"** means a case with extraordinarily low costs when compared to other cases in the same DRG, in which the allowed charges before January 1, 2001, are less than ten percent of the applicable DRG payment or less than four hundred dollars. For dates of service on and after January 1, 2001, to qualify as a low-cost outlier, the allowed charges must be less than ten percent of the applicable DRG payment or less than four hundred and fifty dollars.

**"Low income utilization rate"** means a formula represented as (A/B)+(C/D) in which:

(1) The numerator A is the hospital's total patient services revenue under the state plan, plus the amount of cash subsidies for patient services received directly from state and local governments in a period;

(2) The denominator B is the hospital's total patient services revenue (including the amount of such cash subsidies) in the same period as the numerator;

(3) The numerator C is the hospital's total inpatient service charge attributable to charity care in a period, less the portion of cash subsidies described in (1) of this definition in the period reasonably attributable to inpatient hospital services. The amount shall not include contractual allowances and discounts (other than for indigent patients not eligible for medical assistance under the state plan); and

(4) The denominator D is the hospital's total charge for inpatient hospital services in the same period as the numerator.

**"Major diagnostic category (MDC)"** means one of the twenty-five mutually exclusive groupings of principal diagnosis areas in the DRG system. The diagnoses in each MDC correspond to a single major organ system or etiology and, in general, are associated with a particular medical specialty.

**"Market basket index"** - See **"hospital market basket index."**

**"MDC"** - See **"major diagnostic category."**

**"Medicaid"** is the state and federally funded aid program that covers the categorically needy (CNP) and medically needy (MNP) programs.

**"Medicaid cost proxy"** means a figure developed to approximate or represent a missing cost figure.

**"Medicaid inpatient utilization rate"** means a formula represented as X/Y in which:

(1) The numerator X is the hospital's number of inpatient days attributable to patients who (for such days) were eligible for medical assistance under the state plan in a period.

(2) The denominator Y is the hospital's total number of inpatient days in the same period as the numerator's. Inpatient day includes each day in which an individual (including a newborn) is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

"**Medical assistance administration (MAA)**" is the administration within DSHS authorized by the secretary to administer the acute care portion of the Title XIX Medicaid, Title XXI children's health insurance program (CHIP), and the state-funded medical care programs, with the exception of certain nonmedical services for persons with chronic disabilities.

"**Medical assistance program**" means both Medicaid and medical care services programs.

"**Medical care services**" means the limited scope of care financed by state funds and provided to general assistance-unemployable (GAU) and ADATSA clients.

"**Medical education costs**" means the expenses incurred by a hospital to operate and maintain a formally organized graduate medical education program.

"**Medical screening evaluation**" means the service(s) provided by a physician or other practitioner to determine whether an emergent medical condition exists. See also "**facility triage fee.**"

"**Medical stabilization**" means a return to a state of constant and steady function. It is commonly used to mean the patient is adequately supported to prevent further deterioration.

"**Medically indigent person**" means a person certified by the department of social and health services as eligible for the limited casualty program-medically indigent (LCP-MI) program. See also "**indigent patient.**"

"**Medicare cost report**" means the annual cost data reported by a hospital to Medicare on the HCFA form 2552.

"**Medicare crossover**" means a claim involving a client who is eligible for both Medicare benefits and Medicaid.

"**Medicare fee schedule (MFS)**" means the official HCFA publication of Medicare policies and relative value units for the resource based relative value scale (RBRVS) reimbursement program.

"**Medicare Part A**" means that part of the Medicare program that helps pay for inpatient hospital services, which may include, but are not limited to:

- (1) A semi-private room;
- (2) Meals;
- (3) Regular nursing services;
- (4) Operating room;
- (5) Special care units;
- (6) Drugs and medical supplies;
- (7) Laboratory services;
- (8) X-ray and other imaging services; and
- (9) Rehabilitation services.

Medicare hospital insurance also helps pay for post-hospital skilled nursing facility care, some specified home health care, and hospice care for certain terminally ill beneficiaries.

"**Medicare Part B**" means that part of the Medicare program that helps pay for, but is not limited to:

- (1) Physician services;
- (2) Outpatient hospital services;
- (3) Diagnostic tests and imaging services;
- (4) Outpatient physical therapy;
- (5) Speech pathology services;
- (6) Medical equipment and supplies;
- (7) Ambulance;
- (8) Mental health services; and

(9) Home health services.

"**Medicare buy-in premium**" - See "**buy-in premium.**"

"**Medicare payment principles**" means the rules published in the federal register regarding reimbursement for services provided to Medicare clients.

"**Mentally incompetent**" means a person who has been declared mentally incompetent by a federal, state, or local court of competent jurisdiction for any purpose, unless the person has been declared competent for purposes which include the ability to consent to sterilization.

"**Multiple occupancy rate**" means the rate customarily charged for a hospital room with two to four patient beds.

"**Negotiated conversion factor (NCF)**" means a negotiated hospital-specific dollar amount which is used in lieu of the cost-based conversion factor as the multiplier for the applicable DRG weight to determine the DRG payment for a selective contracting program hospital. See also "**hospital conversion factor**" and "**cost-based conversion factor.**"

"**Nonallowed service or charge**" means a service or charge that is not recognized for payment by the department, and cannot be billed to the client.

"**Noncontract hospital**" means a licensed hospital located in a selective contracting area (SCA) but which does not have a contract to participate in the hospital selective contracting program.

"**Noncovered service or charge**" means a service or charge that is not reimbursed by the department.

"**Nonemergent hospital admission**" means any inpatient hospitalization of a patient who does not have an emergent condition, as defined in WAC 388-500-0005, Emergency services.

"**Nonparticipating hospital**" means a noncontract hospital. See "**noncontract hospital.**"

"**Observation services**" means healthcare services furnished by a hospital on the hospital's premises, including use of a bed and periodic monitoring by hospital staff, which are reasonable and necessary to evaluate an outpatient's condition or determine the need for possible admission to the hospital as an inpatient.

"**Operating costs**" means all expenses incurred in providing accommodation and ancillary services, excluding capital and medical education costs.

"**OPPS**" - See "**outpatient prospective payment system.**"

"**OPPS adjustment**" means the legislative mandated reduction in the outpatient adjustment factor made to account for the delay of OPPS implementation.

"**OPPS outpatient adjustment factor**" means the outpatient adjustment factor reduced by the OPPS and adjustment factor as a result of legislative mandate.

"**Orthotic device**" or "**orthotic**" means a corrective or supportive device that:

- (1) Prevents or corrects physical deformity or malfunction; or
- (2) Supports a weak or deformed portion of the body.

"**Out-of-state hospital**" means any hospital located outside the state of Washington and outside the designated border areas in Oregon and Idaho.

**"Outlier set-aside factor"** means the amount by which a hospital's cost-based conversion factor is reduced for payments of high cost outlier cases.

**"Outlier set-aside pool"** means the total amount of payments for high cost outliers which are funded annually based on payments for high cost outliers during the year.

**"Outliers"** means cases with extraordinarily high or low costs when compared to other cases in the same DRG.

**"Outpatient"** means a patient who is receiving medical services in other than an inpatient hospital setting.

**"Outpatient care"** means medical care provided other than inpatient services in a hospital setting.

**"Outpatient hospital"** means a hospital authorized by the department of health to provide outpatient services.

**"Outpatient hospital services"** means those healthcare services that are within a hospital's licensure and provided to a client who is designated as an outpatient.

**"Outpatient observation"** - See **"observation services."**

**"Outpatient prospective payment system (OPPS)"** means ~~((a classification system that groups outpatient visits according to the clinical characteristics, and typical resource use and costs associated with their diagnoses and the procedures performed))~~ the payment system used by MAA to calculate reimbursement to hospitals for the facility component of outpatient services. This system uses ambulatory payment classifications (APCs) as the primary basis of payment.

**"Outpatient short stay"** ~~((means an acute hospital stay of twenty-four hours or less, with the exception of cases involving:~~

- (1) The death of a client;
- (2) Obstetrical delivery;
- (3) Initial care of a new born; or
- (4) Transfer to another acute care facility.

~~When the department determines that the need for inpatient care is not evidenced in the medical record, even in stays longer than twenty-four hours, the department considers and reimburses the stay as an outpatient short stay.~~

~~**"Outpatient stay"** - See "outpatient short stay.")~~ - See **"observation services"** and **"outpatient hospital services."**

**"Outpatient surgery"** means a surgical procedure that is not expected to require an inpatient hospital admission.

**"Pain treatment facility"** means an MAA-approved inpatient facility for pain management, in which a multidisciplinary approach is used to teach clients various techniques to live with chronic pain.

**"Participating hospital"** means a licensed hospital that accepts MAA clients.

**"PAS length of stay (LOS)"** means the average length of an inpatient hospital stay for patients based on diagnosis and age, as determined by the Commission of Professional and Hospital Activities and published in a book entitled *Length of Stay by Diagnosis, Western Region*. See also **"professional activity study (PAS)."**

**"Patient consent"** means the informed consent of the patient and/or the patient's legal guardian, as evidenced by the patient's or ~~((guardian's))~~ guardian's signature on a consent form, for the procedure(s) to be performed upon or for the treatment to be provided to the patient.

**"Peer group"** - See **"hospital peer group."**

**"Peer group cap"** means the reimbursement limit set for hospital peer groups B and C, established at the seventieth percentile of all hospitals within the same peer group for aggregate operating, capital, and direct medical education costs.

**"Per diem charge"** means the daily room charge, per client, billed by the facility for room and board services that are covered by the department. This is sometimes referred to as "room rate."

**"Personal comfort items"** means items and services which do not contribute meaningfully to the treatment of an illness or injury or the functioning of a malformed body member.

**"PM&R"** - See **"Acute PM&R."**

**"Physician standby"** means physician attendance without direct face-to-face patient contact and does not involve provision of care or services.

**"Physician's current procedural terminology (CPT)"** - See **"CPT."**

**"Plan of treatment"** or **"plan of care"** means the written plan of care for a patient which includes, but is not limited to, the physician's order for treatment and visits by the disciplines involved, the certification period, medications, and rationale indicating need for services.

**"Pregnant and postpartum women (PPW)"** means eligible female clients who are pregnant or until the end of the month which includes the sixtieth day following the end of the pregnancy.

**"Principal diagnosis"** means the condition established after study to be chiefly responsible for the admission of the patient to the hospital for care.

**"Principal procedure"** means a procedure performed for definitive treatment rather than diagnostic or exploratory purposes, or because it was necessary due to a complication.

**"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.

**"Private room rate"** means the rate customarily charged by a hospital for a one-bed room.

**"Professional activity study (PAS)"** means the compilation of inpatient hospital data by diagnosis and age, conducted by the Commission of Professional and Hospital Activities, which resulted in the determination of an average length of stay for patients. The data are published in a book entitled *Length of Stay by Diagnosis, Western Region*.

**"Professional component"** means the part of a procedure or service that relies on the physician's professional skill or training, or the part of a reimbursement that recognizes the physician's cognitive skill.

**"Prognosis"** means the probable outcome of a patient's illness, including the likelihood of improvement or deterioration in the severity of the illness, the likelihood for recurrence, and the patient's probable life span as a result of the illness.

**"Prolonged service"** means direct face-to-face patient services provided by a physician, either in the inpatient or outpatient setting, which involve time beyond what is usual for such services.

**"Prospective payment system (PPS)"** means a system that sets payment rates for a predetermined period for defined services, before the services are provided. The payment rates are based on economic forecasts and the projected cost of services for the predetermined period.

**"Prosthetic device"** or **"prosthetic"** means a replacement, corrective, or supportive device prescribed by a physician or other licensed practitioner of the healing arts, within the scope of his or her practice as defined by state law, to:

- (1) Artificially replace a missing portion of the body;
- (2) Prevent or correct physical deformity or malfunction;
- (3) Support a weak or deformed portion of the body.

**"Psychiatric hospitals"** means Medicare-certified distinct part psychiatric units, Medicare-certified psychiatric hospitals, and state-designated pediatric distinct part psychiatric units in acute care hospitals. State-owned psychiatric hospitals are excluded.

**"Public hospital district"** means a hospital district established under chapter 70.44 RCW.

**"Random claims sample"** means a sample in which all of the items are selected randomly, using a random number table or computer program, based on a scientific method of assuring that each item has an equal chance of being included in the sample. See also **"audit claims sample"** and **"stratified random sample."**

**"Ratable"** means a hospital-specific adjustment factor applied to the cost-based conversion factor (CBCF) to determine state-only program payment rates to hospitals.

**"Ratio of costs-to-charges (RCC)"** means a method used to pay hospitals for services exempt from the DRG payment method. It also refers to the factor applied to a hospital's allowed charges for medically necessary services to determine payment to the hospital for these DRG-exempt services.

**"RCC"** - See **"ratio of costs-to-charges."**

**"Rebasing"** means the process of recalculating the hospital cost-based conversion factors or RCC using historical data.

**"Recalibration"** means the process of recalculating DRG relative weights using historical data.

**"Regional support network (RSN)"** means a county authority or a group of county authorities recognized and certified by the department, that contracts with the department per chapters 38.52, 71.05, 71.24, 71.34, and 74.09 RCW and chapters 275-54, 275-55, and 275-57 WAC.

**"Rehabilitation units"** means specifically identified rehabilitation hospitals and designated rehabilitation units of general hospitals that meet Medicare criteria for distinct part rehabilitation units.

**"Relative weights"** - See **"DRG relative weights."**

**"Remote hospitals"** means hospitals that meet the following criteria during the hospital selective contracting (HSC) waiver application period:

- (1) Are located within Washington state;
- (2) Are more than ten miles from the nearest hospital in the HSC competitive area; and
- (3) Have fewer than seventy-five beds; and

(4) Have fewer than five hundred Medicaid admissions within the previous waiver period.

**"Reserve days"** means the days beyond the ninetieth day of hospitalization of a Medicare patient for a benefit period or spell of illness. See also **"lifetime hospitalization reserve."**

**"Retrospective payment system"** means a system that sets payment rates for defined services according to historic costs. The payment rates reflect economic conditions experienced in the past.

**"Revenue code"** means a nationally-assigned coding system for billing inpatient and outpatient hospital services, home health services, and hospice services.

**"Room and board"** means the services a hospital facility provides a patient during the patient's hospital stay. These services include, but are not limited to, a routine or special care hospital room and related furnishings, routine supplies, dietary and nursing services, and the use of certain hospital equipment and facilities.

**"Rural health clinic"** means a clinic that is located in areas designed by the Bureau of Census as rural and by the Secretary of the Department of Health, Education and Welfare (DHEW) as medically underserved.

**"Rural hospital"** means a rural health care facility capable of providing or assuring availability of health services in a rural area.

**"Secondary diagnosis"** means a diagnosis other than the principal diagnosis for which an inpatient is admitted to a hospital.

**"Selective contracting area (SCA)"** means an area in which hospitals participate in negotiated bidding for hospital contracts. The boundaries of an SCA are based on historical patterns of hospital use by Medicaid patients.

**"Semi-private room rate"** means a rate customarily charged for a hospital room with two to four beds; this charge is generally lower than a private room rate and higher than a ward room. See also **"multiple occupancy rate."**

**"Seven-day readmission"** means the situation in which a ~~(patient)~~ client who was admitted as an inpatient and discharged from the hospital has returned to inpatient status to the same or a different hospital within seven days ~~((as a result of one or more of the following:~~

- (1) A new spell of illness;
- (2) Complication(s) from the first admission;
- (3) ~~A therapeutic admission following a diagnostic admission;~~
- (4) ~~A planned readmission following discharge; or~~
- (5) ~~A premature hospital discharge).~~

~~((**"Short stay"** - See **"outpatient short stay."**))~~

**"Special care unit"** means a department of health (DOH) or Medicare-certified hospital unit where intensive care, coronary care, psychiatric intensive care, burn treatment or other specialized care is provided.

**"Specialty hospitals"** means children's hospitals, psychiatric hospitals, cancer research centers or other hospitals which specialize in treating a particular group of patients or diseases.

**"Spendedown"** means the process of assigning excess income for the medically needy program, or excess income and/or resources for the medically indigent program, to the

client's cost of medical care. The client must incur medical expenses equal to the excess income (spenddown) before medical care can be authorized.

**"Stat laboratory charges"** means the charges by a laboratory for performing a test or tests immediately. "Stat." is the abbreviation for the Latin word "statim" meaning immediately.

**"State plan"** means the plan filed by the department with the Health Care Financing Administration (HCFA), Department of Health and Human Services (DHHS), outlining how the state will administer Medicaid services, including the hospital program.

**"Stratified random sample"** means a sample consisting of claims drawn randomly, using statistical formulas, from each stratum of a universe of paid claims stratified according to the dollar value of the claims. See also **"audit claims sample"** and **"random claims sample."**

**"Subacute care"** means care provided to a patient which is less intensive than that given at an acute care hospital. Skilled nursing, nursing care facilities and other facilities provide subacute care services.

**"Surgery"** means the medical diagnosis and treatment of injury, deformity or disease by manual and instrumental operations. For reimbursement purposes, surgical procedures are those designated in CPT as procedure codes 10000 to 69999.

**"Swing-bed day"** means a day in which an inpatient is receiving skilled nursing services in a hospital designated swing bed at the hospital's census hour. The hospital swing bed must be certified by the health care financing administration ((HCPA)) (HCFA) for both acute care and skilled nursing services.

**"Teaching hospital"** means, for purposes of the teaching hospital assistance program disproportionate share hospital (THAPDSH), the University of Washington Medical Center and Harborview Medical Center.

**"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 a reimbursement that recognizes the equipment cost and technician time.

**"Tertiary care hospital"** means a specialty care hospital providing highly specialized services to clients with more complex medical needs than acute care services.

**"Total patient days"** means all patient days in a hospital for a given reporting period, excluding days for skilled nursing, nursing care, and observation days.

**"Transfer"** means to move a client from one acute care facility or distinct unit to another.

**"Transferring hospital"** means the hospital or distinct unit that transfers a client to another acute care facility.

**"Trauma care facility"** means a facility certified by the department of health as a level I, II, III, IV, or V facility. See chapter 246-976 WAC.

**"Trauma care service"** - See department of health's WAC 246-976-935.

**"UB-92"** means the uniform billing document intended for use nationally by hospitals, nonhospital-based acute PM&R (Level B) nursing facilities, hospital-based skilled nursing facilities, home health, and hospice agencies in billing third party payers for services provided to patients.

**"Unbundled services"** means services which are excluded from the DRG payment to a hospital.

**"Uncompensated care"** - See **"charity care."**

**"Uniform cost reporting requirements"** means a standard accounting and reporting format as defined by Medicare.

**"Uninsured indigent patient"** means an individual who has no health insurance coverage or has insufficient health insurance or other resources to cover the cost of provided inpatient and/or outpatient services.

**"Usual and customary charge (UCC)"** means the charge customarily made to the general public for a procedure or service, or the rate charged other contractors for the service if the general public is not served.

**"Vendor rate increase"** means an inflation adjustment determined by the legislature, used to periodically increase reimbursement to vendors, including health care providers, that do business with the state.

## WSR 04-20-058

### PERMANENT RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed October 1, 2004, 12:49 p.m., effective November 1, 2004]

Effective Date of Rule: November 1, 2004.

Purpose: (Part 2 of 3) The rule updates the department's policy to no longer use the twenty-four-hours-or-less criteria in the definition for "outpatient short stay," and clarifies standards for utilization review. Hospital admissions are based on medical criteria rather than on time in order to bring the department's policies in line with industry standards, promote administrative simplicity for providers, and provide a utilization review that is more consistent with industry standards. This order repeals WAC 388-550-1750 and 388-550-5900 to remove outdated language and place applicable language in other sections.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-550-1750 and 388-550-5900; and amending WAC 388-550-1700 and 388-550-2900.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.500.

Adopted under notice filed as WSR 04-17-112 on August 17, 2004.

A final cost-benefit analysis is available by contacting Linda Ayers, P.O. Box 45506, Olympia, WA 98504, phone (360) 725-1680, fax (360) 586-1471, e-mail [ayer-slr@dshs.wa.gov](mailto:ayer-slr@dshs.wa.gov). The cost-benefit analysis (CBA) is unchanged from the preliminary version.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 2.

Date Adopted: September 27, 2004.

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 01-02-075, filed 12/29/00, effective 1/29/01)

**WAC 388-550-1700 Authorization and utilization review of inpatient and outpatient hospital services** (~~— Prior approval~~). (1) (~~Providers of hospital-related services to clients not enrolled with the department's managed care carriers shall obtain prior approval from the medical assistance administration (MAA) for hospital services requiring prior approval. For inpatient psychiatric admissions and inpatient treatment for alcohol and other substance abuse, see chapter 246-318 and 246-326 WAC respectively.~~

(2) ~~The department shall require that for medical care clients not enrolled with the department's managed care carriers, providers receive prior approval from the department for the following hospital-related services:~~

~~(a) All nonemergent admissions to or planned inpatient hospital surgeries in nonparticipating hospitals in selective contracting areas;~~

~~(b) Inpatient detoxification, medical stabilization, and drug treatment for a pregnant Medicaid client as described under WAC 388-550-1100(3);~~

~~(c) Cataract surgery that does not meet requirements in WAC 388-544-0550;~~

~~(d) The following surgical procedures, regardless of the diagnosis or place of service:~~

~~(i) Hysterectomies for clients forty-four years and younger;~~

~~(ii) Reduction mammoplasty; and~~

~~(iii) Surgical bladder repair.~~

~~(e) All physical medicine and rehabilitation (PM&R) inpatient hospital stays, even when provided by MAA-approved PM&R contract facilities (see WAC 388-550-2300);~~

~~(f) All outpatient magnetic resonance imaging and magnetic resonance angiography procedures;~~

~~(g) All nonemergent inpatient hospital transfers (see WAC 388-550-3600);~~

~~(h) All out-of-state non-emergent hospital stays;~~

~~(i) Hospital-related services as described in WAC 388-550-1800 when not provided in an MAA-approved facility; and~~

~~(j) Services in excess of the department's established limits.~~

~~(3) The department shall inform providers which diagnosis codes from the International Classification of Diseases, 9th Revision, Clinical Modification and procedure codes~~

~~from physicians' current procedural terminology require prior authorization for nonemergent hospital admissions.~~

~~(4) When a client's hospitalization exceeds the number of days allowed by WAC 388-550-4300(2):~~

~~(a) The hospital shall, within sixty days after discharge, submit to MAA a request for authorization of the extra days with adequate medical justification, to include at a minimum the following:~~

~~(i) History and physical examination;~~

~~(ii) Social history;~~

~~(iii) Progress notes and doctor's orders for the entire length of stay;~~

~~(iv) Treatment plan/critical pathway; and~~

~~(v) Discharge summary.~~

~~(b) The department shall approve or deny a length of stay extension request within fifteen working days of receiving the request.~~

~~(5) The department shall require prior approval for out-of-state hospital admissions of clients not enrolled with department's managed care carriers, except for emergent hospitalizations. The department shall inform providers which codes from the current revision of ICD-9CM are designated as emergent diagnosis codes. The nature of the client's emergent medical condition must be fully documented in the client's hospital's records.~~

~~(6) The department shall not reimburse ambulance providers for ambulance transports in cases involving hospital transfers without prior authorization by the department.~~

~~(7) The department shall require that providers receive prior approval from the department for medical transportation to out-of-state treatment programs or services authorized by the department for clients not enrolled with the department's managed care carriers)) This section applies to inpatient and outpatient hospital services provided to medical assistance clients receiving services through the fee-for-service program. For clients receiving services through other programs, see chapter 388-538 WAC (Managed care program), chapters 388-800 and 388-810 WAC (Alcohol and Drug Addiction Treatment and Support Act (ADATSA), and chapter 388-865 WAC (Mental health treatment programs coordinated through the mental health division or its designee). See chapter 388-546 WAC for transportation services.~~

~~(2) The medical assistance administration (MAA) may perform one or more types of utilization reviews described in subsection (3)(b) of this section.~~

~~(3) MAA's utilization review:~~

~~(a) Is a concurrent, prospective and/or retrospective (including post-pay and prepay) formal evaluation of a client's documented medical care to assure that the services provided are proper and necessary and of good quality. The review considers the appropriateness of the place of care, level of care, and the duration, frequency or quantity of services provided in relation to the conditions(s) being treated; and~~

~~(b) Includes one or more of the following:~~

~~(i) "Concurrent utilization review" — an evaluation performed by MAA during a client's course of care;~~

~~(ii) "Prospective utilization review" — an evaluation performed by MAA prior to the provision of healthcare services; and~~

(iii) "Retrospective utilization review" — an evaluation performed by MAA following the provision of healthcare services that includes both a post-payment retrospective utilization review (performed by MAA after healthcare services are provided and reimbursed), and a prepayment retrospective utilization review (performed by MAA after healthcare services are provided but prior to reimbursement).

(4) Covered inpatient and outpatient hospital services must:

(a) Be medically necessary as defined in WAC 388-500-0005;

(b) Be provided at the appropriate level of care as defined in WAC 388-550-1050; and

(c) Meet all authorization and program requirements in WAC and MAA published issuances.

(5) Authorization for inpatient and outpatient hospital services is valid only if the client is eligible for covered services on the date of service. Authorization does not guarantee payment.

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

**AMENDATORY SECTION** (Amending WSR 01-16-142, filed 7/31/01, effective 8/31/01)

**WAC 388-550-2900 Payment limits—Inpatient hospital services.** (1) To receive reimbursement for covered inpatient hospital services, a hospital must:

(a) Have a core-provider agreement with the department; and

(b) Be an in-state ((~~or~~) ~~border~~ ((~~area~~) ~~city~~) hospital that meets the definition in RCW 70.41.020 and is certified under Title XVIII of the federal Social Security Act; or

(c) Be an out-of-state hospital that meets the conditions in WAC 388-550-6700.

(2) The department does not pay:

(a) A hospital for inpatient care and/or services when ((the)) a managed care plan is contracted to cover those services.

~~((3) The department does not pay)~~

(b) A hospital for care or services provided to a client enrolled in the hospice program, unless the care or services are completely unrelated to the terminal illness that qualifies the client for the hospice benefit.

~~((4) The department does not pay)~~

(c) Hospitals for ancillary services in addition to the diagnosis-related group (DRG) payment.

~~((5) When the hospital is paid by the RCC method, the department and the client are not financially responsible for payment of the))~~

(d) For additional days of hospitalization on a non-DRG claim when:

~~((a) The additional))~~

(i) Those days exceed the number of days established at the seventy-fifth percentile ((of the professional activities study (PAS) length of stay (LOS) limitations)) as published in the "Length of Stay by Diagnosis and Operations, Western Region"; and

~~((b))~~ (ii) The hospital has not requested and/or received approval for an extended length of stay (LOS) from the

department as specified in WAC ((388-550-1700; or for psychiatric inpatient stays, the appropriate regional support network (RSN).

~~(6) LOS extensions are not required for claims reimbursed by the DRG method.~~

~~(7) The department is not financially responsible for payment of) 388-550-4300(3).~~

~~(e) For elective or nonemergent inpatient services ((that are included in the department's selective contracting program and for those that a client receives in a nonparticipating hospital in a selective contracting area (SCA) unless the provider meets the department's authorization requirement in WAC 388-550-1700(12). The client may only be held responsible for payment of such services in accordance with WAC 388-502-0160. See WAC 388-550-4600 for selective contracting program requirements.~~

~~(8) The department considers hospital stays of twenty-four hours or less outpatient short stays, and does not pay such stays under the DRG or ratio of costs to charges (RCC) methods unless one of the following situations apply:~~

~~(a) Death of a client;~~

~~(b) Obstetrical delivery;~~

~~(c) Initial care of a newborn; or~~

~~(d) Transfer of a client to another acute care hospital.~~

~~(9) When the department determines that the need for inpatient care is not evidenced in the medical record, even in stays longer than twenty-four hours, the department considers and reimburses the stay as an outpatient short stay.~~

~~(10) When the stay does not meet the definition of an inpatient hospital admission, the department limits reimbursement to the first twenty-four hours of allowed services, and uses the outpatient payment method.~~

~~(11) The department considers all services provided by the hospital within twenty-four hours of admission for a scheduled or elective surgery to be included in the hospital's inpatient payment. These services must not be charged to the client. Clients may only be held financially responsible for services in accordance with WAC 388-502-0160.~~

~~(12) The department does not count toward the threshold for hospital outlier status:~~

~~(a) Any charges for extra days of inpatient stay prior to a scheduled or elective surgery; and~~

~~(b) The associated services provided during those extra days.~~

~~(13) Accommodation charges: The department reimburses charges related to accommodation costs by multiplying the hospital's appropriate room rate charge by the hospital's RCC rate.~~

~~(a) Effective January 1, 2001, the department no longer requires a hospital to provide a room rate change form to indicate its usual and customary accommodation charge. Charges must not exceed the hospital's usual and customary charges to the general public as required by 42 C.F.R. §447.271.~~

~~(b) The department does not pay hospitals for private room accommodations. The department pays a semi-private room rate and requires the hospital to bill using a semi-private room revenue code when the hospital has:~~

~~(i) Only private rooms; or~~



~~(ii) Both private and semi-private rooms and provides an MAA client accommodations in a private room.~~

~~(14) The department determines its actual payment for a hospital admission by deducting from the basic hospital reimbursement the client responsibility amount (referred to as spend down) and any third party liability amount.~~

~~(15) The department reduces reimbursement rates to hospitals for services provided to clients eligible under the state only medically indigent (MI) and medical care services (MCS) programs according to the hospital specific equivalency factor and/or ratable, as provided in WAC 388-550-4800.~~

~~(16) The department pays for the hospitalization of a client who is eligible for Medicare and Medicaid only when the client has exhausted the Medicare Part A benefits)) provided in a nonparticipating hospital. A nonparticipating hospital is defined in WAC 388-550-1050. See also WAC 388-550-4600.~~

(f) For inpatient hospital services when the department determines that the medical record fails to support the medical necessity and inpatient level of care for the inpatient admission.

(3) The department limits payment for private room accommodations to the semi-private room rate. Room charges must not exceed the hospital's usual and customary charges to the general public as required by C.F.R. §447.271.

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.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-550-1750	Services requiring approval.
WAC 388-550-5900	Prior authorization—Outpatient services.

#### WSR 04-20-059

#### PERMANENT RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed October 1, 2004, 12:50 p.m., effective November 1, 2004]

Effective Date of Rule: November 1, 2004.

Purpose: (Part 3 of 3) The rule amends the definition for "inpatient hospital admission" to reflect that the department is no longer using the twenty-four-hours-or-less criteria in the definition for "outpatient short stay." The change is also reflected in other WAC amendments. Hospital admissions are based on medical criteria rather than on time in order to bring the department's policies in line with industry standards and promote administrative simplicity for providers. When effective, this permanent rule will incorporate and supersede amendments to WAC 388-531-0050 filed as emergency rule

WSR 04-15-090 on July 16, 2004. Other emergency rules in WSR 04-15-090 will remain in effect.

Citation of Existing Rules Affected by this Order: Amending WAC 388-531-0050.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.500.

Adopted under notice filed as WSR 04-17-113 on August 17, 2004.

A final cost-benefit analysis is available by contacting Linda Ayers, P.O. Box 45506, Olympia, WA 98504, phone (360) 725-1680, fax (360) 586-1471, e-mail ayerslr@dshs.wa.gov. The cost-benefit analysis (CBA) is unchanged from the preliminary version.

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.

Date Adopted: September 27, 2004.

Brian H. Lindgren, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-19-081, filed 9/12/03, effective 10/13/03)

**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. See also WAC 246-335-015.

**"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 disability services administration (ADSA)"** 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 388-71-0202.

**"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.

**"Bariatric surgery"** means any surgical procedure, whether open or by laparoscope, which reduces the size of the stomach with or without bypassing a portion of the small intestine and whose primary purpose is the reduction of body weight in an obese individual.

**"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.

**"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.

**"Centers for Medicare and Medicaid Services (CMS)"** means the agency within the federal Department of Health and Human Services (DHHS) with oversight responsibility for Medicare and Medicaid programs.

**"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 attention 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 388-531-0550. 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 CMS (formerly known as the Health Care Financing Administration) to define services and procedures not included in CPT.

**"Health care financing administration common procedure coding system (HCPCS)"** means the name used for the Centers for Medicare and Medicaid Services (formerly known as 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))~~ admission to a hospital that is limited to medically necessary care based on an evaluation of the client using objective clinical indicators, assessment, monitoring, and therapeutic service required to best manage the client's illness or injury, and that is documented in the client's medical record.

**"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 alpha-numerical 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 interventions, 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 of 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.

**"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.

WSR 04-20-060

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed October 1, 2004, 12:52 p.m., effective November 1, 2004]

Effective Date of Rule: November 1, 2004.

Purpose: (Part 2 of 2) The rule updates the department's policy for reimbursement for outpatient hospital services in order to be consistent with the filing of a new rule to implement the OPPS program. In addition, the department is no longer using the twenty-four-hours-or-less criteria in the definition for "outpatient short stay" and is replacing language related to the twenty-four-hours-or-less criteria in WAC 388-550-6000 with alternate language.

Citation of Existing Rules Affected by this Order: Amending WAC 388-550-6000.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.500.

Adopted under notice filed as WSR 04-17-110 on August 17, 2004.

A final cost-benefit analysis is available by contacting Cynthia Smith, P.O. Box 45510, Olympia, WA 98504, phone (360) 725-1830, fax (360) 753-9152, e-mail smithch@dshs.wa.gov. The cost-benefit analysis (CBA) is unchanged from the preliminary version.

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.

Date Adopted: September 27, 2004.

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 03-19-044, filed 9/10/03, effective 10/11/03)

**WAC 388-550-6000 ((Payment—))Outpatient hospital services—Conditions of payment and reimbursement.**

(1) The medical assistance administration (MAA) pays ((outpatient hospital providers for providing covered outpatient hospital services to medical assistance clients using the maximum allowable fee schedule and/or the hospital outpatient rate.

(1) Maximum allowable fee schedule:

(a) MAA uses the maximum allowable fee schedule to pay for services listed in the outpatient hospital fee schedule and published in MAA's billing instructions.

(b) Outpatient hospital services are included in the outpatient hospital fee schedule when:

(i) A technical component has been established in the Medicare Fee Schedule Data Base (MFSDB); or

(ii) MAA specifically identifies certain services for payment using the maximum allowable fee schedule.

(e) Outpatient hospital services paid using MAA's maximum allowable fee schedule include:

(i) Laboratory services;

(ii) Imaging services;

(iii) EKG/ECG/EEG and other diagnostics;

(iv) Physical therapy;

(v) Occupational therapy;

(vi) Speech/language therapy;

(vii) Synagis;

(viii) Sleep studies; and

(ix) Other hospital services as identified and published by the department.

(d) MAA's payment for covered services included in the outpatient hospital fee schedule is the lesser of:

(i) The hospital's billed amount; or

(ii) MAA's maximum allowable.

(e) Certain services or supplies listed in the outpatient hospital fee schedule are identified and designated by MAA to be paid by acquisition cost or by report. See subsection (7) of this section for MAA's requirement for submitting invoices.

(2) Outpatient rate:

(a) MAA uses the outpatient rate to pay hospitals for covered services reported on a hospital claim that are not listed in the outpatient hospital fee schedule.

(b) The outpatient rate is a hospital-specific rate that uses the hospital's ratio of costs to charges (RCC) rate as its base. MAA's rate setting method for an outpatient rate is described in WAC 388-500-4500.

(3) The department considers hospital stays of twenty-four hours or less outpatient short stays and uses the outpatient payment methods in subsections (1) and (2) of this section to pay a hospital for these services. However, when an outpatient short stay involves one of the following situations, the department uses inpatient payment methods to pay a hospital for covered services:

(a) Death of a client;

(b) Obstetrical delivery;

(c) Initial care of a newborn; or

(d) Transfer of a client to another acute care hospital.

(4) The department uses the outpatient payment methods in subsections (1) and (2) of this section to pay for covered inpatient hospital services provided within twenty-four hours of a client's inpatient admission that are not related to the admission. Inpatient hospital services provided within twenty-four hours of a client's inpatient admission that are related to the admission are paid according to WAC 388-550-2900(12).

(5) For a client enrolled in an MAA contracted managed care plan, the plan is responsible to pay a hospital provider for hospital services that the plan covers. MAA pays for a service not covered by the managed care plan only when:

(a) The service is included in the scope of coverage under the client's medical assistance program;

(b) The service is medically necessary as defined in WAC 388-550-1050; and

(c) The provider has a current core provider agreement with MAA and meets applicable MAA program requirements in other published WACs.

(6) The department does not pay for:

(a) Room and ancillary services charges beyond the twenty-four hour period for outpatient short stays; or

(b) Emergency room, labor room, observation room, and other room charges in combination when billing periods for these charges overlap.

(7) In order to be paid for covered outpatient hospital services listed in the outpatient hospital fee schedule as a paid at acquisition cost or by report, MAA requires the hospital provider to submit an invoice for billed amounts of five hundred or more.

(8) In order to be paid for covered outpatient hospital services, hospitals must bill MAA according to the conditions of payment under WAC 388-502-0100, time limits under WAC 388-502-0150, and other applicable published issuances. In addition, MAA requires hospitals to bill outpatient claims using the line item date of service and the appropriate revenue codes, admit and discharge hour, current procedural terminology (CPT) codes, healthcare common procedural coding system (HCPCS) codes, and modifiers listed in MAA's published outpatient hospital fee schedule. A hospital's bill to the department must show the admitting, principal, and secondary diagnoses and include the attending physician's name and MAA assigned provider number)) hospitals for covered outpatient hospital services provided to eligible clients when the services meet the provisions in WAC 388-550-1700. All professional medical services must be billed according to chapter 388-531 WAC.

(2) To be paid for covered outpatient hospital services, a hospital provider must:

(a) Have a current core provider agreement with MAA;

(b) Bill MAA according to the conditions of payment under WAC 388-502-0100;

(c) Bill MAA according to the time limits under WAC 388-502-0150; and

(d) Meet program requirements in other applicable WAC and MAA published issuances.

(3) MAA does not pay separately for any services:

(a) Included in a hospital's room charges;

(b) Included as covered under MAA's definition of room and board (e.g., nursing services). See WAC 388-550-1050; or

(c) Related to an inpatient hospital admission and provided within one calendar day of a client's inpatient admission.

(4) MAA does not pay:

(a) A hospital for outpatient hospital services when a managed care plan is contracted with MAA to cover these services;

(b) More than the "acquisition cost" ("A.C.") for HCPCS (Healthcare Common Procedure Coding System) codes noted in the outpatient fee schedule as paid "A.C."; or

(c) For cast room, emergency room, labor room, observation room, treatment room, and other room charges in combination when billing periods for these charges overlap.

(5) MAA uses the outpatient departmental weighted costs-to-charges (ODWCC) rate to pay for covered outpatient services provided in a critical access hospital (CAH). See WAC 388-550-2598.

(6) MAA uses the maximum allowable fee schedule to pay non-OPPS hospitals and non-CAH hospitals for the fol-

lowing types of covered outpatient hospital services listed in MAA's current published outpatient hospital fee schedule and billing instructions:

(a) Laboratory services;

(b) Imaging services;

(c) EKG/ECG/EEG and other diagnostics;

(d) Physical therapy;

(e) Speech/language therapy;

(f) Synagis;

(g) Sleep studies; and

(h) Other hospital services identified and published by the department.

(7) MAA uses the hospital outpatient rate as described in WAC 388-550-4500 to pay for covered outpatient hospital services when:

(a) A hospital provider is a non-OPPS or a non-CAH provider; and

(b) The services are not included in subsection (6) of this section.

(8) Hospitals must provide documentation as required and/or requested by MAA.

## WSR 04-20-061

### PERMANENT RULES DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed October 1, 2004, 12:53 p.m., effective November 1, 2004]

Effective Date of Rule: November 1, 2004.

Purpose: (Part 1 of 2) The new rules improve the area of outpatient hospital expenditures, by implementing a new Medicaid payment method for outpatient hospital services provided to Medicaid clients. The outpatient prospective payment system (OPPS) uses claims and cost data to calculate reimbursement to hospitals for the facility component of outpatient services, and uses ambulatory payment classifications (APCs) as the primary basis of payment.

Adopting new sections WAC 388-550-7000 Outpatient prospective payment system (OPPS)—General, 388-550-7050 OPPS—Definitions, 388-550-7100 OPPS—Exempt hospitals, 388-550-7200 OPPS—Payment method, 388-550-7300 OPPS—Payment limitations, 388-550-7400 OPPS APC relative weights, 388-550-7500 OPPS APC conversion factor, and 388-550-7600 OPPS payment calculation.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.500.

Adopted under notice filed as WSR 04-17-109 on August 17, 2004.

Changes Other than Editing from Proposed to Adopted Version: The text of the proposed [adopted] rule varies from the text of the proposed rule. The changes follow (text additions are indicated by underlining, and deletions are indicated by ~~strikeouts~~):

WAC 388-550-7050 "Ambulatory payment classification (APC) conversion factor" means a ~~hospital-specific~~ dollar amount...

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WAC 388-550-7050 "Budget target" means the amount of money allocated appropriated by the legislature or through MAA's budget process to pay for a specific group of services, including anticipated caseload changes or vendor rate increases.

WAC 388-550-7100 ... (Refer to other sections in chapter 388-550 WAC for alternative outpatient payment methods MAA uses to pay hospital providers that are exempt from MAA's OPSS.)

WAC 388-550-7200(1), the section describes... for covered outpatient hospital services provided by hospitals not exempted from the outpatient prospective payment system (OPSS).

WAC 388-550-7200(2), (addition agreed upon by stakeholder and MAA.) MAA uses the APC method when... (CMS) has established weight(s) either an APC weight or a national payment rate to pay for covered:

WAC 388-550-7200(3), MAA uses the OPSS fee schedule published in the OPSS section of MAA's billing instructions to pay for covered:

WAC 388-550-7600(1), MAA calculates the ambulatory payment classification (APC) payment as follows: APC payment = APC relative weight x APC hospital-specific conversion factor x...

WAC 388-550-7600(2), the total OPSS claim payment is the lesser of the: (a) Allowed charges for the claim; or (b) Sum of the APC payments plus the sum of the lesser of the billed charge or allowed charge payments for each non-APC service.

A final cost-benefit analysis is available by contacting Cynthia Smith, P.O. Box 45510, Olympia, WA 98504, phone (360) 725-1830, fax (360) 753-9152, e-mail smithch@dshs.wa.gov. The cost-benefit analysis (CBA) is unchanged from the preliminary version.

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 8, 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 8, Amended 0, Repealed 0.

Date Adopted: September 27, 2004.

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

## NEW SECTION

**WAC 388-550-7000 Outpatient Prospective Payment System (OPSS)—General.** (1) The medical assistance administration's (MAA's) outpatient prospective payment system (OPSS) uses an ambulatory payment classification

(APC) based reimbursement methodology as its primary reimbursement method. MAA is basing its OPSS on the Centers for Medicare and Medicaid Services (CMS) Prospective Payment System for Hospital Outpatient Department Services.

(2) For a complete description of the CMS outpatient hospital prospective payment system, including the assignment of status indicators (SIs), see 42 CFR, Chapter IV, Part 419. The Code of Federal Regulations (CFR) is available from the CFR website and the Government Printing Office, Seattle office. The document is also available for public inspection at the Washington state library (a copy of the document may be obtained upon request, subject to any pertinent charge).

## NEW SECTION

**WAC 388-550-7050 OPSS—Definitions.** The following definitions and abbreviations and those found in WAC 388-550-1050 apply to the medical assistance administration's (MAA's) outpatient prospective payment system (OPSS):

"**Alternative outpatient payment**" means a payment calculated using a method other than the ambulatory payment classification (APC) method, such as the outpatient hospital rate or the fee schedule.

"**Ambulatory payment classification (APC)**" means a grouping that categorizes outpatient visits according to the clinical characteristics, the typical resource use, and the costs associated with the diagnoses and the procedures performed.

"**Ambulatory payment classification (APC) weight**" means the relative value assigned to each APC.

"**Ambulatory payment classification (APC) conversion factor**" means a dollar amount that is one of the components of the APC payment calculation.

"**Budget target**" means the amount of money appropriated by the legislature or through MAA's budget process to pay for a specific group of services, including anticipated caseload changes or vendor rate increases.

"**Budget target adjustor**" means the MAA specific multiplier applied to all payable ambulatory payment classifications (APCs) to allow MAA to reach and not exceed the established budget target.

"**Discount factor**" means the percentage applied to additional significant procedures when a claim has multiple significant procedures or when the same procedure is performed multiple times on the same day. Not all significant procedures are subject to a discount factor.

"**Medical visit**" means diagnostic, therapeutic, or consultative services provided to a client by a healthcare professional in an outpatient setting.

"**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 hospital 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.

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**"Observation services"** means services furnished by a hospital on the hospital's premises, including use of a bed and periodic monitoring by hospital staff, which are reasonable and necessary to evaluate an outpatient's condition or determine the need for possible admission to the hospital as an inpatient.

**"Outpatient code editor (OCE)"** means a software program published by 3M Health Information Systems that MAA uses for classifying and editing claims in ambulatory payment classification (APC) based OPSS.

**"Outpatient prospective payment system (OPSS)"** means the payment system used by MAA to calculate reimbursement to hospitals for the facility component of outpatient services. This system uses ambulatory payment classifications (APCs) as the primary basis of payment.

**"Pass-throughs"** means certain drugs, devices, and biologicals, as identified by Centers for Medicare and Medicaid Services (CMS), for which providers are entitled to additional separate payment until the drugs, devices, or biologicals are assigned their own ambulatory payment classification (APC).

**"Significant procedure"** means a procedure, therapy, or service provided to a client that constitutes the primary reason for the visit to the healthcare professional.

**"Status indicator (SI)"** means a one-digit identifier assigned to each service by the outpatient code editor (OCE) software.

"SI" see "status indicator."

#### NEW SECTION

**WAC 388-550-7100 OPSS—Exempt hospitals.** The medical assistance administration (MAA) exempts the following hospitals from the initial implementation of MAA's outpatient prospective payment system (OPSS). (Refer to other sections in chapter 388-550 WAC for outpatient payment methods MAA uses to pay hospital providers that are exempt from MAA's OPSS.)

- (1) Cancer hospitals;
- (2) Critical access hospitals;
- (3) Free-standing psychiatric hospitals;
- (4) Out-of-state hospitals (Bordering-city hospitals are considered in-state hospitals. See WAC 388-550-1050.);
- (5) Pediatric hospitals;
- (6) Peer group A hospitals;
- (7) Rehabilitation hospitals; and
- (8) Veterans' and military hospitals.

#### NEW SECTION

**WAC 388-550-7200 OPSS—Payment method.** (1) This section describes the payment methods the medical assistance administration (MAA) uses to pay for covered outpatient hospital services provided by hospitals not exempted from the outpatient prospective payment system (OPSS).

#### **AMBULATORY PAYMENT CLASSIFICATION (APC) METHOD**

(2) MAA uses the APC method when the Centers for Medicare and Medicaid Services (CMS) has established either an APC weight or a national payment rate to pay for covered:

- (a) Medical visits;
- (b) Significant procedures that are not subject to multiple procedure discounting;
- (c) Significant procedures that are subject to multiple procedure discounting;
- (d) Nonpass-through drugs or devices;
- (e) Observation services; and
- (f) Ancillary services.

#### **OPSS MAXIMUM ALLOWABLE FEE SCHEDULE**

(3) MAA uses the OPSS fee schedule published in the OPSS section of MAA's billing instructions to pay for covered:

- (a) Services that are exempted from the APC payment methodology or services for which there are no established weight(s);
- (b) Procedures that are on the CMS inpatient only list;
- (c) Items, codes, and services that are not covered by Medicare;
- (d) Corneal tissue acquisition;
- (e) Drugs or biologicals that are pass-throughs; and
- (f) Devices that are pass-throughs.

#### **HOSPITAL OUTPATIENT RATE**

(4) MAA uses the hospital outpatient rate described in WAC 388-550-4500 to pay for the services listed in subsection (3) of this section for which MAA has not established a maximum allowable fee.

#### NEW SECTION

**WAC 388-550-7300 OPSS—Payment limitations.** (1) The medical assistance administration (MAA) limits payment for covered outpatient hospital services to the current published maximum allowable units of services listed in the outpatient prospective payment system (OPSS) fee schedule and published in the OPSS section of MAA's hospital billing instructions, subject to the following:

(a) When a unit limit for services is not stated in the OPSS fee schedule, MAA pays for services according to the program's unit limits stated in applicable WAC and published issuances.

(b) Because multiple units for services may be factored into the ambulatory payment classification (APC) weight, MAA pays for services according to the unit limit stated in the OPSS fee schedule when the limit is not the same as the program's unit limit stated in applicable WAC and published issuances.

(2) MAA does not pay separately for covered services that are packaged into the APC rates. These services are paid through the APC rates.

#### NEW SECTION

**WAC 388-550-7400 OPSS APC relative weights.** The medical assistance administration (MAA) uses the ambulatory payment classification (APC) relative weights established by the Centers for Medicare and Medicaid Services (CMS). MAA updates the APC relative weights at least quarterly in conjunction with the outpatient code editor (OCE) updates.



NEW SECTION

**WAC 388-550-7500 OPPTS APC conversion factor.**

The medical assistance administration (MAA) uses the ambulatory payment classification (APC) conversion factors established by the Centers for Medicare and Medicaid Services (CMS) and in effect on November 1, 2004, as MAA's initial APC conversion factors. MAA updates its APC conversion factors at least biannually.

NEW SECTION

**WAC 388-550-7600 OPPTS payment calculation. (1)**

The medical assistance administration (MAA) follows the discounting and modifier policies of the Centers for Medicare and Medicaid Services (CMS). MAA calculates the ambulatory payment classification (APC) payment as follows:

APC payment=  
 APC relative weight x APC conversion factor x  
 Discount factor (if applicable) x Units of service (if applicable) x  
 Budget target adjustor

(2) The total OPPTS claim payment is the sum of the APC payments plus the sum of the lesser of the billed charge or allowed charge for each non-APC service.

**WSR 04-20-079  
 PERMANENT RULES  
 DEPARTMENT OF  
 LABOR AND INDUSTRIES**

[Filed October 5, 2004, 9:47 a.m., effective February 1, 2005]

Effective Date of Rule: February 1, 2005.

Purpose: Chapter 296-864 WAC, Split (multi-piece) rim and single-piece rim wheels; chapter 296-24 WAC, General safety and health; and chapter 296-155 WAC, Safety standards for construction work. The split rim rules in chapter 296-24 WAC, General safety and health standard, and chapter 296-155 WAC, Safety standards for construction workers, were rewritten and reorganized for clarity and ease of use for employers and employees. The two sections have become one rule and placed into new chapter 296-864 WAC, and repealed from chapters 296-24 and 296-155 WAC. This rule making is part of our clear rule-writing initiative to rewrite for clarity all of the safety and health rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 296-24-21701 Scope, 296-24-21703 Definitions, 296-24-21705 Employee training, 296-24-21707 Tire servicing equipment, 296-24-21709 Wheel component acceptability, 296-24-21711 Safe operating procedure—Multi-piece rim wheels, 296-24-21713 Safe operating procedure—Single-piece rim wheels, 296-155-617 Servicing multi-piece and single-piece rim wheels, 296-155-61701 Scope, 296-155-61703 Definitions, 296-155-61705 Employee training, 296-155-61707 Tire servicing equipment, 296-155-61709 Wheel component acceptability, 296-155-61711 Safe operating procedure—Multi-piece rim wheels, and 296-155-61713 Safe operating procedure—Single-piece rim wheels.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060.

Adopted under notice filed as WSR 04-12-071 on June 1, 2004.

Changes Other than Editing from Proposed to Adopted Version: There were two significant changes to the proposed wording. The first is located in WAC 296-864-20010, a bullet that reads, "Make sure you don't repair any rim wheel that is cracked, broken, bent, or damaged," was added. The second is located in Table 3, when inflating tires outside of a restraining device, make sure you don't exceed 5 psi to seat the bead.

The changes made between the proposed rules and the final rules were needed to correct an inadvertent error, which left two requirements out of the rule. The changes were noted and read at the hearing.

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 23, Amended 1, Repealed 15.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 23, Amended 1, Repealed 15.

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 23, Amended 1, Repealed 15.

Date Adopted: October 5, 2004.

Paul Trause  
 Director

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-24-21701	Scope.
WAC 296-24-21703	Definitions.
WAC 296-24-21705	Employee training.
WAC 296-24-21707	Tire servicing equipment.
WAC 296-24-21709	Wheel component acceptability.
WAC 296-24-21711	Safe operating procedure—Multi-piece rim wheels.
WAC 296-24-21713	Safe operating procedure—Single-piece rim wheels.

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

**WAC 296-24-233 Motor vehicle trucks and trailers.**  
 (1) Only qualified drivers shall be permitted to operate motor

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vehicle trucks, and shall possess a current motor vehicle operator's license.

(2) Motor vehicle trucks must be equipped with brakes which will safely hold the maximum load on maximum grades.

(3) Trailers must be equipped with good, workable air brakes, or other type of brake equipment approved by the state commission on equipment. Air must be cut into the trailer brake system at the time that the trailer is coupled to the truck.

(4) Brakes on trucks and trailers must be tested before equipment descends a steep grade.

(5) Truck drivers shall at all times operate equipment at a safe speed for roadway conditions.

(6) Safe methods of loading and unloading motor vehicle trucks and trailers shall be observed at all times.

(7) To prevent accidents during the backing of trucks where vision is obstructed, a signalperson shall be stationed at a point giving a clear view of the rear of the truck and the operator of the truck at all times.

(8) Truck drivers shall sound their horn before starting to back, and shall sound the horn intermittently during the entire backing operation.

(9) Dump trucks shall have a device installed on the frame which will be of sufficient strength to hold the bed in the raised position when employees are working in an exposed position underneath.

(10) All parts and accessories of trucks and trailers shall be kept in good repair and safe condition. Tires worn beyond the point of safety shall not be used.

(11) All motor vehicle trucks and trailers shall be equipped with standard lights, horn, flags, flares, etc., to conform to the state of Washington motor vehicles laws.

(12) All loads transported on trucks and/or trucks and trailers shall be properly secured and distributed, and limited to a safe operating load for the condition of the roadway, and the capacity of the bridges, trestles, and other structures.

~~(13) ((Precautions to be taken while inflating tires. Unmounted split rim wheels shall be placed in a safety cage or other device shall be used which will prevent a split rim from striking the worker if it should dislodge while the tire is being inflated.~~

~~(14))~~ (14) Trucks parked on an incline shall have the steered wheels turned into the curb and shall have at least one "driver" wheel chocked on each side, independent of the braking system.

~~((15))~~ (14) Motor vehicles used regularly for transportation of workers shall be well equipped, covered against the weather and maintained in good mechanical condition at all times.

(a) Seats, which shall be properly secured, shall be provided in each vehicle to accommodate the total number of workers normally transported. Where it becomes necessary under emergency conditions to transport more workers than the seating capacity of the truck will accommodate, all workers not having seats shall ride within the vehicle. Under no circumstances shall workers ride on fenders or running boards of the vehicle.

(b) No workers shall ride in or on any vehicle with legs hanging over the end or sides. A safety bar should be placed

across the rear opening of all trucks carrying workers which are not equipped with tail gates.

(c) Vehicles shall be equipped with compartments or screen of such strength to retain sharp tools which could present a hazard to employees being transported.

(d) All dump-trucks used to transport workers shall be equipped with an adequate safety chain or locking device which will eliminate the possibility of the body of the truck being raised while workers are riding in the truck.

(e) Explosives or highly inflammable materials shall not be carried in or on any vehicle while it is used to transport workers.

(f) Exhaust systems shall be installed and maintained in proper condition, and shall be so designed as to eliminate the exposure of the workers to the exhaust gases and fumes.

(g)(i) The number of persons allowed in the cab of a single bench seat crew truck shall not exceed two in addition to the driver. Crew trucks designed and constructed with additional seating capacity behind the normal driver's seat may carry additional passengers in the seating area behind the driver's seat. Crew trucks with bucket-type seats may carry only the number of passengers for which the bucket seats are provided. In any seating arrangement, the driver must be able to maintain full freedom of motion. Additionally, the number of passengers or seating arrangement shall not obstruct the driver's normal vision.

(ii) When trucks are designed and constructed with larger than normal seating capacity in the front seat, the total number of passengers may be increased provided that the operator's vision and control functions, as required in (15)(g)(i), are maintained.

(h) All enclosed crew trucks shall have an emergency exit in addition to the regular entrance.

(i) Trucks used for hauling gravel shall not be used as crew trucks unless they are equipped as follows:

(i) Steps in proper place or places.

(ii) Wooden floors.

(iii) Seats are securely fastened.

(iv) Truck is properly covered.

(v) All other general regulations covering crew trucks are fully conformed with.

(j) Half-ton vehicles shall haul not more than six persons including driver. Three-quarter-ton vehicles shall haul not more than eight persons including driver.

(k) All vehicles carrying crews shall be equipped with stretchers and fire extinguishers.

(l) No heating units in which there are open fires shall be used in vehicles transporting crews.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-155-617	Servicing multipiece and single-piece rim wheels.
WAC 296-155-61701	Scope.
WAC 296-155-61703	Definitions.
WAC 296-155-61705	Employee training.

WAC 296-155-61707	Tire servicing equipment.
WAC 296-155-61709	Wheel component acceptability.
WAC 296-155-61711	Safe operating procedure— Multipiece rim wheels.
WAC 296-155-61713	Safe operating procedure— Single-piece rim wheels.

### Chapter 296-864 WAC

#### Split (Multipiece) Rim and Single-Piece Rim Wheels

#### NEW SECTION

##### WAC 296-864-100 Scope.

**Note:** This rule is intended to protect employees from hazards associated with the exploding separation of rim wheel components.

This chapter applies to the protection of employees who service split rim wheels and single-piece rim wheels used on large vehicles. For example:

- Trucks;
  - Tractors;
  - Trailers;
  - Buses;
- AND
- Off-road machines.

**Exemption:** This chapter does not apply to the servicing of rim wheels used on:

- Automobiles;

OR

- Tires designated as light truck (LT).

**Note:** The tire designation can be found on the sidewall of the tire.

##### **Definition:**

**Split rim wheel or multipiece rim wheel,** means a wheel made up of two or more parts. One of the parts is a side ring or locking ring that holds the tire on the wheel when the tire is inflated.

**Single-piece rim wheel** means a single part holds the tire, forms part of the air chamber and is the point where the wheel is attached to the vehicle axle.

#### NEW SECTION

##### WAC 296-864-200 Wheel components.

##### **Summary:**

##### **Your responsibility:**

To make sure rim wheels are serviced safely.

##### **You must:**

Make sure wheel components are compatible

WAC 296-864-20005.

Make sure rim wheels are serviced safely

WAC 296-864-20010.

Make sure damaged wheel components are not used

WAC 296-864-20015.

#### NEW SECTION

**WAC 296-864-20005 Make sure wheel components are compatible.**

##### **You must:**

• Make sure tires and rim wheels are compatible before assembly.

• Make sure split rim wheel components are not interchanged, except as provided in:

– The Occupational Safety and Health Administration (OSHA) and National Highway Traffic Safety Administration (NHTSA) charts, "*Demounting and Mounting Procedures for Truck/Bus Tires*" and "*Multi-Piece Rim Matching Chart*,"

OR

– The rim manual for that component.

**Note:** Reprints of these charts, "*Demounting and Mounting Procedures for Truck/Bus Tires*" and "*Multi-Piece Rim Matching Chart*," are available:

• Through the WISHA Training and Outreach office at 360-902-5638.

• Through the OSHA area offices. The address and telephone number of the nearest OSHA area office can be obtained by looking in the local telephone directory under U.S. Government, U.S. Department of Labor, Occupational Safety and Health Administration.

• From the OSHA website at <http://www.osha.gov/pls/publications/pubindex.continue>.

• Through U.S. Postal Service at:

Publications Office

U.S. Department of Labor

Room N3101

Washington D.C. 20210.

Telephone: 202-523-9667.

#### NEW SECTION

**WAC 296-864-20010 Make sure rim wheels are serviced safely.**

##### **You must:**

• Inspect split rim wheel components and single-piece wheels prior to assembly.

• Make sure the following are free of any dirt, surface rust, scale or loose or flaked rubber build-up prior to mounting and inflation:

- Rim flanges;
- Rim gutters;
- Rings;
- Bead seating surfaces;

AND

– The bead areas of tires.

• Make sure you do not heat any rim wheels at any time.

• Make sure you do not repair any rim wheel that is:

- Cracked;
- Broken;
- Bent;

OR

– Damaged.

**Note:** Repair includes activities such as striking with a hammer and heating rim wheel components.

• Provide and make sure that an air line assembly consisting of the following components is used for inflating tires:

- A clip-on chuck;
- An in-line valve with a pressure gauge or a presettable regulator;

AND

– A sufficient length of hose between the clip-on chuck and the in-line valve, if one is used, to allow the employee to stand outside the trajectory.

**Reference:** For additional requirements relating to compressed air tools, see WAC 296-807-140, Compressed air tools, in portable power tools.

#### NEW SECTION

**WAC 296-864-20015 Make sure damaged wheel components are not used.**

**You must:**

• Make sure any wheel or wheel component that is bent out of shape, pitted from corrosion, broken or cracked is:

- Not used;
- Marked or tagged unserviceable;

**AND**

- Removed from the service area.
- Replace damaged or leaky valves.

#### **SPLIT (MULTIPIECE) RIM AND SINGLE-PIECE RIM WHEELS**

#### NEW SECTION

**WAC 296-864-300 Restraint devices.**

**Your responsibility:**

To make sure your restraint devices are safe.

**You must:**

Use a restraining device

WAC 296-864-30005.

Make sure the restraint device meets these requirements

WAC 296-864-30010.

Provide charts or rim manuals

WAC 296-864-30015.

#### NEW SECTION

**WAC 296-864-30005 Use a restraining device.**

**You must:**

- Use a restraining device for inflating tires on split rim wheels.
- Use a restraining device or barrier for inflating tires on single-piece wheels.

**Exemption:** A restraining device or barrier is not required for single-piece rim wheels, if the rim wheel will be bolted onto a vehicle during inflation.

#### NEW SECTION

**WAC 296-864-30010 Make sure the restraint device meets these requirements.**

**You must:**

- Make sure the restraining device or barrier can withstand a rim wheel separation that occurs at one hundred fifty percent of the maximum tire pressure specified.
- Make sure the restraining devices and barriers will contain any components that may be thrown out during a wheel separation of any rim wheel.
- Make sure restraining devices and barriers are visually inspected:

– Prior to each day's use;

**AND**

– After any separation of the rim wheel components or sudden release of air.

• Make sure any restraining device or barrier that shows damage is immediately removed from service. Examples of damage include:

- Cracks at welds;
  - Cracked or broken components;
  - Bent or sprung components caused by mishandling, abuse, tire explosion or rim wheel separation;
  - Pitting of components due to corrosion;
- OR**
- Other structural damage that would decrease its effectiveness.

• Make sure restraining devices or barriers removed from service are not used until they are repaired and reinspected.

• Make sure restraining devices or barriers that need structural repair are not used until they are certified by either:

– The manufacturer;

**OR**

– A registered professional engineer.

**Note:** The certification needs to show that the barrier can withstand a force of one hundred fifty percent of the maximum tire pressure in the event of wheel separation.

#### NEW SECTION

**WAC 296-864-30015 Provide charts or rim manuals.**

**You must:**

- Provide current charts or rim manuals containing instructions for the types of wheels being serviced in the service area.
- Provide and use only tools recommended in the rim manual for the specific type of rim wheel being serviced.

#### NEW SECTION

**WAC 296-864-400 Service split rim wheels safely.**

**Your responsibility:**

To establish and use procedures to service split rim wheels safely.

**You must:**

Establish a safe operating procedure for split rim wheels WAC 296-864-40005.

Follow these procedures for demounting split rim wheels WAC 296-864-40010.

Follow these procedures when working on split rim wheels and components

WAC 296-864-40015.

Follow these procedures for inflating split rim wheels

WAC 296-864-40020.

#### NEW SECTION

**WAC 296-864-40005 Establish a safe operating procedure for split rim wheels.**

**You must:**

• Establish a safe operating procedure for servicing split rim wheels that includes the procedures in WAC 296-864-40010 through 296-864-40020.

- Instruct employees in that procedure.

**NEW SECTION**

**WAC 296-864-40010** Follow these procedures for demounting split rim wheels.

**You must:**

- Follow the relevant procedures in Table 1, Procedures for Deflating Split Rim Wheels.

**Table 1**

**Procedures for Demounting Split Rim Wheels**

During these times	Then
Demounting rim wheels.	Make sure tires are completely deflated before demounting by removal of the valve core.
During either of the following situations:  – The tire has been driven underinflated at eighty percent or less of its recommended pressure; <b>OR</b> – There is obvious or suspected damage to the tire or wheel components.	Deflate the tires completely by removing the valve core, before a rim wheel is removed from the axle.

**NEW SECTION**

**WAC 296-864-40015** Follow these procedures when working on split rim wheels and components.

**You must:**

- Follow the relevant procedures in Table 2, Procedures for Working on Split Rim Wheels and Components.

**Table 2**

**Procedures for Working on Split Rim Wheels and Components**

During these times	Then
A split rim wheel is in a restraining device.	Make sure employees do not rest or lean any part of the body or equipment on or against the restraining device.
Assembly of the wheel and inflation of the tire.	Apply rubber lubricant to bead and rim mating surfaces, unless the tire or wheel manufacturer recommends against it.
After tire inflation.	Do both of the following: Inspect the tire and wheel components while still within the restraining device;

**Table 2**

**Procedures for Working on Split Rim Wheels and Components**

During these times	Then
	AND
	Make sure that they are properly seated and locked.
When adjusting the tire or wheel components.	Deflate the tire by removal of the valve core before the adjustment is made.

**NEW SECTION**

**WAC 296-864-40020** Follow these procedures for inflating split rim wheels.

**You must:**

- Follow the relevant procedures in Table 3, Procedures for Inflating Split Rim Wheels.

**Table 3**

**Procedures for Inflating Split Rim Wheels**

During these times	Then
Split rim wheels are being inflated.	Make sure employees stay out of the trajectory.
When all of the following occur:  A tire on a vehicle has more than eighty percent of the recommended pressure; <b>AND</b> Remote control inflation equipment is used; <b>AND</b> No employees are in the trajectory during inflation.	The tire may be inflated while the rim wheel is on the vehicle.
Assembly of the wheel and inflation of the tire.	Apply rubber lubricant to bead and rim mating surfaces, unless the tire or wheel manufacturer recommends against it.
Inflating tires outside of a restraining device.	Make sure you do not exceed 5 psi (pounds per square inch) to seat the bead.
The tire is pressurized.	Make sure you don't correct the seating of side and lock rings by hammering, striking or forcing the components.

- Note:**
- Employees should stay out of the trajectory as much as possible while installing the split rim wheel onto the vehicle.
  - The trajectory may deviate from its expected path.

PERMANENT

**NEW SECTION**

**WAC 296-864-500** Service single-piece rim wheels safely. **Your responsibility:**

To establish and use procedures to service single-piece rim wheels safely.

**You must:**

Establish a safe operating procedure for single-piece rim wheels

WAC 296-864-50005.

Follow these procedures for demounting single-piece rim wheels

WAC 296-864-50010.

Follow these procedures when working on single-piece rim wheel components

WAC 296-864-50015.

Follow these procedures for inflating single-piece rim wheels

WAC 296-864-50020.

**NEW SECTION**

**WAC 296-864-50005** Establish a safe operating procedure for single-piece rim wheels.

**You must:**

- Establish a safe operating procedure for servicing single-piece rim wheels that includes the procedures in WAC 296-864-50010 through 296-864-50020.
- Instruct employees in that procedure.

**NEW SECTION**

**WAC 296-864-50010** Follow these procedures for demounting single-piece rim wheels.

**You must:**

- Follow the relevant procedures in Table 4, Procedures for Demounting Single-Piece Wheel Components.

**Table 4**

**Procedures for Demounting Single-Piece Rim Wheels**

During these times	Then
At all times.	Make sure mounting and demounting of the tire is done only from the narrow ledge side of the wheel.
When demounting rim wheels.	Make sure tires are completely deflated before demounting by removal of the valve core.

**NEW SECTION**

**WAC 296-864-50015** Follow these procedures when working on single-piece rim wheels and components.

**You must:**

- Follow the relevant procedures in Table 5, Procedures for Working on Single-Piece Wheel Components.

**Table 5**

**Procedures for Working on Single-Piece Rim Wheel Components**

During these times	Then
At all times.	Avoid damaging the tire beads while mounting tires on wheels.
At all times.	Make sure tires are mounted only on compatible wheels of matching bead diameter and width.
Before assembly of the rim wheel.	Apply rubber lubricant to bead and wheel mating surfaces, unless the tire or wheel manufacturer recommends against the use of any rubber lubricant.
When using a tire changing machine.	Make sure the tire is inflated only to the minimum pressure necessary to force the tire bead onto the rim ledge while on the tire changing machine.
When using a bead expander.	Make sure it is removed:  – Before the valve core is installed; <b>AND</b> – As soon as the rim wheel becomes airtight (the tire bead slips onto the bead seat).

**Note:** You should not inflate tires above 40 psi to seat the bead.

**NEW SECTION**

**WAC 296-864-50020** Follow these procedures for inflating single-piece rim wheels.

**You must:**

- Inflate tires only when contained within a restraining device or bolted on the vehicle with the lug nuts fully tightened.
- Make sure tires are not inflated when any flat, solid surface is in the trajectory and within one foot of the sidewall.
- Make sure employees stay out of the trajectory when inflating a tire.
- Make sure, when inflating tires, that the inflation pressure stamped in the sidewall isn't exceeded unless the manufacturer recommends a higher pressure.
- Make sure tires aren't inflated above the maximum pressure recommended by the manufacturer to seat the tire bead firmly against the rim flange.

PERMANENT

**NEW SECTION**

**WAC 296-864-600 Employee training.**

**Your responsibility:**

To train employees to service split rim and single-piece rim wheels.

**You must:**

Train employees who service rim wheels  
WAC 296-864-60005.

Make sure employees demonstrate and retain the ability to service rim wheels safely

WAC 296-864-60010.

**NEW SECTION**

**WAC 296-864-60005 Train employees who service rim wheels. You must:**

- Train all employees who service rim wheels.
- Make sure that employees do not service any rim wheel until they have been trained and instructed in:
  - Correct procedures of servicing the type of wheel being worked on;

AND

– The safe operating procedures described in:

- WAC 296-864-400, Service split rim wheels safely;

AND

■ WAC 296-864-500, Service single-piece rim wheels safely.

• Make sure the training program explains the hazards involved in servicing those rim wheels and the safety procedures to be followed.

• Make sure the training program includes, at a minimum, the applicable data from the:

- Charts;
- Rim manuals;

AND

– Contents of this standard.

**NEW SECTION**

**WAC 296-864-60010 Make sure employees demonstrate and retain the ability to service rim wheels safely.**

**You must:**

• Make sure that each employee demonstrates the ability to service rim wheels safely, including performing the following tasks for the specified type of rim wheel in Table 6.

**Table 6  
Required Training Tasks**

Required Task	Split Rim	Single-Piece Rim
Demounting and deflation of tires.	X	X
Inspection and identification of the rim wheel components.	X	X
Hazards of mixing 16" and 16.5" tires and rims.		X
Mounting of tires.	X	X

**Table 6  
Required Training Tasks**

Required Task	Split Rim	Single-Piece Rim
Inflation of tires with a restraining device or other safeguard required by this section.	X	X
Use of the restraining device or barrier, and other equipment required by this section.	X	X
Handling of rim wheels.	X	X
Inflation of the tire when a rim wheel is mounted on a vehicle.		X
The hazards associated with standing in front of a split rim or single-piece rim wheel: <ul style="list-style-type: none"> <li>– During inflation of the tire;</li> <li>– During inspection of the rim wheel following inflation;</li> </ul> AND <ul style="list-style-type: none"> <li>– Installation and removal of rim wheels.</li> </ul>	X	X

**You must:**

- Make sure any employee that is unable to read the charts or rim manual is effectively trained on their contents.
- Evaluate each employee's ability to perform these tasks and to service rim wheels safely.
- Provide additional training as necessary to make sure that each employee maintains his or her proficiency.

**Helpful tool:**

**Training checklist**

The optional training checklist can help you monitor the training status of your employees. You can find this checklist in the resources section of this chapter.

**NEW SECTION**

**WAC 296-864-700 Definitions.**

**Barrier** means a fence, wall or other object placed between a single-piece rim wheel and an employee during tire inflation that will contain the components if the air in the tire is suddenly released.

**Charts** means:

- The United States Department of Labor, Occupational Safety and Health Administration publications entitled "*Demounting and Mounting Procedures for Truck/Bus Tires*" and "*Multi-Piece Rim Matching Chart*";

- The National Highway Traffic Safety Administration (NHTSA) publications entitled "*Demounting and Mounting Procedures for Truck/Bus Tires*" and "*Multi-Piece Rim Matching Chart*";

OR

- Any other poster that contains at least the same instructions, safety precautions and other information contained in the charts applicable to the types of wheels being serviced.

PERMANENT

**Demounting** means deflating and taking apart a tire and rim wheel.

**Installing a rim wheel** means the transfer and attachment of an assembled rim wheel onto a vehicle axle hub.

**Mounting a tire** means the putting together of the wheel and tire components to form a rim wheel, including inflation.

**Restraining device** is a cage or rack that will hold all rim wheel components during an explosive separation of a multipiece rim wheel or during the sudden release of air in a single-piece rim wheel.

**Rim manual** is a publication containing instructions from the manufacturer or other qualified organization for correct mounting, demounting, maintenance, and safety precautions for the type of wheel being serviced.

**Service or servicing** means the mounting and demounting of rim wheels, and related activities such as inflating, deflating, installing, removing, and handling.

**Service area** means any place where an employee services rim wheels.

**Single-piece rim wheel** means a single part holds the tire, forms part of the air chamber and is the point where the wheel is attached to the vehicle axle.

**Split rim wheel or multipiece rim wheel** means a wheel made up of two or more parts. One of the parts is a side ring or locking ring that holds the tire on the wheel when the tire is inflated.

**Trajectory** means the path that a rim wheel component may travel during an explosive separation or the sudden release of air.

**Wheel** means that portion of a rim wheel that attaches to the axle of a vehicle and also contains the inflated tire or tire and tube.

#### WSR 04-20-083

##### PERMANENT RULES

#### MARINE EMPLOYEES' COMMISSION

[Filed October 5, 2004, 11:50 a.m., effective November 5, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To make housekeeping changes and simplify/reduce language.

Citation of Existing Rules Affected by this Order: Amending WAC 316-25-001 Scope—Contents—Other rules, 316-25-010 Petition for investigation of a question concerning representation of employees—Who may file, 316-25-030 Petition—Time for filing, 316-25-050 Petition form—Number of copies—Filing—Service, 316-25-070 Contents of petition, 316-25-090 Contents of petition filed by department, 316-25-110 Supporting evidence, 316-25-130 List of employees, 316-25-140 Notice to employees, 316-25-170 Intervention—By incumbent representative, 316-25-190 Intervention—By organization other than incumbent, 316-25-210 Showing of interest confidential, 316-25-220 Prehearing conferences, 316-25-230 Election agreements, 316-25-250 Cross-check agreements, 316-25-270 Supplemental agreements, 316-25-290 Notice of hearing, 316-25-310 Hearings—Who shall conduct, 316-25-350 Hearings—Nature and scope, 316-25-370 Blocking charges—Suspension of proceedings—Request to proceed, 316-25-390 Pro-

ceedings before a hearing officer, 316-25-410 Cross-check of records, 316-25-430 Notice of election, 316-25-450 Disclaimers, 316-25-470 Electioneering, 316-25-490 Election procedures—Balloting, 316-25-510 Challenged ballots, 316-25-530 Votes needed to determine election, 316-25-550 Tally sheet, 316-25-570 Procedure following inconclusive election, 316-25-590 Filing and service of objections, 316-25-610 Procedure where no objections are filed, 316-25-630 Procedure where objections are filed, 316-25-650 Briefs and written arguments on objections, 316-25-670 Commission action on objections, 316-35-001 Scope—Contents—Other rules, 316-35-010 Petition for clarification of an existing bargaining unit—Who may file, 316-35-030 Petition form—Number of copies—Filing—Service, 316-35-050 Contents of petition, 316-35-090 Notice of hearing, 316-35-110 Consolidation of proceedings, 316-35-130 Hearings—Who shall conduct, 316-35-160 Prehearing conferences, 316-35-170 Hearings—Nature and scope, 316-35-190 Proceedings before a hearing officer, 316-35-210 Proceedings before the commission—Petition for review, 316-35-230 Filing and service of cross-petition for review, and 316-35-250 Commission action.

Statutory Authority for Adoption: RCW 34.05.230.

Adopted under notice filed as WSR 04-16-091 on August 3, 2004.

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 52, 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.

Date Adopted: October 5, 2004.

Kathy J. Marshall  
Administrator

AMENDATORY SECTION (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-001 Scope—Contents—Other rules.** This chapter ((governs)) directs proceedings before the marine employees' commission on petitions for investigation of questions concerning representation of Washington state ferry system employees. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC which ((contains)) lists rules ((promulgated)) adopted by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 316-25 WAC, except:

(a) WAC 10-08-035, which is ((supplanted)) replaced by detailed requirements in WAC 316-25-070;

(b) WAC 10-08-211, which is ~~((supplanted))~~ replaced by WAC 316-25-390, 316-25-590, 316-25-630, and 316-25-670; and

(c) WAC 10-08-230, which is ~~((supplanted))~~ replaced by WAC 316-25-005, 316-25-150, 316-25-220, 316-25-230, 316-25-250, and 316-25-270.

(2) Chapter 316-02 WAC, which ~~((contains))~~ lists rules of practice and procedure applicable to all types of proceedings before the marine employees' commission.

(3) Chapter 316-35 WAC, which ~~((contains))~~ lists rules relating to proceedings on petitions for clarification of an existing ferry system employees' bargaining unit.

(4) Chapter 316-45 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about proceedings on complaints charging unfair labor practices in the Washington state ferry system.

(5) Chapter 316-55 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about resolution of impasses occurring in ferry system collective bargaining.

(6) Chapter 316-65 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

(7) Chapter 316-75 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-010 Petition for investigation of a question concerning representation of employees—Who may file.** A petition for investigation of a question concerning representation of employees, ~~((hereinafter referred to as))~~ from now on called a "petition," may be filed by any employee of the Washington state ferry system, group of employees, employee organization, department of transportation, or their agents.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-030 Petition—Time for filing.** In order to be timely filed:

(1) Where there is a valid written and signed collective bargaining agreement in effect covering an appropriate bargaining unit which includes any or all of the employees to be affected by the petition, a petition may be filed during the period not more than ninety nor less than sixty days prior to the expiration date of the collective bargaining agreement, or after the expiration ~~((thereof))~~ date of the collective bargaining agreement.

(2) Where a certification has been issued by the commission covering an appropriate bargaining unit which includes any or all of the employees to be affected by the petition, a petition may be filed not less than twelve months following the date of the certification.

(3) Where neither subsections (1) nor (2) of this section are applicable, a petition may be filed at any time.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-050 Petition form—Number of copies—Filing—Service.** Each petition ~~((shall))~~ must be prepared on a form furnished by the commission ~~((or shall be prepared in conformance with WAC 316-25-070. The original petition shall be filed with the commission at its))~~ and filed at the commission's Olympia office. The party filing the petition ~~((shall))~~ must serve a copy on the department and on each employee organization named in the petition as having an interest in the proceedings.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-070 ~~((Contents of))~~ Petition contents.** Each petition ~~((shall))~~ must contain:

(1) The name and address of the department and the name, address and telephone number of the department's principal representative in matters concerning relationships between the department and its ferry system employees.

(2) A description of the bargaining unit which the petitioner claims to be appropriate, specifying inclusions and exclusions, and the approximate number of employees in such bargaining unit.

(3) The names and, if known, the addresses and telephone numbers of the principal representatives of any organizations which may claim to represent any of the employees in the bargaining unit which the petitioner claims to be appropriate.

(4) A statement that: (a) The department declines, after having been requested to do so, to recognize the petitioner as the exclusive representative of the employees in the bargaining unit which the petitioner claims to be appropriate, or (b) the employees in the bargaining unit which the petitioner claims to be appropriate wish to change their exclusive bargaining representative, or (c) the employees in the bargaining unit do not wish to be represented by an employee organization.

(5) Any other relevant facts.

(6) The name, address and affiliation, if any, of the petitioner and the name, address and telephone number of the principal representative, if any, of the petitioner.

(7) The signature and, if any, the title of the petitioner or its representative.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-090 Contents of petition filed by department.** Each petition filed by the department ~~((shall))~~ must contain all of the information required by WAC 316-25-070, except for that required by WAC 316-25-070(4), and ~~((shall))~~ must conform to the following additional requirements:

(1) Each petition filed by the department shall contain a statement that the department has been presented with a demand by an organization seeking recognition as the exclusive representative of the employees in the bargaining unit described in the petition.



(2) WAC 316-25-110 ~~((shall))~~ is not ~~((be))~~ applicable to such petitions.

(3) Where the status of an incumbent exclusive bargaining representative is questioned, the department ~~((shall))~~ must attach such affidavits and any other available documentation ~~((as may be available to it))~~ to demonstrate the existence of a good faith doubt concerning the representation of its employees. To constitute a basis for a good faith doubt under this subsection, signature documents provided to the department by employees must be in a form which would qualify as supporting evidence under WAC 316-25-110 if filed by the employees directly with the commission.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-110 Supporting evidence.** The original petition ~~((shall))~~ must be accompanied by a showing of interest indicating that the petitioner has the support of not less than thirty percent of the employees in the bargaining unit which the petitioner claims to be appropriate. The showing of interest must be timely filed under the same standards applicable to the petition, and must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. ~~((Such))~~ These authorization cards ~~((shall))~~ are not ~~((be))~~ valid unless signed and dated during the one hundred eighty-day period ~~((preceding))~~ before the filing of the petition or the filing of such evidence with the commission, whichever is later.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-130 List of employees.** The department ~~((shall))~~ must submit ~~((to the commission))~~ a list containing the names and last known addresses of all of the employees in the bargaining unit described in the petition to the commission. ~~((Following))~~ After administrative determination that the petition is supported by a sufficient showing of interest, the department ~~((shall, upon))~~ will, on request, provide a copy of the list of names and addresses to the petitioner. ~~((Following))~~ After granting of a motion for intervention, the department ~~((shall, upon))~~ will, on request, provide a copy of the list of names and addresses to the intervenor.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-140 Notice to employees.** The department ~~((shall))~~ must post copies of a notice, ~~((specified by and furnished))~~ created and supplied by the commission, advising of the existence of proceedings under this chapter, in conspicuous places on its premises where notices to affected employees are usually posted.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-170 Intervention—By incumbent representative.** An organization which demonstrates that it has been the exclusive representative of all or any part of the bar-

gaining unit involved in proceedings under this chapter during the year ~~((preceding))~~ before the filing of the petition may, by motion, intervene in the proceedings and, upon granting of its motion for intervention, ~~((shall be))~~ is entitled to participate in the proceedings and to have its name listed as a choice on the ballot in any election. No motion for intervention ~~((shall))~~ will be considered if made after the close of the hearing on the petition or more than seven days after the filing and posting of an election agreement or cross-check agreement.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-190 Intervention—By organization other than incumbent.** An organization not covered by WAC 316-25-170 may, by motion, intervene in proceedings under this chapter and, upon granting of its motion for intervention, ~~((shall be))~~ is entitled to participate in the proceedings and have its name listed as a choice on the ballot in any election. The motion for intervention ~~((shall))~~ must be supported by a showing of interest indicating that the intervenor has the support of not less than ten percent of the employees in the bargaining unit which the petitioner claims to be appropriate or of not less than thirty percent of the employees in whatever different bargaining unit the intervenor claims to be appropriate. The showing of interest must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. ~~((Such))~~ Authorization cards ~~((shall))~~ are not ~~((be))~~ valid unless signed and dated during the one hundred eighty-day period preceding the filing of such evidence with the commission. The showing of interest shall be made confidentially to the commission at or before the time the motion for intervention is made: Provided, however, That a motion for intervention may be granted conditionally subject to the subsequent furnishing of a showing of interest under such conditions as the commission may impose to avoid undue delay of the proceedings. No motion for intervention ~~((shall))~~ will be considered if made after the close of the hearing on the petition or more than seven days after the filing and posting of an election agreement or cross-check agreement.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-210 Showing of interest confidential.** The question of whether a showing of interest requirement for a petition or for intervention has been satisfied is a matter for administrative determination by the commission and may not be litigated at any hearing. The commission shall not disclose the identities of employees whose authorization cards or letters are filed in support of a petition or motion for intervention. ~~((In order))~~ To preserve the confidentiality of the showing of interest and the right of employees freely to express their views on the selection of a bargaining representative, the commission ~~((shall))~~ will not honor any attempt to withdraw or diminish a showing of interest.

AMENDATORY SECTION (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-220 Prehearing conferences.** The commission may conduct prehearing conferences with the parties to discuss ~~((with the parties))~~ all contested issues of law and fact which may arise in representation cases. The parties are encouraged to reach binding stipulations on all issues during the ~~((course of the))~~ prehearing conference. ~~((Such))~~ These stipulations are to be embodied in election agreements, cross-check agreements, and/or supplemental agreements provided for in this chapter.

AMENDATORY SECTION (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-230 Election agreements.** Where the department and all other parties agree on a representation election, they may file an election agreement with the commission. ~~((Such))~~ The election agreement ~~((shall))~~ must contain:

(1) The name and address of the department and the name, address and telephone number of its principal representative.

(2) The names and addresses of all other parties participating in the election agreement and the names, addresses and telephone numbers of their principal representatives.

(3) A description of the bargaining unit agreed to be appropriate, specifying inclusions and exclusions, and the number of employees in such unit.

(4) A statement by all parties that: (a) No organization is known which is or may be entitled to intervene as an incumbent representative, or (b) the incumbent representative is a party to the election agreement, or (c) the incumbent representative has abandoned the unit as evidenced by documentation attached to the election agreement.

(5) A statement by all parties that no other organization is known which claims to represent any of the employees in the bargaining unit; that all parties agree that a question concerning representation exists; that a hearing is waived; and that the commission is requested to proceed to conduct an election and certify the results.

(6) A list, attached to the election agreement as an appendix, containing the names of the employees eligible to vote in the election and the eligibility cut-off date for the election is to be used solely for activities related to the election. If the parties request that the election be conducted by mail ballot, the list ~~((shall))~~ will include the last known address of each of the employees eligible to vote. If no eligibility cut-off date is specified by the parties, the eligibility cut-off date ~~((shall))~~ will be the date on which the election agreement is filed.

(7) The suggestions of the parties as to the location, the day or days of the week and the time or times of day for the conduct of the election, or that the election be conducted by mail ballot.

(8) The signatures and, if any, the titles of all parties or their representatives.

The original and one copy of the election agreement ~~((shall))~~ must be filed ~~((with))~~ at the commission's ~~((at its))~~ Olympia office, and copies ~~((shall))~~ with employee addresses removed, must be posted by the department in conspicu-

ous places on the department's premises where notices to affected employees are usually posted. The election agreement ~~((shall))~~ will remain posted for at least seven days after it is filed with the commission (ten days after it is deposited in the United States mail addressed to the commission).

~~((Upon))~~ After the filing of an election agreement conforming to the foregoing requirements and seeking an election in an appropriate bargaining unit, the commission representative(s) ~~((shall))~~ will proceed to conduct an election. Objections to the election by a party to the election agreement ~~((shall))~~ will be limited to matters relating to specific conduct affecting the results of the election.

AMENDATORY SECTION (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-250 Cross-check agreements.** ~~((Where))~~ If only one organization is seeking certification as the representative of unrepresented employees, the department and the organization may file a cross-check agreement with the commission. ~~((Such))~~ The cross-check agreement ~~((shall))~~ must contain:

(1) The name and address of the department and the name, address and telephone number of its principal representative.

(2) The name and address of the organization and the name, address and telephone number of its principal representative.

(3) The description of the bargaining unit agreed to be appropriate, specifying inclusions and exclusions and the number of employees in such unit.

(4) A statement by the parties that no other organization is known which claims to represent any of the employees in the bargaining unit; that the parties agree that a question concerning representation exists; that a hearing is waived; and that the commission is requested to conduct and certify the results of a cross-check of individually signed and dated authorization cards or membership records submitted by the organization against the employment records of the department.

(5) A list, attached to the cross-check agreement as an appendix, containing the names of the employees in the bargaining unit.

(6) The suggestions of the parties as to the time and place where the records to be cross-checked can be made available to the commission.

(7) The agreement of the parties to be bound by the results of the cross-check.

(8) The signatures and, if any, the titles of the representatives of the parties.

The original and one copy of the cross-check agreement ~~((shall))~~ must be filed ~~((with))~~ at the commission's ~~((at its))~~ Olympia office, and copies ~~((thereof shall))~~ must be posted by the department in conspicuous places on the department's premises where notices to affected employees are usually posted. The cross-check agreement ~~((shall))~~ must remain posted for at least seven days after it is filed with the commission (ten days after it is deposited in the United States mail addressed to the commission).

PERMANENT

~~((Upon the filing of))~~ After a cross-check agreement ~~((conforming to the foregoing))~~ including the above requirements and seeking a cross-check in an appropriate bargaining unit is filed, the commission ~~((shall))~~ will proceed with the cross-check of records. The cross-check may be conducted at any time following the execution of a cross-check agreement; but no certification ~~((shall))~~ will be issued until seven days have ~~((elapsed))~~ passed after following the filing and posting of the cross-check agreement. Where a motion for intervention is timely filed and granted, no certification ~~((shall))~~ will be issued on the basis of the cross-check.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-270 Supplemental agreements.** Where the parties are able to agree generally on the matters to be set forth in an election agreement under WAC 316-25-230 or a cross-check agreement under WAC 316-25-250, but are unable to agree on limited issues concerning the definition of the bargaining unit or employee eligibility, they may expedite the determination of the question concerning representation while reserving their disagreement for subsequent determination by filing a supplemental agreement under this rule together with an agreement under WAC 316-25-230 or 316-25-250. ~~((Such))~~ The supplemental agreement ~~((shall))~~ must contain:

(1) The names of all parties to the election agreement or cross-check agreement and the case number of the proceedings.

(2) Identification of the employees or classifications as to which a dispute exists, together with the identification of the position taken by each party on the dispute.

(3) A statement by all parties requesting that employees affected by the supplemental agreement be permitted to vote by challenged ballot or be challenged for purposes of a cross-check, subject to a subsequent determination of the dispute; and that the certification of the results of the election or cross-check not be withheld pending the determination of the dispute unless the challenges are sufficient in number to affect the outcome.

(4) The signatures and, if any, the titles, of the representatives of the parties.

The original and one copy of the supplemental agreement ~~((shall))~~ must be filed with the commission together with the agreement filed under WAC 316-25-230 or 316-25-250, and ~~((shall))~~ must be posted with such agreement.

~~((Upon the filing of))~~ After a supplemental agreement is filed, the commission ~~((shall proceed with the determination of))~~ will determine the question concerning representation. If ~~((the))~~ there are enough challenges ~~((are sufficient in number))~~ to affect the outcome, they ~~((shall))~~ will be determined ~~((prior to the issuance of a))~~ before issuing certification. Otherwise, a conditional certification ~~((shall))~~ will be issued which ~~((shall))~~ will be amended ~~((upon))~~ on final disposition of the issues framed in the supplemental agreement.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-290 Notice of hearing.** After a petition has been filed, if it appears to the commission that there is reasonable cause to believe that a question concerning representation exists, ~~((there shall be issued and))~~ a notice will be issued scheduling a hearing at a fixed time and place and it will be served on the department and on all organizations listed in the petition and on any organization having ~~((therefore))~~ intervened ~~((, a notice of hearing before the commission or an assigned commissioner at a time and place fixed therein))~~. The commission ~~((shall))~~ will furnish the department with copies of such notice, and the department ~~((shall))~~ must post them in conspicuous places on its premises where notices to affected employees are usually posted. Any such notice of hearing may be amended or withdrawn at any time before the close of the hearing.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-310 Hearings—Who shall conduct.** Hearings may be conducted by the commission or by a member of the commission assigned as a hearing officer. ~~((At any time,))~~ The commission or another commissioner may be substituted for the hearing officer previously presiding at any time.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-350 Hearings—Nature and scope.** Hearings ~~((shall be))~~ are public and ~~((shall be))~~ limited to matters concerning the determination of the existence of a question concerning representation, the appropriate bargaining unit and questions of eligibility. It ~~((shall be))~~ is the duty of the hearing officer to inquire fully into all matters in issue and to obtain a clear and complete factual record ~~((upon))~~ on which the commission may discharge its duties under chapter 47.64 RCW and these rules.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-370 Blocking charges—Suspension of proceedings—Request to proceed.** (1) Where representation proceedings have been commenced under this chapter and:

(a) A complaint charging unfair labor practices is filed under the provisions of chapter 316-45 WAC; and

(b) It appears that the facts as alleged may constitute an unfair labor practice; and

(c) Such unfair labor practice could improperly affect the outcome of a representation election; the commission may suspend the representation proceedings under this chapter pending the resolution of the unfair labor practice case.

(2) The complainant(s) in the unfair labor practice case may file a request to proceed, in writing, with the commission. ~~((Such))~~ The request to proceed ~~((shall))~~ must identify, by case number, the representation proceedings for which it

is made, ~~((shall))~~ must request that those representation proceedings be continued notwithstanding the pending unfair labor practice case, and ~~((shall))~~ must acknowledge that the commission will not entertain objections based on conduct alleged in the unfair labor practice case. ~~((Upon))~~ On the filing of a request to proceed conforming to the foregoing requirements the commission ~~((shall))~~ will resume the processing of the representation petition and ~~((shall))~~ will summarily dismiss any objections filed in conflict with the request to proceed.

(3) Where a complaint charging unfair labor practices is filed after the filing of an election agreement or issuance of a direction of election, the commission ~~((shall))~~ will proceed with the determination of the question concerning representation, subject to the right of any party to file objections as provided in WAC 316-25-590.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**PERMANENT**

**WAC 316-25-390 Proceedings before a hearing officer.** The hearing officer may proceed ~~((forthwith upon))~~ on the record, after submission of briefs or after hearing, as may be appropriate. The hearing officer ~~((shall))~~ determines whether a question concerning representation exists, and ~~((shall))~~ issues a direction of election, ~~((dismiss))~~ dismisses the petition or makes other disposition of the matter. ~~((Such))~~ The actions ~~((shall be))~~ are subject to review by the commission only as follows:

(1) Except for rulings as to whether the department is subject to the jurisdiction of the commission, a direction of election and any accompanying rulings ~~((shall))~~ are not ~~((be))~~ subject to review by the commission except upon objections timely filed under WAC 316-25-590.

(2) An order of dismissal ~~((shall be))~~ is subject to review by the commission on its own motion or at the request of any party made within twenty days following the date of the order. Briefs or written arguments ~~((shall))~~ must be submitted as provided in WAC 316-25-650. Unless the matter is transferred to the commission for review, an order of dismissal issued by the hearing officer ~~((shall have))~~ has the same force and effect as if issued by the commission.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-410 Cross-check of records.** ~~((Where))~~ If a cross-check of records is to be conducted to determine a question concerning representation, the organization ~~((shall))~~ will submit to the commission original individual cards or letters signed and dated by employees in the bargaining unit not more than ninety days prior to the filing of the petition and indicating that such employees authorize the named organization to represent them for the purposes of collective bargaining, or ~~((shall))~~ will submit to the commission membership records maintained by the organization as a part of its business records containing the names of employees and indicating those employees currently members in good standing. The department ~~((shall))~~ will make available ~~((to the commission))~~ original employment records maintained as a part of its business records containing the names and signa-

tures of the employees in the bargaining unit available to the commission. ~~((Prior to the commencement of))~~ Before starting the cross-check, the organization may file a request that the question concerning representation be determined by a representation election and such requests ~~((shall))~~ will be honored. Where the organization files a disclaimer ~~((or a request for election))~~ after the ~~((commencement))~~ start of the cross-check, the cross-check ~~((shall))~~ will be terminated and the organization ~~((shall not))~~ cannot seek to be certified in the bargaining unit for a period of at least one year ~~((thereafter))~~ afterward. All cross-checks ~~((shall))~~ will be by actual comparison of records submitted by the parties. The commission ~~((shall))~~ will not disclose the names of employees giving representation authorization in favor of or appearing on the membership rolls of the organization. ~~((Upon the conclusion of the comparison of records))~~ After records have been compared, the commission officer conducting the cross-check ~~((shall))~~ will prepare and furnish to the parties a tally sheet containing the number of employees in the bargaining unit, the number of employee records examined and the number of employee records counted as valid evidence of representation.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-430 Notice of election.** When an election is to be conducted, the commission ~~((shall))~~ will furnish the department with appropriate notices, and the department ~~((shall))~~ must post them in conspicuous places on its premises where notices to affected employees are usually posted. The notice ~~((shall))~~ must contain:

(1) The description of the bargaining unit or voting group(s) in which the election is to be conducted.

(2) The date(s), hours and polling place(s) for the election.

(3) The cut-off date, if any, or other criteria to be applied in establishing eligibility to vote in the election.

(4) A statement of the purpose of the election and the question to be voted upon or a sample ballot.

Notices of the election ~~((shall))~~ must be posted for at least seven days prior to the opening of the polls. ~~((In))~~ When computing ~~((such))~~ the period, the day of posting ~~((shall be))~~ is counted, but the day on which the polls are opened ~~((shall))~~ is not ~~((be))~~ counted. The reproduction of any document purporting to suggest, either directly or indirectly, that the commission endorses a particular choice may constitute grounds for setting aside an election ~~((upon objections))~~ on properly filed objections.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-450 Disclaimers.** An organization may file a disclaimer and have its name removed from the ballot ~~((Provided, however, That if such))~~. If a disclaimer is filed after the issuance of a notice of election, the organization filing the disclaimer ~~((shall not))~~ cannot seek to be certified in that bargaining unit for a period of at least one year thereafter.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-470 Electioneering.** (1) The department and employee organizations are prohibited from making election speeches on the department's time to massed assemblies of employees within twenty-four hours before the scheduled time for the opening of the polls for an election conducted under "in person" voting procedures, or within the time period beginning with the issuance of ballots to employees for an election conducted under "mail ballot" voting procedures and ending with the tally of ballots.

(2) There ~~((shall))~~ will be no electioneering at or about the polling place during the hours of voting.

Violations of this rule ~~((shall))~~ will be grounds for setting aside an election ~~((upon objections))~~ on properly filed objections.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-490 Election procedures—Balloting.** All elections ~~((shall))~~ must be by secret ballot. Multiple questions, including unit determination elections, may be submitted to employees at the same time on separate ballots. Absentee balloting ~~((shall))~~ will not be allowed. Each party may be represented by observers of its own choosing, subject to such limitations as the commission may prescribe ~~((—Provided, however, That))~~. However, no management official having authority over bargaining unit employees nor any officer or paid employee of an organization ~~((shall))~~ will serve as observer.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-510 Challenged ballots.** Any observer or the election officer may challenge, for good cause, the eligibility of any person seeking to cast a ballot in the election. No person ~~((shall))~~ will be denied the right to cast a challenged ballot. The election officer ~~((shall))~~ will not have authority to resolve challenges at the polls, and the ballot of the challenged voter ~~((shall))~~ will be placed in a sealed envelope identifying the voter and the observer or election officer challenging the eligibility of the voter. The ballot ~~((shall))~~ will not be opened until the challenge is resolved. Any party may withdraw a challenge previously made and, unless the eligibility of the voter is challenged by another party or by the election officer, the challenge ~~((shall thereby))~~ will be resolved. If the challenged ballots are insufficient in number to affect the results of the election, they ~~((shall))~~ will be impounded and no ruling ~~((shall))~~ will be made thereon. If the challenged ballots are sufficient in number to affect the results of the election, the election officer ~~((shall))~~ will, after the close of the polls, ~~((ascertain))~~ determine the position of each party as to each challenged ballot and ~~((shall))~~ will include such information in his report. If challenges raise material questions of fact which cannot be resolved without a hearing, ~~((there shall be issued and served on each of the parties a notice of hearing before the commission or assigned commissioner))~~ a hearing notice will be issued and served on

each of the parties. The rules relating to the conduct of hearings on petitions ~~((shall))~~ will govern hearings on challenges, except that the scope of the hearing ~~((shall))~~ will be limited to matters relevant to the disposition of the challenged ballots. An assigned commissioner ~~((shall have))~~ has authority to rule on all challenges except those made by a party to preserve an objection to a ruling previously made by the commission as to the eligibility of the challenged voter. If challenges of a type excepted from the authority of the commissioner are sufficient in number to affect the results of the election, the matter ~~((shall))~~ will be transferred to the commission for its determination under the provisions of WAC 316-25-670.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-530 Votes needed to determine election.** (1) Unit determination elections ~~((shall))~~ will be decided by a majority of those eligible to vote in the election.

(2) Representation elections shall be decided by a majority of those voting. Where there are only two choices on the ballot, a tie vote ~~((shall))~~ will result in a certification of no representative.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-550 Tally sheet.** ~~((Upon closing the polls))~~ After the polls are closed, the election officer ~~((shall))~~ will prepare and furnish to each of the parties a tally of the votes cast on unchallenged ballots and the number of challenged ballots. After the subsequent resolution of challenged ballots affecting the results of the election, a revised tally ~~((shall))~~ will be issued and furnished to the parties. The tally ~~((shall))~~ will indicate whether the results of the election were conclusive or inconclusive.

**AMENDATORY SECTION** (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-570 Procedure following inconclusive election.** In any election in which there are more than two choices on the ballot, if none of the choices receives the number of votes necessary to determine the election, a run-off election ~~((shall))~~ will be held providing for selection between the two choices receiving the largest numbers of valid ballots cast in the inconclusive election. Any organization which would be excluded from a run-off election may file objections to specific conduct affecting the results of the inconclusive election. Where the choice of "no representative" is to be excluded from a run-off election, the department or decertification petitioner may file objections to specific conduct affecting the results of the inconclusive election. Such objections ~~((shall))~~ will be resolved ~~((prior to the conduct of a run-off election))~~ before the run-off election is conducted. All run-off elections ~~((shall))~~ will be determined as provided in WAC 316-25-530.

AMENDATORY SECTION (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-590 Filing and service of objections.** Within seven days after the tally has been served under WAC 316-25-410 or under WAC 316-25-550, any party may file objections with the commission. Objections may consist of:

(1) Designation of specific conduct improperly affecting the results of the election, by violation of these rules, by the use of deceptive campaign practices improperly involving the commission and its processes, by the use of forged documents, or by coercion or intimidation of or threat of reprisal or promise of reward to eligible voters; and/or

(2) Designation of one or more previous rulings or directions in the matter which the objecting party desires to have reviewed by the commission.

Objections ~~((shall))~~ must contain, in separate numbered paragraphs, statements of the specific conduct, if any, alleged to have improperly affected the results of the election and, in separate numbered paragraphs, the specific rulings or directions, if any, which the party filing the objections desires to have reviewed. The original copy of the objections ~~((shall))~~ must be filed ~~((with))~~ at the commission's ~~((at its))~~ Olympia office, and the party filing the objections ~~((shall))~~ must serve a copy on each of the other parties to the proceedings. Objections must be timely filed, whether or not challenged ballots are sufficient in number to affect the results of the election.

AMENDATORY SECTION (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-610 Procedure where no objections are filed.** If no objections are filed within the time set forth above, and if any challenged ballots are insufficient in number to affect the determination of the question concerning representation, and if no run-off election is to be held, the election officer ~~((shall forthwith))~~ will certify the results of the proceedings, with the same force and effect as if issued by the commission. The proceedings will ~~((thereupon))~~ then be closed.

AMENDATORY SECTION (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-630 Procedure where objections are filed.** (1) Objections to conduct improperly affecting the results of an election ~~((shall))~~ will be referred to a commissioner for investigation. If the objections raise material questions of fact which cannot be resolved without a hearing, ~~((there shall be issued and served on each of the parties a notice of hearing before the commissioner))~~ a hearing notice before the commission will be issued and served on each of the parties. Hearings on objections to conduct affecting the results of an election may be consolidated with hearings on challenged ballots in the same proceeding. The rules relating to the conduct of hearings on petitions ~~((shall))~~ will govern hearings on objections, except that the scope of the hearing shall be limited to matters relevant to the disposition of the objections.

(2) Objections to prior rulings and/or directions in the matter shall be referred directly to the commission.

AMENDATORY SECTION (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-650 Briefs and written arguments on objections.** All parties ~~((shall be))~~ are entitled to submit briefs or written arguments for consideration by the commission. The briefs or written arguments of all parties ~~((shall be))~~ are due simultaneously, as follows:

(1) The deadline for the filing of briefs or written arguments ~~((shall be))~~ is fourteen days following the latter of:

(a) The close of an investigation under WAC 316-25-630(1);

(b) The issuance of a transcript of a hearing held under WAC 316-25-630(1); or

(c) The filing of objections under WAC 316-25-590(2).

(2) The commission or assigned commissioner may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made ~~((prior to the deadline))~~ before the previously established deadline.

The original brief or written argument ~~((shall))~~ must be filed with the commission's ~~((at its))~~ Olympia office and a copy ~~((shall))~~ must be served on each of the other parties. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief.

AMENDATORY SECTION (Amending WSR 90-01-116, filed 12/20/89, effective 1/20/90)

**WAC 316-25-670 Commission action on objections.** In all cases where objections have been filed, the entire record in the proceedings ~~((shall))~~ will be transferred to the commission. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues in the matter. The commission ~~((shall))~~ will determine the objections and any challenged ballots referred to the commission pursuant to WAC 316-25-510, and ~~((shall))~~ will issue appropriate orders.

AMENDATORY SECTION (Amending WSR 90-01-117, filed 12/20/89, effective 1/20/90)

**WAC 316-35-001 Scope—Contents—Other rules.** This chapter ~~((governs))~~ directs proceedings before the marine employees' commission on petitions for clarification of existing bargaining units. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC which ~~((contains))~~ lists rules ~~((promulgated))~~ adopted by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 316-35 WAC, except:

(a) WAC 10-08-035, which is ~~((supplanted))~~ replaced by detailed requirements in WAC 316-35-050;

(b) WAC 10-08-211, which is ~~((supplanted))~~ replaced by WAC 316-35-210 and 316-35-230; and

(c) WAC 10-08-230, which is ~~((supplanted))~~ replaced by WAC 316-35-070 and 316-35-160.

(2) Chapter 316-02 WAC, which ~~((contains))~~ lists rules of practice and procedure ~~((applicable))~~ that apply to all types of proceedings before the marine employees' commission.

(3) Chapter 316-25 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about proceedings on petitions for investigation of questions concerning representation of ferry system employees.

(4) Chapter 316-45 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about proceedings on complaints charging unfair lab or practices in the Washington state ferry system.

(5) Chapter 316-65 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement in the Washington state ferry system.

(6) Chapter 316-75 WAC, which ~~((contains))~~ lists rules ~~((relating to))~~ about determination of union security disputes arising between ferry system employees and employee organizations certified or recognized as their bargaining representative.

**AMENDATORY SECTION** (Amending WSR 90-01-117, filed 12/20/89, effective 1/20/90)

**WAC 316-35-010 Petition for clarification of an existing bargaining unit—Who may file.** ~~((In the absence of a question concerning representation,))~~ A petition for clarification of an existing bargaining unit(s) may be filed by the department of transportation, (an) exclusive representative(s) of ferry system employees or its/their agents, or by the parties jointly.

**AMENDATORY SECTION** (Amending WSR 90-01-117, filed 12/20/89, effective 1/20/90)

**WAC 316-35-030 Petition form—Number of copies—Filing—Service.** Each completed original petition for clarification of (an) existing bargaining unit(s) ~~((shall be prepared on a form))~~ furnished by the commission ~~((or shall be prepared in conformance with WAC 316-35-050. The original petition shall)),~~ must be filed ~~((with))~~ at the commission's ~~((at its))~~ Olympia office. If the petition is filed other than as a jointly filed petition, the party filing the petition ~~((shall))~~ must also serve a copy on the other party to the collective bargaining relationship in which the disagreement arises.

**AMENDATORY SECTION** (Amending WSR 90-01-117, filed 12/20/89, effective 1/20/90)

**WAC 316-35-050 ~~((Contents of))~~ Petition contents.** Each petition for clarification of (an) existing bargaining unit(s) ~~((shall))~~ must contain:

(1) The name and address of the department and the name and title, if known, address and telephone number of the person designated by the department as the official representative for adjudicatory proceedings under chapter 47.64 RCW.

(2) The name(s), address(es) and affiliation(s), if any, of the exclusive representative(s), and the name(s), address(es) and telephone number(s) of its/their principal representative(s).

(3) The description of the existing bargaining unit, specifying inclusions and exclusions and the number of employees in such bargaining unit(s).

(4) Identification of the proceeding in which any certification of representatives was issued or the date of the recognition agreement(s), and the history of any subsequent modifications of the bargaining unit(s) ~~((subsequent thereto))~~.

(5) A description of the proposed clarification, including the position(s), classification(s) or group(s) ~~((in))~~ at issue, the number of employees in each ~~((such))~~ position, classification or group, the present bargaining unit inclusion or exclusion status of each such position, classification or group, and identification of the party proposing that the present status be changed.

(6) The names and addresses of any other employee organizations claiming to represent any employees affected by the proposed clarification(s), and brief description(s) of the collective bargaining agreement(s), if any, covering such employees.

(7) A statement of the reasons for the proposed clarification.

(8) Any other relevant facts.

(9) The signature(s) and the title(s), if any, of the petitioner(s) and/or his/their representative(s) and his/their title(s).

**AMENDATORY SECTION** (Amending WSR 90-01-117, filed 12/20/89, effective 1/20/90)

**WAC 316-35-090 Notice of hearing.** After a petition for clarification of an existing bargaining unit has been filed, if it appears to the commission that a disagreement exists which might appropriately be the subject of an order clarifying an existing bargaining unit, ~~((there shall))~~ a hearing notice will be issued and served on the employer and on the exclusive representative ~~((a notice of hearing))~~. The hearing notice ~~((shall))~~ will contain:

(1) The name(s), address(es) and telephone number(s) of the person(s) who filed the petition, and their representative(s) or counsel and their title(s), if known, and their address(es) and telephone number(s);

(2) The name(s), address(es) and telephone number(s) of the exclusive bargaining unit(s) which the petitioner(s) want(s) clarified, and its/their principal representative(s) and titles, if known, and their addresses and telephone numbers;

(3) The name, title, address, and telephone number of the person designated by the department as the official recipient of notices involving adjudicatory proceedings under chapter 47.64 RCW;

(4) The official case number for the proceeding;

(5) The name, mailing address, and telephone number of the commissioner who is to be the presiding officer in the hearing;

(6) A statement of the time, place, and nature of the hearing;

(7) A statement of the legal authority under which the hearing is to be held;

(8) A reference to the particular sections of the statute(s) and/or rule(s) involved;



(9) A short and plain statement of the matter to be heard, as asserted by the commission;

(10) ~~((An enumeration))~~ A listing of the organizations and/or persons to whom copies of the notice are being provided;

(11) A statement that the commission(er) will take official notice of the applicable collective bargaining agreement(s), if any, in effect at the time of the petition;

(12) Notice of other specific evidence known by the commission(er) to be required, and which party will be required to submit such evidence; and

(13) A statement that a party who fails to attend or participate, personally or by agent or counsel, in the hearing or other stage of the proceeding may be held in default.

Any such notice may be amended or withdrawn prior to the close of the hearing.

AMENDATORY SECTION (Amending WSR 90-01-117, filed 12/20/89, effective 1/20/90)

**WAC 316-35-110 Consolidation of proceedings.** If a proceeding initiated by a petition for unit clarification under WAC 316-35-010 is pending at the same time as another petition involving all or any part of the same bargaining units and/or a petition for investigation of a question concerning representation filed pursuant to WAC 316-25-010 is/are filed, the proceedings ~~((shall))~~ will be consolidated and all issues concerning the description of the bargaining units ~~((shall))~~ will be resolved in the consolidated proceedings.

AMENDATORY SECTION (Amending WSR 90-01-117, filed 12/20/89, effective 1/20/90)

**WAC 316-35-130 Hearings—Who shall conduct.** Hearings may be conducted by the commission or by a member of the commission designated by the commission as a hearing officer. ~~((At any time;))~~ A hearing officer may be substituted for the hearing officer previously presiding at any time.

AMENDATORY SECTION (Amending WSR 90-01-117, filed 12/20/89, effective 1/20/90)

**WAC 316-35-160 Prehearing conferences.** The commission may conduct prehearing conferences to discuss ~~((with the parties))~~ all contested issues of law and fact which may arise in unit clarification cases with the parties. The parties are encouraged to reach binding stipulations on all issues during the ~~((course of a))~~ prehearing conference. ~~((Such))~~ These stipulations are to be embodied in proposed commission unit clarification orders, amendments to collective bargaining agreement security clauses, or other appropriate agreements.

AMENDATORY SECTION (Amending WSR 90-01-117, filed 12/20/89, effective 1/20/90)

**WAC 316-35-170 Hearings—Nature and scope.** Hearings ~~((shall))~~ will be public and ~~((shall be))~~ are limited to matters concerning the determination of the petition for clarification of an existing bargaining unit unless the proceeding

has been consolidated with another petition in accordance with WAC 316-35-110. It ~~((shall be the duty of))~~ is the hearing officer's ~~((to inquire fully into all matters in issue and))~~ duty to obtain a ~~((full))~~ clear and complete factual record ~~((upon))~~ on which the commission may ~~((discharge))~~ fulfill its duties under chapter 47.64 RCW and these rules.

AMENDATORY SECTION (Amending WSR 90-01-117, filed 12/20/89, effective 1/20/90)

**WAC 316-35-190 Proceedings before a hearing officer.** An assigned commissioner may proceed ~~((forthwith upon))~~ on the record, after submission of briefs or after hearing, as may be appropriate. The hearing officer ~~((shall))~~ determines the status of each position, classification or group of employees over which there is a disagreement and issues an order clarifying bargaining unit, ~~((dismiss))~~ dismissing the petition or ~~((make))~~ making other disposition of the matter.

AMENDATORY SECTION (Amending WSR 90-01-117, filed 12/20/89, effective 1/20/90)

**WAC 316-35-210 Proceedings before the commission—Petition for review.** The final order of an assigned commissioner ~~((shall be))~~ is subject to review by the commission on its own motion, or at the request of any party made within twenty days after the date of the order. The original petition for review ~~((shall))~~ must be filed ~~((with))~~ at the commission's ~~((at its))~~ Olympia office and the party filing the petition ~~((shall))~~ must serve a copy on the department and on any other parties. The petition for review ~~((shall))~~ must identify the actions or rulings claimed to be in error. Any party to the proceeding may, within fourteen days after the filing of the petition for review, file briefs or written arguments for consideration by the commission. The original brief or written argument ~~((shall))~~ must be filed ~~((with))~~ at the commission's ~~((at its))~~ Olympia office and a copy ~~((shall))~~ must be served on the other party. The commission or assigned commissioner may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established. The commission may request the parties ~~((to))~~ appear before it to make oral arguments ~~((as to))~~ about certain ~~((of the))~~ issues or all of the issues in the matter.

AMENDATORY SECTION (Amending WSR 90-01-117, filed 12/20/89, effective 1/20/90)

**WAC 316-35-230 Filing and service of cross-petition for review.** ~~((Where))~~ If a petition for review has been timely filed under WAC 316-35-210, ~~((any))~~ a party who has not previously filed a petition for review may, within seven days after the last date on which a petition for review may be filed, file a cross-petition for review. ~~((Such))~~ The cross-petition for review ~~((shall))~~ must be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadline for the submission of briefs or written arguments shall be extended by seven days.



**AMENDATORY SECTION** (Amending WSR 90-01-117, filed 12/20/89, effective 1/20/90)

**WAC 316-35-250 Commission action.** The assigned commissioner ((shall)) will transfer the entire record in the proceeding to the commission. The commission ((shall)) will determine the status of each position, classification or group covered by the petition for review, and ((shall)) will enter appropriate orders, which ((shall be)) are final and binding upon the parties in accordance with RCW 47.64.280.

**WSR 04-20-089**

**PERMANENT RULES**

**STATE BOARD OF EDUCATION**

[Filed October 5, 2004, 2:25 p.m., effective November 5, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To clearly identify in WAC 180-78A-272 the dates by which residency certificate programs must be approved by the State Board of Education for school counselors, school psychologists, school social workers, and administrators.

Citation of Existing Rules Affected by this Order: Amending WAC 180-78A-272.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 04-15-116 on July 20, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 27, 2004.

October 5, 2004

Larry Davis

Executive Director

**NEW SECTION**

**WAC 180-78A-272 Approval of residency certificate preparation programs for principals/program administrators, school psychologists, school counselors and school social workers.** Colleges/universities offering residency certificate programs for principals/program administrators shall have these programs approved by the state board of education by August 31, 2004. Colleges/universities offering residency certificate programs for school psychologists, school counselors, and school social workers shall have

these programs approved by the state board of education by August 31, 2005.

**WSR 04-20-090**

**PERMANENT RULES**

**STATE BOARD OF EDUCATION**

[Filed October 5, 2004, 2:28 p.m., effective November 5, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To allow administrators and educational staff associates to obtain a transitional certificate as needed and as requested by an employing school district.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-231.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 04-15-118 on July 20, 2004.

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 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 27, 2004.

October 5, 2004

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 03-14-115, filed 6/30/03, effective 7/31/03)

**WAC 180-79A-231 Limited certificates.** Notwithstanding other requirements prescribed in this chapter for eligibility for certification in the state of Washington, the following certificates shall be issued under specific circumstances set forth below for limited service:

(1) Conditional certificate.

(a) The purpose of the conditional certificate is to assist local school districts, approved private schools, and educational service districts in meeting the state's educational goals by giving them flexibility in hiring decisions based on shortages or the opportunity to secure the services of unusually talented individuals. The state board of education encourages in all cases the hiring of fully certificated individuals and understands that districts will employ individuals with conditional certificates only after careful review of all other options. The state board of education asks districts when reviewing such individuals for employment to con-

sider, in particular, previous experience the individual has had working with children.

(b) Conditional certificates are issued upon application by the local school district, approved private school, or educational service district superintendent to persons who meet the age, good moral character, and personal fitness requirements of WAC 180-79A-150 (1) and (2), if one of the following conditions is verified:

(i) The applicant is highly qualified and experienced in the subject matter to be taught and has unusual distinction or exceptional talent which is able to be demonstrated through public records of accomplishments and/or awards; or

(ii) No person with regular teacher certification in the endorsement area is available as verified by the district or educational service district superintendent or approved private school administrator, or circumstances warrant consideration of issuance of a conditional certificate.

(c) In addition, conditional certificates are issued to persons in the following categories only if no person with regular certification is available:

(i) The applicant qualifies to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020 (2) and (3); or

(ii) The applicant is assigned instructional responsibility for intramural/interscholastic activities which are part of the district or approved private school approved program; or

(iii) The applicant possesses a state of Washington license for a registered nurse: Provided, That the district will be responsible for orienting and preparing individuals for their assignment as described in (e)(iii) of this subsection; or

(iv) The applicant has completed a bachelor's degree or higher from a regionally accredited college/university. All speech-language pathologists or audiologists providing services under a current and valid conditional certificate issued as of June 30, 2003, will be fully qualified consistent with WAC 180-79A-223 by the year 2010. First conditional certificates, issued to speech-language pathologists or audiologists after June 30, 2003, which are valid for up to two years, may be reissued once for up to two years, if the individual provides evidence that he/she is enrolled in and completing satisfactory progress in a master's degree program resulting in the initial ESA school speech-language pathologists or audiologist certificate.

(v) The applicant for a conditional teaching certificate in special education shall hold a bachelor's degree or higher from a regionally accredited college/university.

(vi) The issuance of a conditional certificate to a special education teacher after July 1, 2003, is contingent upon the individual being enrolled in an approved teacher preparation program resulting in a residency teacher certificate endorsed in special education. The conditional certificate is valid for up to two years and may be reissued once for one year upon verification by the college/university that the individual is completing satisfactory progress in the residency teacher certificate program.

(vii) An individual with full certification and endorsed in special education shall be assigned as a mentor to the special education teacher serving on a conditional certificate for the duration of the conditional certificate.

(d) The educational service district or local district superintendent or administrator of an approved private school will verify that the following criteria have been met when requesting the conditional certificate:

(i) The district or educational service district superintendent or approved private school administrator has indicated the basis on which he/she has determined that the individual is competent for the assignment;

(ii) The individual is being certificated for a specific assignment and responsibility in a specified activity/field;

(e) When requesting the conditional certificate for persons who provide classroom instruction, the educational service district superintendent or local district superintendent or approved private school administrator will verify that the following additional criteria will be met:

(i) After specific inclusion on the agenda, the school board or educational service district board has authorized submission of the application.

(ii) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities with the direct assistance of a school district or approved private school mentor and will not be serving in a paraprofessional role which would not require certification;

(iii) Personnel so certificated will be oriented and prepared for the specific assignment by the employing district or approved private school. A written plan of assistance will be developed, in cooperation with the person to be employed within twenty working days from the commencement of the assignment. In addition, prior to service the person will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment;

(iv) Within the first sixty working days, personnel so certificated will complete sixty clock hours (six quarter hours or four semester hours) of course work in pedagogy and child/adolescent development appropriate to the assigned grade level(s) as approved by the employing school district or approved private school.

(f) The certificate is valid for two years or less, as evidenced by the expiration date which is printed on the certificate, and only for the activity specified. The certificate may be reissued for two years and for two-year intervals thereafter upon application by the employing local school district, approved private school, or educational service district and upon completion of sixty clock hours (six quarter hours or four semester hours) of course work since the issuance of the most recent certificate. The requesting local school district, approved private school, or educational service district shall verify that the sixty clock hours taken for the reissuance of the certificate shall be designed to support the participant's professional growth and enhance the participant's instructional knowledge or skills to better assist students meeting the state learning goals and/or essential academic learning requirements.

(2) Substitute certificate.

(a) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certificated staff member for a period not to exceed thirty consecutive school days during the school year in any one assignment. This certificate may be issued to:

(i) Teachers, educational staff associates or administrators whose state of regular Washington certificates have expired; or

(ii) Persons who have completed state approved preparation programs and baccalaureate degrees at regionally accredited colleges and universities for certificates; or

(iii) Persons applying as out-of-state applicants who qualify for certification pursuant to WAC 180-79A-257 (1)(c) and (d).

(b) The substitute certificate is valid for life.

(3) Emergency certification.

(a) Emergency certification for specific positions may be issued upon the recommendation of school district and educational service district superintendents or approved private school administrators to persons who hold the appropriate degree and have substantially completed a program of preparation in accordance with Washington requirements for certification: Provided, That a qualified person who holds regular certification is not available or that the position is essential and circumstances warrant consideration of issuance of an emergency certificate: Provided further, That a candidate for emergency certification as a school counselor, school psychologist, or social worker shall be the best qualified of the candidates for the position as verified by the employing school district and shall have completed all course work for the required master's degree with the exception of the internship: Provided further, That a candidate for emergency certification as a school psychologist shall be enrolled in an approved school psychologist preparation program and shall be participating in the required internship.

(b) The emergency certificate is valid for one year or less, as evidenced by the expiration date which is printed on the certificate.

(4) Emergency substitute certification.

(a) If the district or approved private school has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, the superintendent of public instruction may issue emergency substitute certificates to persons not fully qualified under subsection (2) of this section for use in a particular school district or approved private school once the list of otherwise qualified substitutes has been exhausted.

(b) Such emergency substitute certificates shall be valid for three years or less, as evidenced by the expiration date which is printed on the certificate.

(5) Nonimmigrant alien exchange teacher. Applicants for certification as a nonimmigrant alien exchange teacher must qualify pursuant to WAC 180-79A-270 and be eligible to serve as a teacher in the elementary or secondary schools of the country of residence.

(6) Intern substitute teacher certificate.

(a) School districts and approved private schools may request intern substitute teacher certificates for persons enrolled in student teaching/internships to serve as substitute teachers in the absence of the classroom teacher.

(b) The supervising college or university must approve the candidate for the intern substitute teacher certificate.

(c) Such certificated substitutes may be called at the discretion of the school district or approved private school to

serve as a substitute teacher only in the classroom(s) to which the individual is assigned as a student teacher/intern.

(d) The intern substitute teacher certificate is valid for one year, or less, as evidenced by the expiration date which is printed on the certificate.

(7) Transitional certificate.

(a) ~~((A teacher))~~ An individual whose continuing certificate has lapsed according to WAC 180-85-040 may be issued a transitional certificate to be employed on a conditional basis upon request by a school district, approved private school, or educational service district superintendent. The holder of the transitional certificate must complete any continuing certificate reinstatement requirements established by the state board of education within two years of the date the holder was issued the transitional certificate in order to continue to be employed. The transitional certificate expiration date shall not be calculated under state board policy WAC 180-79A-117.

(b) No ~~((teacher))~~ individual whose continuing certificate has been suspended or revoked shall be eligible to be employed under this section.

(c) School districts, approved private schools, and educational service districts are strongly encouraged to develop with the holder of a transitional certificate a plan of assistance to be sure the holder completes the necessary continuing certificate reinstatement requirements under WAC 180-85-130 within the two-year conditional employment period specified under (a) of this subsection if the holder is to continue to be employed.

(d) The transitional certificate is not renewable and may not be reissued.

#### WSR 04-20-091

#### PERMANENT RULES

#### STATE BOARD OF EDUCATION

[Filed October 5, 2004, 2:33 p.m., effective November 5, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To clearly identify the dates by which the administrator and educational staff associate preparation programs must implement the new standards and certification requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-006.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 04-15-117 on July 20, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 27, 2004.

October 5, 2004

Larry Davis  
Executive Director

**AMENDATORY SECTION** (Amending WSR 00-03-048, filed 1/14/00, effective 2/14/00)

**WAC 180-79A-006 Purpose.** The purposes of this chapter are:

(1) To establish a performance-based certification system to be fully implemented for all teacher candidates applying for the residency certificate after August 31, 2000, and for all teacher candidates applying for the professional certificate after August 31, 2001 (~~and for all administrator and educational staff associate candidates not later than August 31, 2004~~). A performance-based certification system shall be fully implemented for all principals/program administrators applying for the residency certificate after August 31, 2004, and for all principal/program administrator candidates applying for the professional certificate after August 31, 2006. A performance-based professional certificate system shall be fully implemented for school psychologists, school counselors, and school social workers applying for the residency certificate after August 31, 2005, and for the professional certificate after August 31, 2007.

(2) To establish the various certificates which must be held as a condition to employment in the Washington school system. The performance-based certification system shall include the issuance of a residency certificate, a professional certificate, and other certificates which the state board of education may add in the future.

(3) To establish the conditions and procedures governing issuance and retention of those and other certificates, including endorsements thereon.

**WSR 04-20-092**

**PERMANENT RULES**

**STATE BOARD OF EDUCATION**

[Filed October 5, 2004, 2:37 p.m., effective November 5, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The state board is amending its policy, for the purposes of the pilot program, to establish the First People's language/culture teacher certificate as a type of certificate rather than be included on the list of limited certificates.

Citation of Existing Rules Affected by this Order: Amending WAC 180-79A-140.

Statutory Authority for Adoption: RCW 28A.305.130 and 28A.410.010.

Adopted under notice filed as WSR 04-15-042 on July 12, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 27, 2004.

October 5, 2004

Larry Davis  
Executive Director

**AMENDATORY SECTION** (Amending WSR 02-18-037, filed 8/26/02, effective 9/26/02)

**WAC 180-79A-140 Types of certificates.** ~~((Five))~~ Six types of certificates shall be issued:

(1) **Teacher.** The teacher certificate, including teacher exchange permits as provided in WAC 180-79A-220, authorizes service as a classroom teacher.

(2) ~~((Vocational))~~ Career and technical. The career and technical education certificate authorizes service in career and technical education programs in accordance with the provisions of chapter 180-77 WAC.

(3) First people's language/culture. The first people's language/culture teacher certificate authorizes service as defined under WAC 180-78A-700(8).

(4) Administrator.

(a) The administrator certificate for principal authorizes services as a building administrator or assistant principal.

(b) The administrator certificates for superintendent or program administrator will be issued to persons who meet state board of education certification standards for service in the roles of superintendent or program administrator.

~~((4))~~ (5) Educational staff associate. The educational staff associate certificate authorizes service in the roles of school speech pathologists or audiologists, school counselors, school nurses, school occupational therapists, school physical therapists, school psychologists, and school social workers: Provided, That nothing within chapter 180-79A WAC authorizes professional practice by an educational staff associate which is otherwise prohibited or restricted by any other law, including licensure statutes and rules and regulations promulgated by the appropriate licensure board or agency.

~~((5))~~ (6) Limited certificates. The following limited certificates are issued to individuals under specific circumstances set forth in WAC 180-79A-231:

- (a) Conditional certificate.
- (b) Substitute certificate.
- (c) Emergency certificate.
- (d) Emergency substitute certificate.
- (e) Nonimmigrant alien exchange teacher.

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- (f) Intern substitute teacher certificate.  
 (g) Transitional certificate.

**WSR 04-20-093****PERMANENT RULES****STATE BOARD OF EDUCATION**

[Filed October 5, 2004, 2:39 p.m., effective November 5, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The proposed amendments, repealers, and new sections to these policies will clarify the policies that relate to adult basic education and adult high school completion programs.

Citation of Existing Rules Affected by this Order: Repealing WAC 180-72-045, 180-72-055 and 180-72-065; and amending WAC 180-72-040, 180-72-050, 180-72-060, 180-51-035, and 180-51-050.

Statutory Authority for Adoption: Chapter 28A.230 RCW and RCW 28B.50.915.

Adopted under notice filed as WSR 04-15-043 on July 12, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 5, Repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 5, Repealed 3; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 27, 2004.

October 5, 2004

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 93-22-007, filed 10/21/93, effective 11/21/93)

**WAC 180-72-040 Purpose**~~((—Cooperation policy))~~ **and authority.** (1) The major purposes of adult education in the state of Washington ~~((is)), as addressed in this chapter and in the applicable rules of the state board for community and technical colleges, are~~ to raise the educational level of adults in the state who have not obtained an education consistent with their ability to learn and to provide adults disadvantaged through lack of a high school diploma with the opportunity to complete their high school education and to obtain proper recognition for it.

~~((The several statutes relating to adult education have vested authority and responsibility for conduct of adult education programs in the community and technical colleges for~~

~~administration and promulgation of rules and regulations in the state board for community and technical college education.))~~ (2) The authority for this chapter is RCW 28A.230.090 and 28B.50.535, which authorizes and requires the state board of education to establish state minimum high school graduation requirements.

**AMENDATORY SECTION** (Amending WSR 93-22-007, filed 10/21/93, effective 11/21/93)

**WAC 180-72-050 Adult education defined.** For the purpose of this chapter "adult education" shall be defined as set forth in RCW 28B.50.030~~((41))~~(12) which provides as follows: "Adult education" shall mean all education or instruction, including academic, vocational education or training, basic skills and literacy training, and "occupational education" (WAC 180-51-061(2)) provided by public educational institutions and community-based organizations, including common school districts for persons who are eighteen years of age and over or who hold a high school diploma or certificate: ~~((Provided, That))~~ However, "adult education" shall not include ~~((basic skills instruction, English as a second language,))~~ academic education or instruction for persons under twenty-one years of age who do not hold a high school degree or diploma and who are attending a public high school for the sole purpose of obtaining a high school diploma or certificate: ~~((Provided further, That))~~ Nor shall "adult education" ~~((shall not))~~ include education or instruction provided by any four year public institution of higher education.

**AMENDATORY SECTION** (Amending WSR 93-22-007, filed 10/21/93, effective 11/21/93)

**WAC 180-72-060 Adult high school completion education—Community/technical college and common school district participation.** ~~((1) Program authorization.))~~ A community or technical college district and a common school district under provisions of RCW 28B.50.530 may enter into an agreement for the conduct of an adult education program by the common school district on behalf of the community or technical college district when such program will not conflict with an existing program of the same nature and in the same geographical area conducted by the community or technical college district: ~~((Provided, That))~~ Such program shall be established, administered and operated in accordance with rules, procedures and guidelines prescribed by the ~~((executive director of))~~ state board for community and technical colleges and WAC 180-51-050 (3) and (4).

~~((2) Cooperative study of needs. Community and technical colleges, community-based organizations, and common school districts are encouraged to study cooperatively the needs in their own communities for educational services designed for adults to complete their high school training and, consistent with statutory provisions and requirements prescribed in this chapter, to provide appropriate programs to meet such needs.))~~

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 180-72-045 Authority—Regulatory provisions recognize intent of specific acts.
- WAC 180-72-055 Adult high school completion education—Policy.
- WAC 180-72-065 Community college high school diploma programs.

**AMENDATORY SECTION** (Amending WSR 00-19-108, filed 9/20/00, effective 10/21/00)

**WAC 180-51-035 Applicable standards for graduation for students under age twenty-one—Applicable standards for graduation for students age twenty-one or older—Amendments to this chapter.** (1) A student under age twenty-one shall have the right to graduate in accordance with the standards in effect for the school of graduation for any year since such student commenced the ninth grade or the equivalent of a four-year high school program (~~unless more than ten years has passed since such entry. In such case, the student shall have the right to graduate in accordance with the standards in effect for the school of graduation for any year within the last ten years~~) and until the student turns age twenty-one.

(2)(a) A student age twenty-one or older who earns a high school diploma through the adult high school completion option under WAC 180-51-053 shall be required to meet the state minimum graduation credit requirements under WAC 180-51-060 or 180-51-061, depending on when the student began their high school program. Such students shall not be required to meet the following state minimum graduation requirements under WAC 180-51-061: Certificate of academic achievement;

(b) The state board of education reserves the prerogative to determine if and when the waived requirements under (a) of this subsection shall be required to earn an adult high school completion diploma.

(3) All subsequent amendments to this chapter and all subsequent local standards shall apply prospectively to the students who enter the ninth grade or begin the equivalent of a four-year high school program subsequent to the amendments.

**AMENDATORY SECTION** (Amending WSR 04-04-093, filed 2/3/04, effective 3/5/04)

**WAC 180-51-050 High school credit—Definition.** As used in this chapter the term "high school credit" shall mean:

(1) Grades nine through twelve or the equivalent of a four-year high school program, and grades seven and eight under the provisions of RCW 28A.230.090 (4) and (5):

- (a) One hundred fifty hours of planned instructional activities approved by the district; or
- (b) Satisfactory demonstration by a student of clearly identified competencies established pursuant to a process

defined in written district policy. Districts are strongly advised to confirm with the higher education coordinating board that the award of competency-based high school credit meets the minimum college core admissions standards set by the higher education coordinating board for admission into a public, baccalaureate institution.

(2) College and university course work. At the college or university level, five quarter or three semester hours shall equal 1.0 high school credit: Provided, That for the purpose of this subsection, "college and university course work" means course work that generally is designated 100 level or above by the college or university.

(3) Community college high school completion program - Diploma awarded by community college. Five quarter or three semester hours of community college high school completion course work shall equal 1.0 high school credit: Provided, That for purposes of awarding equivalency credit under this subsection, college and university high school completion course work includes course work that is designated below the 100 level by the college and the course work is developmental education at grade levels nine through twelve or the equivalent of a four-year high school program. (See also WAC 180-51-053)

(4) Community college high school completion program - Diploma awarded by school district. A minimum of .5 and a maximum of 1.0 high school credit may be awarded for every five quarter or three semester hours of community college high school completion course work: Provided, That for purposes of awarding equivalency credit under this subsection, college and university high school completion course work includes course work that is designated below the 100 level by the college and the course work is developmental education at grade levels nine through twelve or the equivalent of a four-year high school program. (See also WAC 180-51-053)

(5) Each high school district board of directors shall adopt a written policy for determining the awarding of equivalency credit authorized under subsection (4) of this section. The policy shall apply uniformly to all high schools in the district.

(6) Each high school district board of directors shall adopt a written policy regarding the recognition and acceptance of earned credits. The policy shall apply to all high schools in the district. The policy may include reliance on the professional judgment of the building principal or designee in determining whether or not a credit meets the district's standards for recognition and acceptance of a credit. The policy shall include an appeal procedure to the district if it includes reliance on the professional judgment of the building principal or designee.

(7) A student must first obtain a written release from their school district to enroll in a high school completion program under subsection (3) of this section if the student has not reached age eighteen or whose class has not graduated.

(8) The state board of education shall notify the state board for community and technical colleges and the higher education coordinating board of any school or school district that awards high school credit as authorized under subsection (1)(b) of this section.

PERMANENT

NEW SECTION

**WAC 180-51-053 Community college high school diploma programs.** (1)(a) **Minimum requirements for high school diploma.** The minimum requirements and procedures for the issuance of a high school diploma by or through a community or technical college district shall be as prescribed by the state board of education in this section and chapters 180-51 and 180-56 WAC.

(b) Any high school graduation diploma issued by or through a community or technical college district shall certify that the diploma is issued in compliance with high school graduation requirements established by the state board of education and procedures established by the superintendent of public instruction.

**(2) Provisions governing program for persons eighteen years of age and over.**

(a) The appropriate school district, community college, or technical college education official shall evaluate the previous educational records of the student and may provide evaluative testing to determine the student's educational level. The official shall recommend an appropriate course or courses of study and upon the successful completion of such study the student will be eligible for the high school diploma.

(b) Satisfaction of minimum course requirements may be met by one or more of the following methods with the applicable institution granting credit verifying completion of course requirements.

- (i) Actual completion of courses regularly conducted in high school;
- (ii) Technical college;
- (iii) Community college;
- (iv) Approved correspondence or extension courses;
- (v) supervised independent study; or
- (vi) Testing in specific subject areas.

(c) The appropriate education official shall exercise reasonable judgment in appraising the educational experience of the student either in or out of a formal school program to determine the degree to which the student has satisfied the minimum credit requirements for completion of the high school program. Consideration may be given to work experience, vocational training, civic responsibilities discharged by the adult and other evidences of educational attainment.

(d) A high school diploma shall be granted to each individual who satisfactorily meets the requirements for high school completion. The diploma shall be issued by the appropriate school district, community college, or technical college: Records of diplomas issued under the provisions of this subsection shall be maintained by the issuing agency.

**(3) Provisions governing program for persons under eighteen years of age.**

(a) The high school principal shall evaluate the previous educational record of the individual and prior to his or her enrollment in courses and in cooperation with the appropriate education official of a community college or technical college shall approve the program of studies leading to the high school diploma.

(b) The student must be assigned a program supervisor.

**WSR 04-20-094****PERMANENT RULES****STATE BOARD OF EDUCATION**

[Filed October 5, 2004, 2:41 p.m., effective November 5, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 180-85-025, to clarify the language that identifies the situations in which an individual can earn continuing education credit hours; and WAC 180-85-033, to allow individuals serving as supervisors to earn continuing education credit hours for maintenance of the professional and continuing certificates and to allow teachers who complete an assessment and obtain a national board teaching certificate to obtain continuing education credit hours for their efforts.

Citation of Existing Rules Affected by this Order: Amending WAC 180-85-025 and 180-85-033.

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 04-15-112 on July 20, 2004.

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 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 27, 2004.

October 5, 2004

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 02-18-050, filed 8/28/02, effective 9/28/02)

**WAC 180-85-025 Continuing education—Definition.**

As used in this chapter, the term "continuing education" shall mean:

(1) All college and/or university credit, normally 100 level or higher, awarded by a regionally accredited institution of higher education, pursuant to WAC 180-78-010(6).

(2) All continuing education credit hours awarded by a vocational-technical college pursuant to WAC 180-85-030(3) and all continuing education credit hours awarded in conformance with the in-service education procedures and standards specified in this chapter by an approved in-service education agency.

(3) All continuing education credit hours awarded through a business, industry, or government internship that meets the requirements of chapter 180-83 WAC.



(4) All continuing education credit hours awarded (~~((through membership on a professional growth team))~~) in conformance with WAC 180-85-033.

AMENDATORY SECTION (Amending WSR 02-18-050, filed 8/28/02, effective 9/28/02)

**WAC 180-85-033 Continuing education credit hour—Definition—Professional growth team consultation and collaboration—School accreditation site visit team participation—National Board for Professional Teaching Standards assessment—Supervisors.** (1) Notwithstanding any provisions of this chapter to the contrary, for consultation and collaboration as a member of an approved professional growth team, as defined by WAC 180-78A-010 and 180-78A-505, members of a professional growth team, excluding the candidate, shall receive the equivalent of ten continuing education credit hours. The team member may not receive more than the equivalent of twenty continuing education credit hours, as defined by this section, during a calendar year period.

(2) A person holding a valid educational certificate pursuant to RCW 28A.410.010 shall receive the equivalent of ten continuing education credit hours for serving on a school accreditation site visit team. The person may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period.

(3)(a) Notwithstanding any provisions of this chapter to the contrary, individuals officially designated as a supervisor by a college/university, school district, educational service district, an approved private school, a state agency providing educational services to students or the superintendent of public instruction, a person holding a valid educational certificate pursuant to RCW 28A.410.010 shall receive the equivalent of ten continuing education credit hours for service as a supervisor. The person may not receive more than the equivalent of twenty continuing education credit hours during a calendar year period.

(b) The term "supervisor" shall mean individuals officially designated as a supervisor by a college/university, school district, educational service district, an approved private school, a state agency providing educational services to students, or the office of superintendent of public instruction for supervising the training of teacher interns, administrative interns, educational staff associate interns, and paraprofessionals.

(4) A person holding a valid educational certificate pursuant to RCW 28A.410.010 shall receive the equivalent of forty-five continuing education credit hours for completion of an assessment process as part of the National Board for Professional Teaching Standards certificate application. Upon achieving National Board certification, the individual shall receive the equivalent of an additional forty-five continuing education credit hours for a total of ninety continuing education credit hours per National Board certificate.

## WSR 04-20-110

### PERMANENT RULES

#### HOME CARE

#### QUALITY AUTHORITY

[Filed October 6, 2004, 10:37 a.m., effective November 6, 2004]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Provide information on the authority's organization and internal procedures for handling requests for public disclosure.

Citation of Existing Rules Affected by this Order: All new sections WAC 257-01-020, 257-01-040, 257-01-060, 257-02-020, 257-02-040, 257-02-060, 257-02-080, 257-02-100, 257-02-120, 257-02-140, 257-02-160, 257-02-180, and 257-02-200.

Statutory Authority for Adoption: RCW 74.39A.280(3) and 74.39A.230 (1)(2).

Adopted under notice filed as WSR 04-15-131 on July 20, 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 12, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 13, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 25, 2004.

Mindy L. Schaffner  
Executive Director

### Chapter 257-01 WAC

#### AUTHORITY ORGANIZATION

#### NEW SECTION

**WAC 257-01-020 Washington state home care quality authority—Function—Organization—Office.** The Washington state home care quality authority, hereinafter called "the authority," is the authority appointed by the governor pursuant to chapter 3, Laws of 2002 (Initiative Measure No. 775) established to regulate and improve the quality of long-term in-home care services by recruiting, training, and stabilizing the work force of individual providers.

The authority consists of a board of nine members appointed by the governor as follows: Five board members shall be current and/or former consumers of long-term in-home care services provided for functionally disabled persons, at least one of whom shall be a person with a developmental disability; one board member shall be a representative of the developmental disabilities planning council; one board member shall be a representative of the governor's committee



on disability issues and employment; one board member shall be a representative of the state council on aging; and one board member shall be a representative of the Washington state association of area agencies on aging. Each board member serves a term of three years.

If a vacancy occurs, the governor will make an appointment to become immediately effective for the unexpired term. Each board member is eligible for reappointment and may serve no more than two consecutive terms. In making appointments, the governor will take into consideration any nominations or recommendations made by the groups or agencies represented.

#### NEW SECTION

**WAC 257-01-040 Board meetings.** Meetings of the authority shall normally be held monthly at the date, time, and place to be set by the board. Additional public meetings necessary to discharge the business of the authority may be called from time to time by the chair or by a quorum of the board.

All meetings are conducted in accordance with the Open Public Meetings Act (chapter 42.30 RCW). A simple majority of the board constitutes a quorum. Any matter coming before the board may be decided by a majority vote of those members present and voting. Minutes shall be taken at all meetings.

Written communications intended for board consideration or action shall be filed with the authority's administrative office.

#### NEW SECTION

**WAC 257-01-060 Authority activities exempt from Environmental Protection Act.** The authority has reviewed its authorized activities and found them all to be exempt from the provisions of Title 197 WAC.

### Chapter 257-02 WAC

#### PUBLIC RECORDS

#### NEW SECTION

**WAC 257-02-020 Purpose.** The purpose of this chapter shall be to ensure compliance by the home care quality authority with the provisions of chapter 42.17 RCW dealing with public records.

#### NEW SECTION

**WAC 257-02-040 Definitions.** The following definitions shall apply to this chapter:

(1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation,

including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

(3) "Home care quality authority" means the authority established by chapter 3, Laws of 2002 (Initiative Measure No. 775). The home care quality authority shall be referred to as the "authority." The term authority refers to the authority board and, where appropriate, to the employees of the authority.

#### NEW SECTION

**WAC 257-02-060 Public records officer.** The authority executive director is the authority's public records officer. The public records officer is responsible for implementing the authority's administrative rules regarding release of public records, coordinating the staff of the authority in this regard, and insuring compliance by the staff with the public records disclosure requirements of chapter 42.17 RCW.

#### NEW SECTION

**WAC 257-02-080 Public records available.** All public records of the authority as defined in WAC 257-02-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310. Public records shall be available for inspection and copying during the customary office hours of the authority. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to 12:00 p.m. and from 1:00 p.m. to 5:00 p.m., Monday through Friday excluding legal holidays.

#### NEW SECTION

**WAC 257-02-100 Requests for public records.** (1) All requests for inspection or copying made in person at the authority's office shall be made on a form that includes:

- (a) The name and address of the person making the request;
- (b) The organization or group that the person represents;
- (c) The calendar date and time of day of the inspection request;
- (d) A description of the public records requested;
- (e) A statement that the record will not be used for commercial purposes.

(2) A request for inspection or copying of public records may be made by mail in a letter containing the following information:

- (a) The name and address of the person making the request;
- (b) The organization or group that the person represents;
- (c) The time of day and the calendar date on which the person wishes to inspect the public records;
- (d) A description of the public records requested;
- (e) A statement whether access to copying equipment is desired;

(f) A phone number where the person can be reached in case the public records officer or designee needs to contact the person for further description of the material or any other reason;

(g) A statement that the record will not be used for commercial purposes.

(3) All requests by mail should be received at the authority at least three business days before the requested date of inspection to allow the public records officer or designee to make certain the requested records are available and not exempt and, if necessary, to contact the person requesting inspection.

(4) The authority may, in its discretion, fill requests made by telephone.

#### NEW SECTION

**WAC 257-02-120 Prompt responses required.** The authority shall respond promptly to requests for public records to ensure compliance with the provisions of RCW 42.17.320. Within five business days of receiving a public record request, the authority must respond by either:

(1) Providing the record;

(2) Acknowledging that the authority has received the request and providing a reasonable estimate of the time the authority will require to respond to the request; or

(3) Denying the public record request.

In acknowledging receipt of a public record request that is unclear, the authority may ask the requestor to clarify what information the requestor is seeking. If the requestor fails to clarify the request, the authority shall not be required to respond to it.

#### NEW SECTION

**WAC 257-02-140 Fees.** No fee shall be charged for inspection of public records. The authority will charge a fee of fifteen cents per page for providing copies of public records. This charge is to reimburse the authority for costs incident to such copying. Postal charges will be added when applicable. No copies of records will be provided to the requestor until all such charges have been paid. The executive director or his or her designee is authorized to waive any of the foregoing copying costs for requests that require only a nominal number of copies.

#### NEW SECTION

**WAC 257-02-160 Statement of reasons for denial of public records request.** When the authority refuses, in whole or in part, a written request for inspection of any public record, it shall include a statement of the specific exemption authorizing the refusal and a brief explanation of how the exemption applies to the record that is withheld.

#### NEW SECTION

**WAC 257-02-180 Protection of public records.** In order to protect the public records of the authority, the following guidelines shall be adhered to by any person inspecting such public records:

(1) No public records shall be removed from the authority's premises.

(2) Inspection of any public record shall be conducted in the presence of a designated authority employee.

(3) No public records may be marked or defaced in any manner during inspection.

(4) Public records which are maintained in a file or jacket, or chronological order, may not be dismantled except for purposes of copying and then only by the public records officer or designee.

(5) Access to file cabinets, shelves, and other storage areas with public records is restricted to authority employees, unless other arrangements are made with the executive director or designee.

#### NEW SECTION

**WAC 257-02-200 Exemptions.** (1) The authority reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 257-02-050 is exempt under the provisions of RCW 42.17.310.

(2) In addition, pursuant to RCW 42.17.260(1), the authority reserves the right to delete identifying details when it makes available or publishes any public record, in any case when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The justification for the deletion shall be explained fully in writing by the public records officer or designee.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

**WSR 04-19-016**  
**EMERGENCY RULES**

**EMPLOYMENT SECURITY DEPARTMENT**

[Filed September 3, 2004, 4:31 p.m., effective September 3, 2004]

Effective Date of Rule: Immediately.

**Purpose:** To implement changes to the unemployment insurance program adopted by 2ESB 6097, passed by the 2003 legislature. The rules clarify issues related to job separations, job search requirements, penalties for failure to meet reporting requirements, the filing by employers of wage and tax reports, penalties for filing late or incomplete reports, penalties to employers for willfully misrepresenting their payroll, benefit charging and conditions for relief of benefit charges.

**Citation of Existing Rules Affected by this Order:** [No information supplied by agency.]

**Statutory Authority for Adoption:** RCW 50.12.010, 50.12.040, 50.12.042.

**Other Authority:** RCW 50.20.010.

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:** 2ESB 6097 was signed by the governor on June 20, 2003. Most of the provisions related to the payment of unemployment insurance benefits, and a number of the provisions related to unemployment insurance taxes, took effect on January 4, 2004. The department has filed notices of proposed rule making and conducted hearings pursuant to those notices. It is anticipated the permanent rules will be adopted within the next thirty days. In the interim, emergency rules are necessary to provide guidance to employers, unemployment insurance claimants, and the general public of the department's interpretation of the changes to the statute.

**Number of Sections Adopted in Order to Comply with Federal Statute:** New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 1, Amended 0, Repealed 0; or **Recently Enacted State Statutes:** New 42, Amended 23, Repealed 26.

**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 42, Amended 23, Repealed 26.

Date Adopted: September 1, 2004.

September 1, 2004  
Dr. Sylvia P. Mundy  
Commissioner

AMENDATORY SECTION (Amending WSR 89-20-064, filed 10/4/89, effective 10/9/89)

**WAC 192-04-040 Interested parties.** In all cases adjudicated under Title 50 RCW the employment security department is an interested party. Other interested parties are

(1) Benefit appeals. The claimant and any employer entitled to notice under WAC 192-~~130-060~~ ((~~12-320~~)) or defined as an interested employer in WAC 192-28-125, in cases involving the payment or recovery of benefits, including but not limited to the entitlement to, eligibility for or qualification for waiting period credit or benefits.

(2) Tax appeals. Employers whose contributions, experience rating, benefit charges, or rate of contribution are affected by:

(a) An assessment for contributions;

(b) A denial of a claim for refund of contributions, interest, penalties;

(c) A denial of a request for relief of benefit charges made to their account; or

(d) Their determined or redetermined rate of contribution.

AMENDATORY SECTION (Amending WSR 89-24-030, filed 11/30/89, effective 1/1/90)

**WAC 192-04-050 Appeals—Petitions for hearing—Right to notice.** Notice of appeal or petition for hearing rights shall be set forth on the face of, or as an attachment to, each of the following:

(1) Redetermination of an initial monetary determination.

(2) Determination of allowance or denial of waiting period credit or benefits.

(3) Redetermination of allowance or denial of waiting period credit or benefits.

(4) An overpayment assessment or a denial of a request for waiver of an overpayment.

(5) Order and notice of assessment of contributions, interest, or penalties.

(6) Denial of a claim for refund of contributions, interest, or penalties.

(7) Denial of a request for relief of benefit charges made to an employer's account.

(8) Denial of a redetermination or adjustment of an employer's determined or redetermined rate of contribution.

(9) Denial of approval or extension of standby status.

(10) Denial of a request for commissioner approved training or training benefits.

(11) Notice to separating employer of liability for all benefits paid on a claim as provided in RCW 50.29.021 (2)(c).

AMENDATORY SECTION (Amending WSR 82-17-052, filed 8/17/82)

**WAC 192-16-009 ((~~Interpretative regulations~~—)) Disqualification for leaving work voluntarily—Meaning of good cause for claims with an effective date prior to January 4, 2004—RCW 50.20.050 (1) ((~~and (3)~~)). (1) General rule.** Except as provided in WAC 192-((~~16-011~~))150-

050 and 192-((16-013)) 150-055, in order for an individual to establish good cause within the meaning of RCW 50.20.050 (1) for leaving work voluntarily it must be satisfactorily demonstrated:

(a) That he or she left work primarily because of a work connected factor(s); and

(b) That said work connected factor(s) was (were) of such a compelling nature as to cause a reasonably prudent person to leave his or her employment; and

(c) That he or she first exhausted all reasonable alternatives prior to termination: Provided, That the individual asserting "good cause" may establish in certain instances that pursuit of the otherwise reasonable alternatives would have been a futile act, thereby excusing the failure to exhaust such reasonable alternatives.

(2) **Exceptions.** Notwithstanding the provisions of subsection (1) above, neither the distance of the work from the individual's residence, if known at the time of hire nor any other work factor which was generally known and present at the time of hire will provide good cause for voluntarily leaving work unless the individual demonstrates to the satisfaction of the department:

(a) That the distance from the individual's residence at time of hire is substantially greater than the distance customarily traveled by workers in the individual's job classification and labor market; or,

(b) That the related work connected circumstances have so changed as to amount to a substantial involuntary deterioration of the work factor; or

(c) That other work related circumstances would work an unreasonable hardship on the individual if he or she were required to continue in the employment.

(3) **Definitions.** For purposes of subsection (2) above:

(a) "Distance customarily traveled" means a distance normally traveled by a significant portion of the work force in the individual's job classification in the labor market area;

(b) "Generally known" means commonly known without reference to specific cases or individuals; and

(c) "Individual's job classification" means the job classification in which the individual was working when the individual voluntarily left work; and

(d) A "labor market" is the geographic area in which those workers in the individual's job classification, living in the vicinity of his or her residence, customarily work; and

(e) "Substantial involuntary deterioration" means an actual and considerable worsening of the work factor outside the control of the individual; and

(f) "Unreasonable hardship" means a result, not due to the individual's voluntary action, that would cause a reasonable person to leave that employment.

**AMENDATORY SECTION** (Amending WSR 80-10-052, filed 8/6/80)

**WAC 192-16-015** (~~Interpretative regulations~~) **Leaving work for marital or domestic reasons—RCW 50.20.050 ((4))1(d).** This regulation applies only to claims with an effective date prior to January 4, 2004. (1) General rule. An individual whose marital status or domestic responsibilities are the primary cause of his or her voluntarily leav-

ing employment shall be disqualified from benefits pursuant to the terms of RCW 50.20.050(((4))) 1(d). This rule applies whether or not the individual took reasonable precautions to preserve his or her employment. Domestic responsibilities mean obligations or duties relating to the individual's immediate family, and include the illness, disability, or death of a member of the claimant's "immediate family" as defined in WAC 192-((16-013))150-055.

(2) Exception. Notwithstanding the provisions of subsection (1) above, an individual who leaves employment because of the illness, disability, or death of a member of his or her immediate family as defined in WAC 192-((16-013))150-055 and who establishes good cause under RCW 50.20.050 (((2)(b))) 1(b)(ii), will not be subject to disqualification under RCW 50.20.050(((4))) 1(d): Provided, That if such individual fails to establish good cause under RCW 50.20.050 (((2)(b))) 1(b)(ii), disqualification will be imposed under RCW 50.20.050(((4))) 1(d) rather than under RCW 50.20.050(1).

**AMENDATORY SECTION** (Amending WSR 82-17-052, filed 8/17/82)

**WAC 192-16-016** (~~Interpretive regulations~~) **Satisfying disqualification under RCW 50.20.050 ((4))1(d) when separation is for reasons of marital status and marriage occurs after date of separation.** This regulation applies only to claims with an effective date prior to January 4, 2004. In *Yamauchi v. Department of Employment Security*, 96 Wn.2d 773 (1982), the Washington state supreme court held that an individual who leaves work to be married and relocate to a place outside of reasonable commuting distance and who is not married at the time of the leaving does so for reasons of marital status and should be disqualified from benefits pursuant to RCW 50.20.050(((4))) 1(d) if there is a causal nexus between the marital status and leaving work. However, the court also ruled that an individual who so leaves work shall not benefit from the lesser disqualification of RCW 50.20.050(((4))) 1(d) prior to the date of the marriage and move.

(1) An individual who voluntarily leaves work to marry and relocate to a place outside of reasonable commuting distance has left work for reasons of marital status pursuant to RCW 50.20.050(((4))) 1(d) if there is a causal nexus between the marriage and leaving work.

(2) Any individual who leaves work for reasons of marital status as described in subsection (1) above shall be granted no credit toward satisfying the disqualification of benefits under RCW 50.20.050(((4))) 1(d) described as the alternate method of satisfying the disqualification in WAC ((192-16-017(2))) 192-150-090, for any week ending prior to marriage or relocation, whichever is the latter.

**NEW SECTION**

**WAC 192-100-010 Reasonably prudent person defined.** A reasonably prudent person is an individual who uses good judgment or common sense in handling practical matters. The actions of a person exercising common sense in a similar situation are the guide in determining whether an individual's actions were reasonable.

EMERGENCY

NEW SECTION

**WAC 192-100-020 Continued claim defined.** (1) You are a continued claim recipient if you:

- (a) Are monetarily entitled to benefits; and
- (b) Are nonmonetarily eligible for benefits; and
- (c) Have received credit for your waiting week or payment of benefits for one or more weeks in your benefit year and in the current continued claim series.

(2) Continued claim status will end following any combination of four or more consecutive weeks for which you do not file a claim or during which you are not an unemployed individual as defined in RCW 50.04.310.

NEW SECTION

**WAC 192-100-030 Week defined.** The term "week" means a period of seven consecutive calendar days beginning on Sunday at 12:01 a.m. and ending at midnight the following Saturday.

NEW SECTION

**WAC 192-100-035 Effective date of claim defined.** As provided in RCW 50.04.030, an unemployment claim will be effective on the Sunday of the calendar week in which the application for benefits is filed. This Sunday date is referred to as the "effective date of claim" or "claim effective date."

NEW SECTION

**WAC 192-110-200 Maximum benefits payable—RCW 50.20.120 (1)(b).** When the three-month seasonally adjusted total unemployment rate reaches six and eight-tenths percent or less, the maximum benefits payable on a claim will be permanently reduced to 26 times an individual's weekly benefit amount or one-third of the individual's base year wages, whichever is less.

NEW SECTION

**WAC 192-110-210 Claim cancellation.** If you choose to cancel a claim in order to refile with a new effective date, any nonmonetary eligibility decision issued under the canceled claim will be null and void. A new decision will be issued which addresses your eligibility for benefits based on the effective date of your new claim.

NEW SECTION

**WAC 192-120-050 Conditional payment of benefits.** (1) If you are a continued claim recipient and your eligibility for benefits is questioned by the department, you will be conditionally paid benefits without delay for any week(s) for which you file a claim for benefits, until and unless you have been provided adequate notice and an opportunity to be heard.

(2) Conditional payments will not be made under the conditions described in WAC 192-140-200 and 192-140-210.

NEW SECTION

**WAC 192-130-060 Notice to employer.** (1) Whenever an individual files an initial application for unemployment benefits, a notice will be mailed to:

- (a) The claimant's last employer, and
- (b) Any prior employer from whom the claimant has a potentially disqualifying separation where there is insufficient subsequent employment to purge a separation disqualification. An individual will be presumed to have a potentially disqualifying separation when:

(i) For claims with an effective date prior to January 4, 2004, it has been less than seven weeks or the individual has not earned at least seven times his or her weekly benefit amount since the job separation; or

(ii) For claims with an effective date January 4, 2004, and later, it has been less than ten weeks or the individual has not earned at least ten times his or her weekly benefit amount since the job separation.

(2) Whenever an individual files an initial application for unemployment benefits and a benefit year is established, a notice will be mailed to all base year employers. This notice to base year employers will include information on wages reported and benefit charging related information and will request an employer response if the wage information is incorrect or if the employer wishes to request relief of benefit charging.

(3) Whenever an individual files an initial application for unemployment benefits, a notice will be mailed to any separating employer as provided in WAC 192-320-075. This notice will include information that the employer may be liable for all benefits paid on the claim as provided in RCW 50.29.021 (2)(c).

(4) Whenever an individual files an additional claim for benefits (reopens an existing claim after subsequent employment), a notice will be mailed to the last employer reported by the claimant and to any prior employer from who the claimant has a potentially disqualifying separation who has not previously been notified.

NEW SECTION

**WAC 192-130-065 Mailing addresses for notice to employer.** Notices to employers required by RCW 50.20.150 and WAC 192-130-060 will be mailed as follows:

(1) The notice to the last employer of the claimant will be mailed to the address provided by the claimant. However, an alternative mailing address may be used in the following circumstances:

(a) If the department has been notified that the employer is represented for unemployment insurance purposes by an employer representative or cost control firm, the notice to the last employer may be mailed directly to that firm; or

(b) If an employer has notified the department that unemployment claim notices should be mailed to a specified address, the notice to the last employer may be mailed directly to that address.

(2) The notice to any base year employer who has reported wages to the department will be mailed to the employer's mailing address of record provided by the employer for tax purposes.

(3) The notice to any other employer from whom the claimant has a potentially disqualifying separation (without sufficient subsequent employment to purge a separation disqualification) will be mailed to the address provided by the claimant.

#### NEW SECTION

**WAC 192-130-070 Mailing of eligibility determinations—RCW 50.20.180.** (1) An eligibility determination based on a job separation issue will be mailed to the following:

(a) The last employer, if the claimant was separated from employment for reasons other than lack of work;

(b) A previous employer from whom the claimant has a potentially disqualifying separation as provided in WAC 192-130-060 if the claimant was separated from employment for reasons other than lack of work;

(c) For claims with an effective date prior to January 4, 2004, to any employer since the beginning of the claimant's base year who provides information that the claimant was discharged for a felony or gross misdemeanor connected with the work;

(d) For claims with an effective date of January 4, 2004 or later, to any employer since the beginning of the claimant's base year who provides information that the claimant was discharged for gross misconduct connected with the work, or whose wage credits are deleted from the claimant's record as a result of the claimant's gross misconduct.

(2) An eligibility determination based on an issue other than a separation from employment will be mailed to an employer if the employer provides relevant information relating to eligibility for a specific week.

#### NEW SECTION

##### **WAC 192-130-080 Procedure—Separation issues.**

(1) No decision on a separation issue (RCW 50.20.050, 50.20.060, RCW 50.20.066) will be issued until both parties to the separation have had an opportunity to present information and rebuttal, if necessary and appropriate, on the matters at issue.

(2) If an employer does not respond within ten days to the notice required by WAC 192-130-060, the department may make a decision at that time based on available information.

(3) If the department receives information from the employer after the end of the ten day response period, but before the decision has been made, the information provided by the employer will be considered before making the decision if the information was mailed to the unemployment claims telecenter identified on the notice.

(4) If the department receives information from the employer after the end of the ten day period and within thirty days following the mailing of a decision, the department will consider that information for the purposes of a redetermination under RCW 50.20.160 or as an appeal of the decision.

(5) Any information received within thirty days of the mailing of the notice required by WAC 192-130-060 may be considered a request for relief of benefit charges under RCW 50.29.020 or RCW 50.29.021.

#### NEW SECTION

**WAC 192-140-070 What happens if I do not establish that I am able to or available for work?** (1) If you report that you were not able to work or not available for work in any week or do not report whether you were able to work or were available for work, and do not provide details regarding your ability to or availability for work as requested, the department will presume you are not able or not available for work and benefits will be denied under RCW 50.20.010 (1)(c).

This denial is for a definite period of time, which is the week or weeks in which information on your ability to work or availability for work is incomplete.

(2) If you provide information that indicates you are not able to work or not available for work because of a circumstance that is expected to continue beyond the immediate week or weeks claimed, and you do not provide information regarding your ability to or availability for work, benefits will be denied under RCW 50.20.010 (1)(c).

This denial is for an indefinite period of time. It will begin with the first week claimed in which the circumstance applies and continue until the circumstance no longer exists.

#### NEW SECTION

**WAC 192-140-075 What happens if I do not demonstrate that I am actively looking for work?** (1) If you report that you were not actively seeking work in any week or do not report whether you made an active search for work and subsequently fail to report complete job search details and other information when requested, the department will presume you are not actively seeking work and your benefits will be denied under RCW 50.20.010 (1)(c).

(2) For the purpose of this section, "complete job search details" includes those elements required under WAC 192-180-015.

(3) This denial is for a definite period of time, which is the week or weeks in which your job search information is incomplete.

#### NEW SECTION

**WAC 192-140-080 What happens if I do not comply with a job search directive?** (1) If you have been issued a job search directive as provided in WAC 192-180-010, do not report a job search that meets the requirements outlined in the directive, and you do not provide additional job search information as requested or you respond with information that does not meet these requirements, the department will presume you are not actively seeking work as directed and benefits will be denied under RCW 50.20.010 (1)(c).

(2) This denial is for a definite period of time, which is the week or weeks in which your job search information does not meet the specific requirements of the directive.

#### NEW SECTION

**WAC 192-140-085 What happens if I do not respond to a request for information regarding late claim(s)?** (1) If you file a claim late as defined in WAC 192-140-005 and do

not respond to a request for an explanation of why the claim was filed late, the department will presume that the claim was filed late without good cause and benefits will be denied under RCW 50.20.010 (1)(b) and WAC 192-140-005.

(2) This denial is for a definite period of time, which is the week or weeks that were filed late.

#### NEW SECTION

**WAC 192-140-090 What happens if I do not report for reemployment services as provided in RCW 50.20.010 (1)(e)?** The commissioner may direct you in writing to report in person for reemployment services.

(1) **Exceptions.** You will not be required to participate in reemployment services if you:

- (a) Are a member in good standing of a full referral union;
- (b) Are attached to an employer as provided in WAC 192-180-005; or
- (c) Within the previous year have completed, or are currently scheduled for or participating in, similar services.

(2) **Minimum services.** The services will consist of one or more sessions which include, but are not limited to:

- (a) Local labor market information;
- (b) Available reemployment and training services;
- (c) Successful job search attitudes;
- (d) Self assessment of job skills and interests;
- (e) Job interview techniques;
- (f) The development of a resume or fact sheet; and
- (g) The development of a plan for reemployment.

(3) **Sanctions.** If you have received a directive, and fail to participate in reemployment services during a week, you will be disqualified from benefits for that week unless justifiable cause is demonstrated.

(4) **Justifiable cause.** Justifiable cause for failure to participate in reemployment services as directed will include factors specific to you which would cause a reasonably prudent person in similar circumstances to fail to participate. Justifiable cause includes, but is not limited to:

- (a) Your illness or disability or that of a member of your immediate family;
- (b) Your presence at a job interview scheduled with an employer; or
- (c) Severe weather conditions precluding safe travel.

Reasons for absence may be verified. In all such cases, your ability to or availability for work is in question.

#### NEW SECTION

**WAC 192-140-100 What happens if I do not respond to a request for information regarding a discharge from work?** (1) If you do not respond to a request for information regarding a discharge from work or have not provided sufficient information to identify or contact the employer, the department will presume you were discharged for misconduct connected with the work. For claims with an effective date prior to January 4, 2004, benefits will be denied under RCW 50.20.060. For claims with an effective date of January 4, 2004, and later, benefits will be denied under RCW 50.20.066. If you have provided the department with sufficient information to contact the employer, benefits will not be

denied unless the employer establishes by a preponderance of evidence that you were discharged for misconduct connected with your work.

(2) This denial is for an indefinite period of time and will continue until you meet the requalification provisions of RCW 50.20.060 or RCW 50.20.066, as applicable.

#### NEW SECTION

**WAC 192-140-120 What happens if I do not provide information regarding attendance at school?** (1) If you or another party notifies the department that you are in school and you do not respond to a request for information regarding school attendance, the department will presume that you are registered for academic instruction of 12 or more credit hours and have a limited attachment to the labor market, and are not available for work. Benefits will be denied under RCW 50.20.095 and RCW 50.20.010 (1)(c).

(2) This denial of benefits is indefinite in nature and will continue until you establish that you are eligible under RCW 50.20.095 and RCW 50.20.010 (1)(c).

#### NEW SECTION

**WAC 192-140-200 What happens if I certify that I am not able to or available for work?** (1) Benefits will be reduced under RCW 50.20.010 (1)(c) and RCW 50.20.130 without requiring additional information or interview if you file a weekly claim that:

(a) States you were not available for work or were not able to work on one or two days of a week or weeks being claimed; and

(b) The day or days to which this condition applies are normal working days in your regular occupation; and

(c) The information supplied clearly supports this finding.

This denial is for a definite period of time and applies only to the day or days for which you specifically indicate you are ineligible for benefits.

(2) Benefits will be denied under RCW 50.20.010 (1)(c) without requiring additional information or interview if you file a weekly claim that:

(a) States you were not available for work or were not able to work for three or more days of a week or weeks being claimed; and

(b) The days to which this condition applies are normal working days in your regular occupation; and

(c) The information supplied clearly supports this finding.

This denial for a definite period of time and applies only to the week or weeks for which you specifically indicate you are ineligible for benefits.

(3) Benefits will be denied under RCW 50.20.010 (1)(c) without requiring additional information or interview if you file a weekly claim that indicates you are not able to work or not available for work because of a circumstance that is expected to continue beyond the immediate week or weeks claimed.

This denial is for an indefinite period of time. It will begin with the first week claimed in which the circumstance applies and continue until the circumstance no longer exists.

(4) If you file a weekly claim with information clearly stating that you do not intend to claim benefits for the week or weeks, benefits will be denied under RCW 50.20.010 (1)(c) without requiring additional information or interview.

This denial is for a specific period of time, which is the week or weeks for which you specifically indicate you do not intend to claim benefits.

(5) Any denial of benefits under this section will be issued without delay.

#### NEW SECTION

**WAC 192-140-210 What happens if I return to full-time work or report hours worked consistent with full-time work?** If you report that you have returned to full-time work or report hours worked that are consistent with full-time work for that occupation, this information is sufficient to find that you are no longer an unemployed individual as defined in RCW 50.04.310. This denial is for a specific period of time, which is the week or weeks for which you report full-time work or hours consistent with full-time work.

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

**WAC 192-150-050 Leaving work to accept bona fide job offer—RCW 50.20.050 ~~((2)(a))~~ (1)(b)(i) and (2)(b)(i).** If you leave work to accept a bona fide offer of employment, you will have good cause within the meaning of RCW 50.20.050~~((4))~~ if you satisfactorily demonstrate that:

(1) Prior to leaving work, you received a definite offer of employment; and

(2) You had a reasonable basis for believing that the person making the offer had the authority to do so; and

(3) A specific starting date and the terms and conditions of the employment were mutually agreed upon; and

(4) You continued in your previous employment for as long as was reasonably consistent with whatever arrangements were necessary to start working at the new job; and

(5) The new job is in employment covered by Title 50 RCW or the comparable laws of another state or the federal government.

AMENDATORY SECTION (Amending WSR 02-14-035, filed 6/25/02, effective 7/26/02)

**WAC 192-150-055 Leaving work because of illness or disability—General rules and definitions—RCW 50.20.050 (1)(b)(ii) and (2)(b)(ii).** (1) **General rule.** To establish good cause for leaving work voluntarily because of your illness or disability or the illness, disability, or death of a member of your immediate family, you must demonstrate that:

(a) You left work primarily because of such illness, disability, or death; and

(b) The illness, disability, or death ~~((necessitated your leaving))~~ made it necessary for you to leave work; and

(c) You first exhausted all reasonable alternatives prior to leaving work, including:

(i) Notifying your employer of the reason(s) for the absence as provided in WAC 192-150-060; and

(ii) Asking ~~((that you))~~ to be reemployed when you are able to return to work. (You are not required to request reemployment after the job separation has occurred to establish good cause.)

~~((d))~~(2) For claims with an effective date of January 4, 2004, or later, you are not eligible for unemployment benefits unless, in addition to the requirements of subsections (1)(a)-(c) above, you terminate your employment and are not entitled to be reinstated in the same or similar position.

~~((2))~~3) Exception. You may be excused from failure to exhaust reasonable alternatives prior to leaving work as required by subsection (1)(c) if you can show that doing so would have been a futile act.

~~((3))~~4) Definitions. For purposes of this chapter:

(a) "Disability" means a sensory, mental, or physical condition that:

(i) Is medically recognizable or diagnosable;

(ii) Exists as a record or history; and

(iii) Substantially limits the proper performance of your job;

(b) "Immediate family" means your spouse, children (including unborn children), step-children, foster children, or parents of either spouse, whether living with you or not, and other relatives who temporarily or permanently reside in your household;

(c) "Necessary" means the conditions are of such degree or severity in relation to your particular circumstances that they would cause a reasonably prudent person acting under similar circumstances to quit work.

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

AMENDATORY SECTION (Amending WSR 02-08-072, filed 4/2/02, effective 5/3/02)

**WAC 192-150-060 Leaving work because of disability—Notice to employer—RCW 50.20.050 (1)(b)(ii) and (2)(b)(ii).** (1) If you leave work because of a disability you must notify your employer about your disabling condition before the date you leave work or begin a leave of absence. Notice to the employer shall include any known restrictions on the type or hours of work you may perform.

(2) Any restrictions on the type or hours of work you may perform must be supported by a physician's statement or by the terms of a collective bargaining agreement or individual hiring contract.

(3) Nothing in unemployment insurance law requires your employer to offer you alternative suitable work when you have a disability, or modify your duties so that you can perform your current job. However, any offer from your employer of other suitable work must be made prior to the date you leave work or begin a leave of absence. You are not required to request alternative work from your employer to be found available for work.

(4) If your employer offers you alternative work or otherwise offers to accommodate your disability, you must demonstrate good cause to refuse the offer. This may include, but is not limited to, information from your physician that the accommodation offered by your employer was inadequate to



reasonably accommodate your medical condition, or information demonstrating that the alternative work offered you by your employer was not suitable.

(5) If you refuse an offer of work from any employer after your job separation or after beginning a leave of absence, the department will determine whether you refused an offer of suitable work as provided in RCW 50.20.080.

(6) If you are on a leave of absence due to your disability, you must promptly request reemployment from your employer when you are again able to return to work.

(7) This section also applies to individuals on a leave of absence because of a pregnancy-related disability.

(8) For claims with an effective date of January 4, 2004, or later, in addition to the requirements of this section, you are not eligible for unemployment benefits unless you terminate your employment and are not entitled to be reinstated to the same or similar position.

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

**WAC 192-150-065 What constitutes an employer-initiated mandatory transfer under RCW 50.20.050 ((2)(e)) (1)(b)(iii)?** (1) This section applies only to claims with an effective date prior to January 4, 2004.

(2) If your spouse's employer requires your spouse to relocate to another labor market area to retain a current job or to accept another job with that employer, the relocation will be considered an employer-initiated mandatory transfer. Examples of employer-initiated mandatory transfers include, but are not limited to:

(a) A plant closure where employees must move to another labor market area to continue employment with that employer;

(b) A change in job responsibilities, such as a promotion, with that same employer where the employer requires a move to another labor market area; or

(c) A restructuring of business operations by the employer requiring employees to move to another labor market area if they want to continue in their customary occupation.

AMENDATORY SECTION (Amending WSR 01-11-085, filed 5/16/01, effective 6/16/01)

**WAC 192-150-085 How to qualify after benefits have been denied.** (1) Benefits may be denied under RCW 50.20.050((1)) for voluntarily leaving work, RCW 50.20.060 for being discharged for misconduct, and RCW 50.20.080 for refusing an offer of suitable work or job referral. The denial of benefits will continue indefinitely until you show that:

((1))a) At least seven calendar weeks have elapsed following the week the act occurred that resulted in the denial of benefits; and

((2))b) You have obtained bona fide work and earned wages of at least seven times your suspended weekly benefit amount. The wages earned must be in employment that is covered by Title 50 RCW or the comparable laws of another state or the federal government.

(2) For claims with an effective date of January 4, 2004, or later, benefits may be denied under RCW 50.20.066 for being discharged for misconduct or gross misconduct. The denial of benefits will continue indefinitely until you show that:

(a) At least ten calendar weeks have elapsed following the week the act occurred that resulted in the denial of benefits; and

(b) You have obtained bona fide work and earned wages of at least ten times your suspended weekly benefit amount. The wages earned must be in employment that is covered by Title 50 RCW or the comparable laws of another state or the federal government.

AMENDATORY SECTION (Amending WSR 99-08-073, filed 4/5/99, effective 5/6/99)

**WAC 192-150-090 How to qualify for benefits after leaving work for marital or domestic reasons.** This section applies only to claims with an effective date prior to January 4, 2004. RCW 50.20.050 (1((4)))(d) says that benefits will be denied if you quit your job for family reasons. In such cases, the law provides an alternative means for qualifying for benefits other than through work and earnings. Under this alternative method, you must report in person to your Work-Source Office or local employment center in ten different weeks and establish that you are able to work, available for work, and actively seeking work each week.

If you are an interstate claimant or living in a remote area, you can qualify for benefits under this alternative method by calling the unemployment information and weekly claims line in each of ten different weeks and certifying that you are able to work, available for work, and actively seeking work each week. For purposes of this section, you are living in a remote area if a round trip of more than two hours by reasonably available public or private transportation is required to reach the nearest local employment center and return.

NEW SECTION

**WAC 192-150-110 Mandatory military transfers—RCW 50.20.050 (2)(b)(iii).** (1) Any military transfer will be considered mandatory if your spouse receives orders from the military to relocate to a new duty station, regardless of whether the transfer is temporary or permanent.

(2) You may establish good cause to quit work if you relocate for your spouse's employment that was due to a mandatory military transfer if:

(a) Your spouse's new duty station is outside your existing labor market and in Washington or another state (including the District of Columbia, Puerto Rico, and the U.S. Virgin Islands) that allows benefits to individuals who quit work to accompany their military spouse; and

(b) You continued in your previous employment for as long as was reasonable prior to the move.

(3) For purposes of this section, the term "military" includes the following: U.S. Navy, U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Coast Guard, activated reserve members of any of these service branches, activated members of the National Guard, commissioned officers of

the National Oceanographic and Atmospheric Administration, and commissioned officers of the regular or reserve corps of the U.S. Public Health Service.

(4) The department will maintain a list of states that allow unemployment benefits to an individual who quits to accompany a military spouse. This list will be updated at least annually.

(5) Good cause for quitting work is not established under this section if:

(a) You quit work to return to your home of record or to another location rather than accompanying your spouse to a new duty location; or

(b) Your spouse leaves military service and you elect to relocate to your home of record or elsewhere.

#### NEW SECTION

**WAC 192-150-115 Reduction in compensation of 25% or more—RCW 50.20.050 (2)(b)(v).** (1) "Compensation" means remuneration as defined in RCW 50.04.320.

(2) "Usual" includes amounts actually paid to you by your employer or, if payment has not yet been made, the compensation agreed upon by you and your employer as part of your hiring agreement.

(3) To constitute good cause for quitting work under this section, employer action must have caused the reduction in your usual compensation.

(4) All reductions in compensation occurring since the beginning of your base period to the date of separation will be included in the determination as to whether your compensation was reduced by 25% or more.

(5) The percentage of reduction will be based on your most recent pay grade, salary, or other benefits you received or have accepted on a permanent basis. It does not include any temporary raises or other compensation for performing temporary duties.

#### NEW SECTION

**WAC 192-150-120 Reduction in hours of 25% or more—RCW 50.20.050 (2)(b)(vi).** (1) Your "usual hours" will be determined based on:

(a) The hours of work agreed on by you and your employer as part of your individual hiring agreement;

(b) For seasonal jobs, the number of hours you customarily work during the season; or

(c) For piecework, the number of hours you customarily work to complete a fixed volume of work.

(2) To constitute good cause for quitting under this section, employer action must have caused the reduction in your usual hours.

(3) All reductions in hours occurring since the beginning of your base period through the date of separation will be included in the determination as to whether your hours were reduced by 25% or more.

(4) In determining the percentage of reduction, the department will not consider any temporary overtime or additional hours performed on a temporary basis.

#### NEW SECTION

**WAC 192-150-125 Change in worksite—RCW 50.20.050 (2)(b)(vii).** (1) The location of your employment must have changed due to employer action. The change must have:

(a) Substantially increased the distance you travel to the new worksite or increased the difficulty or inconvenience of travel; and

(b) Resulted in a commute distance or time that is greater than is customary for workers in your job classification and labor market area.

(2) For purposes of this section:

(a) "Job classification" means your occupation at the time you quit work;

(b) "Labor market area" means the geographic area in which workers in your location and occupation customarily work. In determining whether a labor union's jurisdictional area is consistent with an individual member's labor market, the department will determine where the majority of union members in that member's location and occupation customarily work.

(3) Good cause for quitting work cannot be established under this section if the worksite location and distance to work was known at the time of hire.

#### NEW SECTION

**WAC 192-150-130 Worksite safety—RCW 50.22.050 (2)(b)(viii).** (1) At the time of hire, you can reasonably expect that your worksite complies with applicable federal and state health and safety regulations. If, after beginning work or accepting the job offer, you become aware of a safety issue that was not previously disclosed by your employer, the department will consider the safety of the worksite to have deteriorated.

(2) To establish good cause for quitting work under this section, you must notify your employer of the safety issue and give your employer a reasonable period of time to correct the situation. For purposes of this section:

(a) "Employer" means your supervisor, manager, or other individual who could reasonably be expected to have authority to correct the safety condition at issue;

(b) "Reasonable period of time" means the amount of time a reasonably prudent person would have remained at the worksite or continued working in the presence of the condition at issue. In addition:

(i) For health or safety issues that present imminent danger of serious bodily injury or death to any person, your employer must take immediate steps to correct the situation;

(ii) If your employer has been issued a citation by a regulatory agency charged with monitoring health or safety conditions, the employer must correct the condition within the time period specified in the citation.

(c) "Serious bodily injury" means bodily injury which creates a probability of death, or which causes serious permanent disfigurement, or which causes a significant loss or impairment of the function of any bodily part or organ whether permanent or temporary.

NEW SECTION

**WAC 192-150-135 Illegal activities at the worksite—RCW 50.20.050 (2)(b)(ix).** (1) Illegal activities include violations of both civil and criminal law.

(2) To establish good cause for quitting work under this section, you must notify your employer of the illegal activity and give your employer a reasonable period of time to correct the situation. You are not required to notify your employer before quitting when your employer is conducting the illegal activity and notifying your employer could jeopardize your safety or is contrary to other federal and state laws (for example, whistleblower protection laws).

(3) "Employer" means your supervisor, manager, or other individual who could reasonably be expected to have authority to correct the illegal activity at issue;

(4) A "reasonable period of time" is the period a reasonably prudent person would be expected to continue working in the presence of the activity at issue.

NEW SECTION

**WAC 192-150-140 Change in usual work that violates religion or sincere moral beliefs—RCW 50.20.050 (2)(b)(x).** (1) For purposes of this section, "usual work" means job duties or conditions:

(a) Originally agreed upon by you and your employer in your hiring agreement; or

(b) Customary for workers in your job classification; or

(c) You consistently performed during your base period;

or

(d) Mutually agreed to by you and your employer prior to the employer action changing your job duties.

(2) The following criteria will be used to determine whether you had good cause for quitting work under this section:

(a) The change in your usual work must be the result of action taken by your employer;

(b) The work must require you to violate your religious beliefs or sincere moral convictions; mere disapproval of the employer's method of conducting business is not good cause for leaving work under this section;

(c) You must notify your employer that the work violates your religion or sincere moral beliefs, unless doing so would be futile;

(d) The work or activity must directly, rather than indirectly, affect your religious or moral beliefs; and

(e) The objectionable condition must exist in fact, rather than be a matter of speculation.

(3) You will not have good cause for quitting work under this section if:

(a) You are inconsistent or insincere in your objections;

(b) The objection is raised as a sham or a means of avoiding work; or

(c) You knew of the objectionable aspects of the work at the time of hire, or you continued working under the objectionable conditions.

NEW SECTION

**WAC 192-150-150 When is a separation considered a refusal of new work?** (1) Section 3304 (a)(5) of the Federal Unemployment Tax Act and RCW 50.20.110 prohibit the denial of benefits to individuals who refuse to accept new work when the wages, hours, or other conditions of work are substantially less favorable to the individual than those prevailing for similar work in the locality.

(2) For purposes of this chapter, "new work" includes an offer by your present employer of:

(a) Different duties than those you agreed to perform in your current employment contract or agreement; or

(b) Different terms or conditions of employment from those in the existing contract or agreement.

(3) When your employer changes your pay, hours, or conditions of work in a manner that does not constitute good cause under RCW 50.20.050(2), the department will determine whether the change constitutes an offer of new work. If it does, the department will also determine if the new work is substantially less favorable than similar work in your labor market area.

(a) If the department determines the change constitutes an offer of new work, and the new work is substantially less favorable, the separation will be treated as a layoff due to lack of work and the issue of the refusal of new work adjudicated under RCW 50.20.080.

(i) The refusal of new work will be adjudicated even if you have not claimed benefits for the week in which the refusal occurred; and

(ii) The employer offering the new work is an interested party to the work refusal decision.

(b) If the department determines the change does not constitute an offer of new work, or the new work is not substantially less favorable, the separation from work will be adjudicated as a voluntary quit under RCW 50.20.050(2).

(4) If the reduction in your pay or hours is ten percent or less, the department will presume that it is not substantially less favorable and adjudicate the separation under RCW 50.20.050(2). You can overcome this presumption by providing additional information to the department to support a finding that the job was not suitable as provided in RCW 50.20.110.

(5) If you continue working for your employer after being notified of the change(s) in working conditions, the department will consider that you have agreed to the new terms and conditions of employment and have accepted the offer of new work. If you subsequently quit work because of these changes, the department will consider that you have voluntarily left work for personal reasons. This provision does not apply when you give notice of your intent to quit work upon being notified of the change(s) in working conditions and simply continue to work during an agreed upon notice period.

(6) For purposes of this section, the following definitions apply:

(a) "Conditions of work" includes fringe benefits such as life and health insurance; paid sick, vacation, and annual leave; provisions for leaves of absence and holiday leave; pensions, annuities and retirement provisions; and severance pay. It also includes job security and reemployment rights;

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training and promotion policies; wage guarantees; unionization; grievance procedures; work rules, including health and safety rules; medical and welfare programs; physical conditions such as heat, light and ventilation; shifts of employment; and permanency of work.

(b) "Prevailing" means the most typical or customary in a particular occupation for a given area. Whether a wage rate is prevailing for your labor market area will be determined based on information provided by the department's labor market and economic analysis branch.

(c) "Similar work" means similarity of the operations performed, the skill, ability and knowledge required, and the responsibilities involved.

(d) "Substantially less favorable" means the work is materially reduced below the standard under which the greatest number of individuals in your occupation and labor market area customarily work, or the work would have a significantly unfavorable impact on you.

#### NEW SECTION

**WAC 192-150-200 General provisions—Misconduct and gross misconduct—RCW 50.04.294 and RCW 50.20.066.** (1) The action or behavior that resulted in your discharge or suspension from employment must be connected with your work to constitute misconduct or gross misconduct.

(2) The action or behavior must result in harm or create the potential for harm to your employer's interests. This harm may be tangible, such as damage to equipment or property, or intangible, such as damage to your employer's reputation or a negative impact on staff morale.

(3) RCW 50.04.294, subsections (1)(c) and (3)(b), will be distinguished as follows:

(a) Subsection (1)(c) "Carelessness or negligence that causes or would likely cause serious bodily harm to your employer or fellow employee" means that your action results in serious bodily injury or a reasonably prudent person would know it is likely to result in serious bodily injury.

(b) Subsection (3)(b) "Inadvertence or ordinary negligence in isolated instances" means that your action is an accident or mistake and is not likely to result in serious bodily injury.

#### NEW SECTION

**WAC 192-150-205 Definitions—Misconduct and gross misconduct—RCW 50.04.294 and RCW 50.20.066.** For purposes of this chapter, the following definitions will apply:

(1) "Willful" means intentional behavior done deliberately or knowingly, where you are aware that you are violating or disregarding the rights of your employer or a co-worker.

(2) "Wanton" means malicious behavior showing extreme indifference to a risk, injury, or harm to another that is known or should have been known to you. It includes a failure to act when there is a duty to do so, knowing that injury could result.

(3) "Carelessness" and "negligence" mean failure to exercise the care that a reasonably prudent person usually exercises.

(4) "Serious bodily harm" means bodily injury which creates a probability of death, or which causes significant permanent disfigurement, or which causes a significant loss or impairment of the function of any bodily part or organ.

(5) "Criminal act" means any act classified as a felony, gross misdemeanor, or misdemeanor under state or federal law.

(6) "Flagrant" means conspicuously bad or offensive behavior showing contemptuous disregard for the law, morality, or the rights of others. This blatant behavior must be so obviously inconsistent with what is right or proper that it can neither escape notice nor be condoned.

#### NEW SECTION

**WAC 192-150-210 Willful or wanton disregard—RCW 50.04.294 (1)(a) and (2).** (1) "Repeated inexcusable tardiness" means repeated instances of tardiness that are unjustified or that would not cause a reasonably prudent person in the same circumstances to be tardy. Your employer must have warned you at least twice, either verbally or in writing, about your tardiness, and violation of such warnings must have been the immediate cause of your discharge.

(2) "Dishonesty related to employment" means the intent to deceive the employer on a material fact. It includes, but is not limited to, making a false statement on an employment application and falsifying the employer's records.

(3) "Repeated and inexcusable absences" means repeated absences that are unjustified or that would not cause a reasonably prudent person in the same circumstances to be absent. Previous warnings from your employer are not required, but your repeated absences must have been the immediate cause of your discharge.

(4) A company rule is reasonable if it is related to your job duties, is a normal business requirement or practice for your occupation or industry, or is required by law or regulation.

(5) The department will find that you knew or should have known about a company rule if you were provided an employee orientation on company rules, you were provided a copy or summary of the rule in writing, or the rule is posted in an area that is normally frequented by you and your co-workers, and the rule is conveyed or posted in a language that can be understood by you.

(6) You are considered to be acting within your "scope of employment" if you are:

(a) Representing your employer in an official capacity;

(b) On your employer's property whether on duty or not;

(c) Operating equipment under your employer's ownership or control;

(d) Delivering products or goods on behalf of your employer; or

(e) Acting in any other capacity at the direction of your employer.

#### NEW SECTION

**WAC 192-150-215 Discharges for felony or gross misdemeanor or for gross misconduct—Responsibility for providing information.** In any job separation where there is a potential disqualification under RCW 50.20.065 or

RCW 50.20.066, the employer is responsible for notifying the department in a timely manner of any resolution of issues.

If an employer notifies the department of a potential disqualification under RCW 50.20.065 or RCW 50.20.066 within ten days of receiving the notice required by WAC 192-130-060, the department will review the claimant's eligibility for benefits.

#### NEW SECTION

**WAC 192-150-220 Discharges for gross misconduct or for felony or gross misdemeanor.** (1) **Effective dates.** The provisions of RCW 50.20.065 will apply to claims with an effective date prior to January 4, 2004. The provisions of RCW 50.20.066 will apply to claims with an effective date of January 4, 2004, and thereafter.

#### (2) **Definitions.**

(a) "Criminal act" means every action defined as a crime by the applicable state or federal statutes, including felonies and gross misdemeanors.

(b) "Felony" means every crime that is defined as such by the applicable state or federal statutes.

(c) "Gross misdemeanor" means every crime which is defined as such by the applicable state or federal statutes.

(d) A "competent authority" is:

(i) A court (including magistrate or court commissioner), prosecuting attorney, or law enforcement agency; or

(ii) An administrative law judge; or

(iii) A regulatory agency or professional association charged by law with maintaining professional standards or codes of conduct; or

(iv) Any other person or body, other than your employer, with authority to administer disciplinary action against you.

(e) An admission to your employer or to an employee of the department that you have committed a criminal act is not considered an admission to a competent authority for the purposes of RCW 50.20.065 and RCW 50.20.066.

#### (3) **Canceling wage credits.**

(a) For claims with an effective date prior to January 4, 2004: If you have been discharged because of a felony or gross misdemeanor connected with your work of which you have been convicted or have admitted committing, all your hourly wage credits based on that employment since the beginning of your base period will be canceled.

(b) For claims with an effective date of January 4, 2004, and later: If you have been discharged for gross misconduct connected with your work:

(i) All your hourly wage credits based on that employment since the beginning of your base period will be canceled;

(ii) If your wage credits with this employer are fewer than 680 hours, the balance of wage credits up to 680 hours will be canceled proportionately among your base period employers according to each employer's share of your base period wages. Wages from each employer will be removed from the most recent quarter in which wages were reported.

(c) Wage credits may only be canceled based upon an admission of a criminal act if:

(i) You admit to each and every element of a criminal act which caused you to be discharged; and

(ii) The admission is made to a competent authority.

AMENDATORY SECTION (Amending WSR 99-13-002, filed 6/3/99, effective 7/4/99)

**WAC 192-180-010 Job search requirements—Directives—RCW 50.20.010 (1)(c)((3)) and 50.20.240.** (1) **Do I have to look for work?** You must be actively seeking work unless you are:

(a) Attached to an employer; ~~((or))~~

(b) Participating in a training program approved by the commissioner; or

(c) Unemployed due to strike or lockout as provided in RCW 50.20.090(2).

(2) **When should I start my job search?** You must look for work every week that you file a claim for benefits, unless you are exempt under subsection (1).

(3) **What are my weekly job search requirements?**

(a) At a minimum, you must:

(i) Make job search contacts with at least three employers each week; or

(ii) If your claim is effective prior to January 4, 2004, participate in an approved ((documented)) in-person job search activity at the WorkSource Office or local employment center; or

((iii) If your claim is effective January 4, 2004 or later, participate in three approved in-person job search activities at the WorkSource Office or local employment center, or any combination of employer contacts or in-person job search activities for a total of three.

(b) Based on your individual circumstances, such as your occupation, experience, or labor market area, the department may issue you a directive requiring more than three employer contacts or job search activities ((a)) each week.

~~((This subsection does not apply.))~~ (c) If you are a member of a full referral union((-)) you must be in good standing with your union, eligible for dispatch, and comply with your union's dispatch or referral requirements. Your benefits may be denied for any weeks in which you fail to meet these requirements and you may be directed to seek work outside of your union.

(4) **What is a "job search contact"?** ~~((Usually a))~~ A job search contact is a contact with an employer ((in-person or by telephone)) to inquire about or apply for a job. You may use ((other)) job search methods that are customary for your occupation and labor market area, including in-person, telephone, internet, or telefax contacts. The work applied for must be suitable (see RCW 50.20.100) unless you choose to look for work in a lower skill area. A contact does not count if it is made with an employer whom you know is not hiring, or if the department determines the contact is designed in whole or in part to avoid meeting the job search requirements.

(5) **What is an "in-person job search activity"?** This is an activity provided through the WorkSource Office or local employment center that will assist you in your reemployment efforts. It includes, but is not limited to, ((resume development,)) job search workshops, training classes, ((and computer tutorials)) or other facilitated services provided by WorkSource staff and approved by the local WorkSource

administrator. For claimants residing in Washington State, an in-person job search activity must be documented in the department's Services, Knowledge and Information Exchange System (SKIES) to qualify. For interstate claimants, the activity must be documented in the one-stop system in the state in which you reside.

(6) **What is a directive?** A directive is a written notice from the department telling you that specific methods of job search are required in order to meet the job search requirements. A written directive need not have been issued to deny benefits for failure to meet the job search requirements in subsection (3).

(7) **When is a directive issued?** The department can issue a directive to clarify or to increase the job search requirements you must meet. Examples include, but are not limited to, cases in which you need to:

- (a) Increase the number of employer contacts each week;
- (b) Change your method of seeking work (such as from resumes to in-person contacts);
- (c) Expand the geographic area in which your job search is conducted; or
- (d) Seek work in a secondary occupation.

(8) **When is the directive effective?** The directive is effective when it is given in writing by the department. It stays in effect until a new written directive is given, or it is rescinded in writing.

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

**AMENDATORY SECTION** (Amending WSR 99-13-002, filed 6/3/99, effective 7/4/99)

**WAC 192-180-015 Tracking job search activities—RCW 50.20.240.** (1) **Do I need to keep track of my job search activities?** You must keep a record or log of your job search contacts and the ~~((services))~~ in-person job search activities you receive through the WorkSource Office or local employment center unless you are:

- (a) A member of a full referral union; ~~((or))~~
- (b) Allowed benefits because you left work to protect yourself or a member of your immediate family from domestic violence or stalking as provided in RCW 50.20.050 (1)(b)(iv) or (2)(b)(iv); or
- (c) Exempt from job search requirements under WAC 192-180-010(1).

(2) **What information do I need to keep in the log?** Your job search log must contain at least the following information:

- (a) For job search contacts, record the date contact was made; the employer's name, address and telephone number; the type of contact (in-person, telephone, etc.); the name of the person you contacted; the type of work you applied for; and the results of your contact;
- (b) For in-person job search activities at the local reemployment center, record the date contact was made; a description of the services you received or the activities in which you participated; and the results of your contact.

(3) **Is there a specific form I must use?** The department will supply you with a form (EMS 10313) to use in tracking your job search activities. You may use your own form or

tracking method as long as all information required by this subsection is recorded.

(4) **How long should I keep my log?** Keep your log for at least sixty days after the end of your benefit year or sixty days after receiving your final payment on any extension of benefits, whichever is later.

**AMENDATORY SECTION** (Amending WSR 99-13-002, filed 6/3/99, effective 7/4/99)

**WAC 192-180-020 Monitoring job search activities—RCW 50.20.240.** (1) **Will my job search activities be monitored?** Every week that you file a claim for benefits, you must certify that you meet the job search requirements. The department may review your job search activities at any time. If you have been paid benefits for five or more weeks in any benefit year, you must provide the department with a copy of your job search log upon request. You must bring a copy of your job search log to any ~~((eligibility))~~ job search review interview (see WAC 192-180-025) for which you have been scheduled.

(2) **Will the department verify the information on my job search log?** Employer contacts and other job search activities on your log will be verified whenever the department has a question about the information reported. In addition, when you are scheduled for a ~~((eligibility))~~ job search review interview, your log will be verified with the listed employers on a random basis.

**AMENDATORY SECTION** (Amending WSR 99-13-002, filed 6/3/99, effective 7/4/99)

**WAC 192-180-025 ((Eligibility)) Job search review interviews.** (1) **What is a ~~((eligibility))~~ job search review (JSR) interview ~~((ERI))~~?** The ~~((ERI))~~ JSR is an interview between you and a representative of the WorkSource Office or local employment center. Its purpose is to review your job search documentation, identify any barriers to your reemployment, develop a plan for resolving barriers that may be identified, and provide advice on how to improve your job search efforts. For interstate claimants, this interview may be conducted by telephone or by the local employment center in a contracted state.

(2) **Will my job search activities be reviewed?** Yes, you must bring your job search log to the interview. The interviewer will review your log with you and discuss areas in which your job search can be improved. The employer contacts and job search activities included in your log will be verified at random. The interviewer may further verify any reported contacts at his or her discretion.

(3) **How many weeks will be reviewed?** (a) The interviewer will review at least one week of your job search documentation. If the job search documentation is unsatisfactory, or you fail to appear for the JSR interview without being excused, you will be scheduled for a second interview in which all weeks claimed will be reviewed.

(b) If you are excused from attending the initial JSR interview, you will be rescheduled for a review of one week of your job search documentation.

(c) You may be excused from attending the initial JSR interview as scheduled only for the following reasons:

- (i) Jury duty;
- (ii) National Guard duty;
- (iii) Natural disaster or acts of nature; or
- (iv) Verifiable employment or a job interview.
- (d) For purposes of this section, "all weeks" means the latest of the following:

- (i) Weeks claimed since January 4, 2004;
- (ii) Weeks claimed since you filed your application for benefits; or
- (iii) Weeks claimed since your last JSR interview, if applicable.

**(4) Do I need to bring anything else to the JSR interview? You must be prepared to present proof of your identity during the JSR interview. This includes:**

- (a) State or government issued photo identification; or
- (b) Two of the following government-issued documents:
  - (i) Voter's registration card;
  - (ii) U.S. Military identification card or draft record;
  - (iii) Military dependent's identification card;
  - (iv) U.S. Coast Guard Merchant Mariner Card;
  - (v) Native American tribal document;
  - (vi) U.S. social security card;
  - (vii) Certification of Birth Abroad issued by the U.S. Department of State;

- (viii) Original or certified copy of a birth certificate;
- (ix) U.S. Citizen ID Card;
- (x) ID Card for use of Resident Citizen in the United States; or

(xi) Unexpired employment authorization document issued by the United States Citizenship and Immigration Services (formerly the Immigration and Naturalization Service).

**AMENDATORY SECTION** (Amending WSR 99-13-002, filed 6/3/99, effective 7/4/99)

**WAC 192-180-030 Penalties.** (1) **Is there a penalty if I don't look for work or fail to report for the JSR interview as directed?** Benefits will be denied if you fail to:

- (a) Meet the minimum job search requirements;
- (b) Provide information about your job search activities and, once you have been paid five weeks of benefits, provide a copy of your job search log upon request;
- (c) Comply with any job search directive issued by the department; or
- (d) Report to a scheduled ~~((eligibility))~~ job search review interview.

(2) **How long will my benefits be denied?** Benefits will be denied for the specific week or week(s) in which you fail to act as described in subsection (1).

(3) **What is the penalty if I don't attend a JSR that has been scheduled to review all weeks claimed?** If you fail to appear for a review of your job search logs for all weeks claimed, fail to produce your job search logs for those weeks, or your logs fail to establish that you have met the minimum job search requirements, such failure will be treated as non-disclosure under RCW 50.20.160(3) and your benefits may be denied for any weeks at issue.

## NEW SECTION

**WAC 192-180-040 Directive to attend job search workshop or training course—RCW 50.20.044.** (1) The department may direct you, in writing, to attend a job search workshop or training course when it finds that your chances of finding employment will be improved by enrollment in such activity.

(2) You will not be directed to attend a job search workshop or training course if:

- (a) You have an offer of bona fide work that begins within two weeks; or
- (b) The workshop or training location is outside your labor market or would require you to travel further than the nearest WorkSource office or local employment center; or
- (c) You are a member in good standing of a full referral union, unless you are also being required to begin an independent search for work or have been identified as a dislocated worker as defined in RCW 50.04.075.

(3) If you receive a directive and fail without good cause to attend a substantial portion of the workshop or training course during a week, you will be ineligible for benefits for the entire week. Good cause includes your illness or disability or that of a member of your immediate family, or your presence at a job interview scheduled with an employer. Reasons for absence may be verified and may result in a denial of benefits under RCW 50.20.010.

(4) Participation in a job search workshop when directed meets the definition of an "in-person job search activity" as defined in WAC 192-180-010.

(5) When attending a job search workshop or training course as directed, you will not be ineligible for benefits for failure to be available for work or to actively seek work under the provisions of:

- (a) RCW 50.20.010 (1)(c);
- (b) RCW 50.20.240; or
- (c) RCW 50.22.020(1).

## NEW SECTION

**WAC 192-200-005 Disqualification of students—RCW 50.20.095.** (1) **General rule.** If you are registered in a course of study that provides scholastic instruction of 12 or more credit hours per week, you are disqualified from receiving benefits or credit for your waiting week.

(2) **Period of disqualification.** The disqualification starts with the week the instruction begins or the week you left employment to return to school, whichever is earlier. The disqualification ends at midnight on Saturday of the week prior to the first full week in which you are no longer registered for 12 or more hours of instruction. You will be required to certify to the department that you are not currently registered for 12 or more credit hours and will not be registered for 12 or more credit hours for at least 60 days. If you begin classes within 60 days, all benefits paid since the date of your certification will be considered an overpayment. This overpayment is subject to recovery under RCW 50.20.190. If you are registered for classes that begin more than 60 days in the future, you will not be disqualified under this subsection.

(3) **Disqualification not applicable.** The disqualification does not apply if you:



(a) Are in approved training as provided by RCW 50.20.043; or

(b) When you apply, you demonstrate by a preponderance of the evidence that your student status does not significantly interfere with your actual availability for work.

(4) **Definitions.** As used in this section:

(a) "School" includes primary schools, secondary schools, and institutions of higher education as defined in RCW 50.44.037;

(b) "Scholastic instruction" includes all teaching or opportunity for learning subjects other than those of a strictly vocational nature. Subjects of a vocational nature are those embraced in the definition of "training" contained in WAC 192-200-005.

(c) "Twelve or more hours per week" means 12 or more credit hours per week or its equivalent;

(d) "Preponderance of evidence" means evidence sufficient to persuade a reasonable person considering all the evidence that the proposal is more probably true than not true.

(5) **Students.** Students who claim benefits are subject to all of the provisions of Title 50 RCW including:

(a) RCW 50.20.050 dealing with those who leave work voluntarily without good cause;

(b) RCW 50.20.010 (1)(c) requiring claimants to be able and available for and actively seeking work; and

(c) RCW 50.20.240 requiring claimants to provide evidence of their job search activities as requested by the department.

#### NEW SECTION

**WAC 192-200-010 Training defined—RCW 50.20.043.** (1) The term "training" means a course of education with the primary purpose of training in skills that will allow you to obtain employment.

(2) The term "training" does not include beginning a course of education primarily intended to meet the requirements of a baccalaureate or higher degree.

#### NEW SECTION

**WAC 192-200-030 Unemployment benefits while in training.** (1) To be eligible for unemployment benefits while in training, the following criteria must be met:

(a) The training must be full-time as defined by the training facility; and

(b) You must be making satisfactory progress in training as defined in WAC 192-270-065.

(2) You must notify the department if you discontinue or suspend training, change your course of study, or reduce enrollment to less than full-time.

(3) If your enrollment drops below full-time or you are not making satisfactory progress, you may be required to show that you are meeting the availability for work and job search requirements of RCW 50.20.010 (1)(c) and RCW 50.20.240, and the provisions of RCW 50.20.080 regarding failure to apply for, or refusal to accept suitable work.

## CHAPTER 192-220 WAC OVERPAYMENT NOTICE AND ASSESSMENT

### NEW SECTION

**WAC 192-220-010 Overpayments—Notification to individual.** (1) If a potential overpayment exists, the department will provide you with an overpayment advice of rights, in writing, explaining the following:

(a) The reasons you may have been overpaid;

(b) The amount of the possible overpayment as of the date the notice is mailed;

(c) The fact that the department will collect overpayments as provided in WAC 192-230-100;

(d) The fact that final overpayments are legally enforceable debts which must be repaid whether or not you are claiming unemployment benefits;

(e) The fact that these debts can be the basis for warrants which can result in liens, notices to withhold and deliver personal properties, garnishment of salaries, and possible sale of real and personal properties;

(f) An explanation that if you are not at fault, you may request a waiver of the overpayment. Waiver means the overpayment does not have to be repaid; and

(g) A statement that you have 10 days to submit information about the possible overpayment and whether you are at fault. Failure to do so means the department will make a decision based on available information about the overpayment and your eligibility for waiver.

### NEW SECTION

**WAC 192-220-020 Overpayments—Fault provisions.** (1) When an overpayment occurs, the department will make a finding of fault or nonfault based on information provided by you and your employer and from information contained in the department's records. After reviewing all such information, you will be considered to be at fault when the overpayment is:

(a) The result of fraud, misrepresentation, or willful non-disclosure;

(b) The result of a discharge for a felony or gross misdemeanor under RCW 50.20.065;

(c) The result of a discharge for gross misconduct under RCW 50.04.294; or

(d) Based on the presence of all of the following three elements:

(i) You were paid benefits in an amount greater than you were entitled to receive and you accepted and retained those benefits; and

(ii) The payment of these benefits was based on incorrect information or a failure to furnish information which you should have provided as outlined in the information for claimants booklet, claimant directives and other reasonable written communications issued by the department; or information which you caused another person to fail to disclose; and

(iii) You had notice that the information should have been reported.



(2) You may be considered at fault, even though you provided the department with all relevant information before the benefit eligibility decision was issued, if the overpayment is the result of payment that you should reasonably have known was improper. The following are some, but not all, examples where you should reasonably have known that a payment was improper and as a result are at fault. These are intended as examples only and do not mean that the department would rule in this manner in every such situation.

(a) You correctly reported earnings but the department paid benefits at the full amount or incorrectly deducted the earnings.

(b) You reported that you were unavailable for one or more customary work days, but the department paid at the full amount and the payment was not a conditional payment.

(c) You received a retroactive pension payment that you had applied for and were reasonably sure would be awarded.

(d) You did not inform the department that you were eligible for benefits on an unexpired claim against another state.

(e) A lower level decision was reversed by the office of administrative hearings, the commissioner or a court because of new information that you did not disclose to the department.

(f) Other circumstances in which department fact finding indicates that you knew the payment was improper.

(3) In deciding whether or not you are at fault, the department will also consider education, mental abilities, emotional state, your experience with claiming unemployment benefits, and other elements of your personal situation which affect your knowledge and ability to comply with reporting all relevant information. This includes information contained in the information for claimants booklet, claimant directives and other reasonable written communications issued by the department.

(4) You will be considered to be without fault when you provided the department with all relevant information before the benefit eligibility decision is issued and the overpayment is the result of payment that you would not reasonably have known was improper. The following are some, but not all, examples of instances in which you may not reasonably have known that a payment was improper and as a result are not at fault. These are intended as examples only and do not mean that the department would rule in this manner in every such situation.

(a) The department erroneously removed a payment stop, resulting in improper payment.

(b) You received a retroactive pension which was backdated by the pension source, not at your request.

(c) A combined wage or federal claim was filed against Washington that should have been filed against another state.

(d) Extended benefits were paid by the department when you would have been eligible for a new claim against Washington or another state.

(e) A lower level decision, in which you had provided all information, was reversed by the office of administrative hearings, the commissioner or a court.

(f) Other circumstances in which department fact finding indicates you did not know the payment was improper.

#### NEW SECTION

**WAC 192-220-030 Overpayments—Equity and good conscience provisions.** (1) The department will not consider or grant waiver of an overpayment and will not consider or accept an offer in compromise of an overpayment that is:

(a) Based on an overpayment decision written by a state other than Washington;

(b) The result of a conditional payment as provided in WAC 192-23-900; or

(c) For claims with an effective date of January 4, 2004, and later, the result of being discharged for misconduct or gross misconduct as provided in RCW 50.20.066(5).

(2) Except as provided in subsection (1), the department will grant waiver of an overpayment when it is found that you were without fault in the overpayment and when it is determined that to require repayment would be against equity and good conscience. It will be against equity and good conscience to deny waiver when repayment of the overpayment would deprive you of income required for necessary living expenses unless there are unusual circumstances which would argue against waiver.

(3) You will be required to provide financial information to the department to determine if the overpayment will be waived. Your failure to provide such information within 10 days from the request date will result in the department making a decision, based on available information, regarding your eligibility for waiver. The department may verify any financial information you provide. Any amount waived based on information that is later found to be fraudulent or misrepresented will be restored to the overpayment balance.

(4) The financial information requested includes:

(a) Your income and, to the extent available to you, other financially contributing members of the household for the previous month, the current month and the month following the date the financial information is requested.

(b) Your current and readily available liquid assets. Liquid assets may include, but are not limited to, checking and savings account balances, stocks, bonds and cash on hand.

(c) Your expenses for the previous month, the current month and the month following the date the financial information is requested.

(5) If your average monthly expenses equal or exceed your average monthly income and there are no substantial liquid assets available, waiver of the overpayment will be considered. The presence of unusual circumstances may justify waiver on other than a financial basis when not to waive would be unconscionable.

(6) When you have been denied waiver or waiver was not considered, you may enter into a payment agreement with the department.

(7) Except as provided in subsection (1), when you have been denied waiver or have been unable to reach a payment agreement with the department you may make an offer in compromise as provided in RCW 50.24.020. The basis for allowing or denying an offer in compromise will be the same criteria used by the department for allowing or denying waiver of an overpayment. Any overpayment amount compromised based on information that is later found to be fraudulent or misrepresented will be restored to the overpayment balance.

**CHAPTER 192-240 WAC  
RECOVERY OF OVERPAYMENTS**

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

NEW SECTION

**WAC 192-230-100 Recovery of benefit overpayment—By repayment or offset against past or future benefits.** (1) If you do not repay an overpayment in full or make the minimum monthly payments provided for in WAC 192-28-130, the overpayment will be deducted from benefits payable for any week(s) you claim.

(2) For overpayments assessed under RCW 50.20.010 because you asked to have your unemployment insurance claim cancelled, the amount deducted will be one hundred percent of benefits payable for each week(s) you claim. The department will ensure you are informed of the advantages and/or disadvantages of cancelling an existing claim to file a new claim.

(3) If you are currently claiming benefits, the overpayment will not be offset from future weeks payable unless you have missed two or more payments as provided in WAC 192-28-130. If you have missed two or more payments, the overpayment will be offset as described in (a) and (b) below:

(a) If the overpayment was caused by a denial for fraud, misrepresentation, or willful nondisclosure as provided in RCW 50.20.070, the amount deducted will be one hundred percent of benefits payable for each week(s) you claim. These overpayments will be collected first.

(b) For all other overpayments, the amount deducted will be fifty percent of benefits payable for each week you claim. However, you may request the overpayment be repaid at one hundred percent of benefits payable for each week you claim.

(4) If the overpayment has been assessed by another state, the amount deducted will be as follows:

(a) For overpayments caused by a denial for fraud, misrepresentation, or willful nondisclosure, the amount deducted will be one hundred percent of benefits payable for each week(s) you claim. These overpayments will be collected first.

(b) For all other overpayments, the amount deducted will be fifty percent of benefits payable for each week you claim. However, you may request the overpayment be repaid at one hundred percent of benefits payable for each week you claim.

(5) If you have been denied waiver, or if waiver was not considered, you will be notified in writing of your right to enter into a payment agreement with the department or to make an offer in compromise. An offer in compromise will not be approved if the overpayment was caused by a denial under RCW 50.20.065 or RCW 50.20.070 unless there are unusual circumstances which would justify a compromise. An offer in compromise will not be approved if the overpayment was caused by a denial under RCW 50.20.066.

AMENDATORY SECTION (Amending WSR 03-06-038, filed 2/26/03, effective 3/29/03)

**WAC 192-240-035 How to qualify for regular shareable or extended benefits after leaving work for marital**

**or domestic reasons—RCW 50.22.020(7).** This section applies only to claims with an effective date prior to January 4, 2004. If you were denied benefits because you left work for family reasons as provided in RCW 50.20.050(~~(4)~~) (1)(d), you could qualify for regular benefits either through work and earnings or by reporting in person to your local employment center for each of ten weeks. However, you are not eligible for regular shareable or extended benefits unless, after leaving work, you obtained work and earned wages of seven times your weekly benefit amount. The wages earned must be in employment that is covered by Title 50 RCW or the comparable laws of another state or the federal government.

AMENDATORY SECTION (Amending WSR 03-06-038, filed 2/26/03, effective 3/29/03)

**WAC 192-240-040 Penalties.** (1) If you claim regular shareable or extended benefits during a week in which you failed to accept any offer of work, or failed to accept a referral or apply for any work as directed by the department:

(a) Benefits will be denied under RCW 50.20.080 if the work was suitable as defined by RCW 50.20.100 and 50.20.110, and you did not have good cause for failing to apply for or accept work;

(b) If benefits are denied as provided in subsection (1)(a), you will also be denied benefits as provided in RCW 50.22.020;

(c) Benefits will be denied under only RCW 50.22.020 if the work was suitable as provided in that statute and WAC 192-240-020, but did not meet the provisions of RCW 50.20.100 and 50.20.080.

(2) If you claim regular shareable or extended benefits during a week in which you failed to meet the job search requirements of WAC 192-240-030, benefits will be denied under RCW 50.22.020, except as provided in subsection (4).

(3) A denial of benefits under RCW 50.22.020 starts the week in which the failure occurs, and continues indefinitely until you show that:

(a) You have worked in at least four weeks; and

(b) You have earned at least four times your weekly benefit amount. The employment does not need to be covered by Title 50 RCW.

(4) If you fail to meet the job search requirements of WAC 192-240-030 because you are hospitalized for treatment of an emergency or life-threatening condition, benefits will be denied under RCW 50.20.010(~~(3)~~) (1)(c). The denial period is only for the week or weeks in which the hospitalization occurred.

AMENDATORY SECTION (Amending WSR 00-05-068, filed 2/15/00, effective 3/17/00)

**WAC 192-300-050 Predecessor-successor relationship defined.** This section applies only to those individuals and organizations that meet the definition of an employer contained in RCW 50.04.080.

(1) **Predecessor.** You are a "predecessor" if, during any calendar year, you transfer any of the following to another individual or organization:

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(a) All, or a portion, of your operating assets as defined in subsection (3) below; or

(b) A separate unit or branch of your trade or business.

(2) **Successor.** You are a "successor" if, during any calendar year, you acquire substantially all of a predecessor employer's operating assets. You are a "partial successor" if, during any calendar year, you acquire:

(a) A portion of a predecessor employer's operating assets, or

(b) A separate unit or branch of a predecessor employer's trade or business.

(3) **Operating assets.** "Operating assets" include the properties you use in the normal course of business operations to generate your operating income. They may include properties that are real or personal, and tangible or intangible. Examples include land, buildings, machinery, equipment, stock of goods, merchandise, fixtures, or goodwill. Employers are not operating assets.

(4) **Transfer of assets.** Transfers from a predecessor to a successor employer may occur by sale, lease, gift, or any legal process, except those listed in subsection (5) below.

(5) **Simultaneous acquisition.** For purposes of successor simultaneous acquisition, the term "simultaneous" means all transfers that occurred as a result of the business acquisition or reorganization, beginning when the acquisition started and ending when the primary entity is transferred.

(6) **Exceptions.** A predecessor-successor relationship will not exist:

(a) For the purposes of chapter 50.24 RCW (payment of taxes), when the property is acquired through court proceedings, including bankruptcies, to enforce a lien, security interest, judgment, or repossession under a security agreement unless the court specifies otherwise;

(b) For the purposes of chapter 50.29 RCW (experience rating), when any four consecutive quarters, one of which includes the acquisition date, pass without reportable employment by either the predecessor, successor, or a combination of both.

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

**AMENDATORY SECTION** (Amending WSR 98-14-068, filed 6/30/98, effective 7/31/98)

**WAC 192-310-010 Employer reports—RCW 50.12-070.** (1) **Master application.** Every person or entity, which has one or more individuals performing services for it in the state of Washington, must file a master application with the department (~~a master application~~) in a format prescribed by the commissioner.

(2) **Quarterly tax and wage reports:**

(a) **Tax report.** Each employer must file a quarterly tax report with the commissioner listing the total wages paid to all individuals in its employ during that calendar quarter.

(b) **Report of employee's wages.** Each employer must file a quarterly report of employee's wages with the commissioner. This report must list each employee by name, social security number, hours worked, and wages paid during that calendar quarter.

(c) **Format.** The quarterly tax and wage reports must be filed in ~~((a))~~ one of the following formats ~~((prescribed by the commissioner.))~~:

(i) Electronically, using the current version of UIFast-Tax, UIWebTax, or ICESA Washington; or

(ii) Paper forms supplied by the department (or a certified version of those forms).

(d) **Due dates.** ~~The((y))~~ quarterly tax and wage reports are due by the last day of the month following the end of the calendar quarter being reported. Calendar quarters end on March 31, June 30, September 30 and December 31 of each year. Therefore, reports are due by April 30, July 31, October 31, and January 31, respectively. Exceptions to the time and manner of filing the report must be approved in advance by the commissioner.

~~((d))e~~ **Termination of business.** Each employer who ceases business or whose account is closed by the department must immediately file:

(i) A tax report for the current calendar quarter which covers tax payments due to the date such account is closed;

(ii) A report of employee's wages for the current calendar quarter which includes all wages paid to the date such account is closed.

~~((3))~~ **Report form instructions.** ~~All form preparation instructions issued by the employment security department have the same force and effect as if they had been incorporated into this regulation.~~

**AMENDATORY SECTION** (Amending WSR 98-14-068, filed 6/30/98, effective 7/31/98)

**WAC 192-310-025 Application of payments.** (1) A payment received with a tax report will be applied to the quarter for which the report is filed. A payment exceeding the legal fees, penalties, interests and taxes due for that quarter will be applied to any other debt as provided in subsection (2). If no debt exists, a credit statement will be issued for any overpayments.

(2) A payment received without a tax report will be applied in the following order of priority, beginning with the oldest quarter:

(a) ~~((Lien fees))~~ Costs of audit and collection.

(b) ~~((Warrant fees))~~ Penalties for willful misrepresentation of payroll.

(c) ~~((Late tax report penalty))~~ Lien fees.

(d) ~~((Late tax payment penalty))~~ Warrant fees.

(e) ~~((Interest charges))~~ Late tax report penalty.

(f) ~~((Tax payments))~~ Penalties for incomplete reporting or reporting using incorrect format.

(g) Late tax payment penalty.

(h) Interest charges.

(i) Tax payments.

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

AMENDATORY SECTION (Amending WSR 98-14-068, filed 6/30/98, effective 7/31/98)

**WAC 192-310-030 Reports and tax payments subject to penalty.** (1) ~~Late~~ ~~(F)~~ **tax reports.** An employer who files a ~~(late or incomplete)~~ tax report as described in WAC 192-310-010 (2)(a) but does not file it within the time frame prescribed in WAC 192-310-010 (2)(c) is subject to a penalty of ~~((ten))~~ twenty-five dollars per violation, unless the penalty is waived by the department.

**(2) Incomplete Tax Reports.** An employer is required to file the report required by WAC 192-310-010 in a complete manner and in the format required by the commissioner.

(a) An "incomplete report" is defined as any report submitted by either a contributory or reimbursable employer where:

- (i) The entire wage report is not submitted timely; or
  - (ii) A required element is not reported (social security number, name, hours worked, or wages paid); or
  - (iii) A significant number of employees are not reported;
- or
- (iv) A significant number of any given element is not reported such as, but not limited to, missing social security numbers, names, hours, wages; or
  - (v) No employer reference number or Unified Business Identifier (UBI) number is included with the tax or wage report.

(b) An "incorrect format" means any report that is not submitted in the format required by the commissioner under WAC 192-310-010(c).

**(3) Penalty for filing an incomplete or incorrect format tax report.** An employer who fails to file a report required by RCW 50.12.070 is subject to penalty as follows:

**(a) Incomplete tax report.** The penalty for filing an incomplete tax report will be two hundred fifty dollars or ten percent of the quarterly contributions for each occurrence, whichever is less. When no quarterly tax is due and an employer has submitted an incomplete report, the following schedule will apply:

(i)	<u>1<sup>st</sup> Occurrence</u>	<u>\$75.00</u>
(ii)	<u>2<sup>nd</sup> Occurrence</u>	<u>\$150.00</u>
(iii)	<u>3<sup>rd</sup> and subsequent occurrences</u>	<u>\$250.00</u>

**(b) Filing tax report in an incorrect format.** The penalty for filing a tax report in an incorrect format will be two hundred fifty dollars or ten percent of the quarterly contributions for each occurrence, whichever is less. When no quarterly tax is due and an employer has submitted a tax report in an incorrect format, the following schedule will apply:

(i)	<u>1<sup>st</sup> Occurrence</u>	<u>\$150.00</u>
(ii)	<u>2<sup>nd</sup> and subsequent occurrences</u>	<u>\$250.00</u>

**(4) Knowingly misrepresenting amount of payroll.** If an employer knowingly misrepresents to the department the amount of his or her payroll, upon which contributions under this title are based, the employer is liable for a penalty of ten times the difference between the contributions paid, if any, and the amount of contributions the employer should have paid for the period. This penalty is in addition to the amount

the employer should have paid. The employer is also liable to the department for the reasonable expenses of auditing his or her books and collecting such sums as provided in WAC 192-340-100.

~~((2))~~ **(5) Report of employee's wages.** Any decision to assess a penalty for filing a late or incomplete report of employee's wages as described in WAC 192-310-010 (2)(b) will be made on an individual basis by the chief administrative officer of the tax branch as provided in RCW 50.12.220.

~~((3))~~ **(6) Delinquent tax payments.** For purposes of RCW 50.12.220, tax payments are delinquent as provided in WAC 192-310-020 and RCW 1.12.070.

~~((4))~~ **Late penalty.** For tax payments due on wages paid, a minimum \$10.00 penalty will be assessed for late payments.

~~((5))~~ **(7) Penalty waivers.** The department may, for good cause, waive penalties in the following situations:

- (a) The return was filed on time but inadvertently mailed to another agency;
- (b) The delinquency was due to an action of an employee of the department, such as providing incorrect information to the employer when the source can be identified, or not furnishing proper forms to permit the filing of tax reports or the payment of taxes on time;
- (c) The delinquency was caused by the death or serious illness, before the filing deadline, of the employer, a member of the employer's immediate family, the employer's accountant, or a member of the accountant's immediate family;
- (d) The delinquency was caused by the accidental destruction of the employer's place of business or business records; or
- (e) The department finds the employer to be out of compliance during an employer-requested audit, but the department determines the employer made a good faith effort to comply with all applicable laws and rules.

~~((6))~~ **(8) Waiver requests.** A request for a waiver of penalties must be written, contain all pertinent facts, be accompanied by available proof, and be filed through a tax office. In all cases the burden of proving the facts is on the employer.

~~((7))~~ **(9) Extensions.** The department, for good cause, may extend the due date for filing a report. The employer must make a deposit with the department in an amount equal to the estimated tax liability for the reporting period or periods for which the extension is granted. This deposit will be credited to the employer's account and applied to the employer's debt. The amount of the deposit is subject to approval by the department.

AMENDATORY SECTION (Amending WSR 00-05-069, filed 2/15/00, effective 3/17/00)

**WAC 192-320-070 Conditions for relief of benefit charges due to a voluntary quit.** (1) For claims with an effective date prior to January 4, 2004, ~~((A))~~ a contribution-paying non-local government base year employer, who has not been granted relief of charges under RCW 50.20.020(2) may request relief of charges for a voluntary quit not attributable to the employer under RCW 50.29.020(4(~~(3))~~) and WAC 192-320-065.

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(2) For claims with an effective date on or after January 4, 2004, a contribution-paying non-local government base year employer, who has not been granted relief of charges under RCW 50.20.021(3), may request relief of charges for a voluntary quit not attributable to the employer under RCW 50.29.021(4) and WAC 192-320-065.

(3((1))) Reasons for a voluntary quit not attributable to the employer. A claimant may have been denied unemployment benefits for voluntarily quitting work without good cause, but subsequently requalify for unemployment benefits through work and earnings. Even if the claimant has requalified for benefits, the following reasons for leaving work will be considered reasons not attributable to the employer ((may include, but are not limited to)):

(a) The claimant's illness or disability or the illness, disability or death of a member(s) of the claimant's immediate family;

(b) The claimant's domestic responsibilities;

(c) Accepting a job with another employer;

(d) Relocating for a spouse's employment;

(e) Starting or resuming school or training;

(f) Being in jail;

(g) The distance to the job site when the job was accepted and the distance at the time of the quit remained the same, or the job location may have changed; but the distance traveled or difficulty of travel was not increased;

(h) Being dissatisfied with wages, hours or other working conditions generally known when the job was accepted; and the working conditions are determined suitable for the occupation in the claimant's labor market.

(4((2))) Reasons for a voluntary quit considered attributable to employer are those work-related factors of such a compelling nature as to cause a reasonably prudent person to leave employment. The work factors must have been reported to the employer if the employer has reasons not to be aware of the conditions, and the employer failed to improve the factors within a reasonable period of time. The reason for quitting may or may not have been determined good cause for voluntarily leaving work under RCW 50.20.-050. For benefit charging purposes, however, ((&))such work-related factors may include, but are not limited to:

(a) Change in work location which causes an increase in distance and/or difficulty of travel, but only if it is clearly greater than is customary for workers in the individual's classification and labor market;

(b) Deterioration of work site safety provided the employee has reported such safety deterioration to the employer; and the employer has failed to correct the hazards within a reasonable period of time;

(c) Employee skills no longer required for the job;

(d) Unreasonable hardship on the health or morals of the employee;

(e) Reductions in hours;

(f) Reduction in pay;

(g) Notification of impending layoff; and

(h) Such other work-related factors as the commissioner may deem pertinent.

## NEW SECTION

**WAC 192-320-075 Charges to the separating employer—RCW 50.29.021 (2)(c).** (1) If a claimant voluntarily quits work to accept a job with a new employer, 100% of benefits paid on the claim will be charged to the new employer when this new employer is the claimant's last employer, a base period employer, and a contribution-paying employer.

(2) If a claimant quits work because of the working conditions listed in this subsection, the employer from whom the separation occurred will be charged for 100% of benefits paid on the claim if the employer is the claimant's last employer, a base period employer, and a contribution-paying employer. These working conditions include:

(a) A reduction in the individual's usual compensation of 25% or more under WAC 192-150-115;

(b) A reduction in the individual's usual hours of 25% or more under WAC 192-150-120;

(c) A change in the work location which caused a substantial increase in distance or difficulty of travel under WAC 192-150-125;

(d) A deterioration in the individual's worksite safety under WAC 192-150-130;

(e) Illegal activities in the individual's worksite under WAC 192-150-135; or

(f) The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs under WAC 192-150-140.

(3) Benefits based on wages paid by the following entities will **not** be charged to the experience-rating account of the separating employer as described in subsections (1) and (2) if they were earned:

(a) In another state;

(b) From a local government employer;

(b) From the federal government; or

(c) From any branch of the United States military.

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

## NEW SECTION

**WAC 192-340-100 Reasonable audit expenses—RCW 50.12.220 (1)(b).** Reasonable expenses for auditing an employer's books and collecting taxes may include:

(1) Salaries and benefits based on the payrolls documented for state staff conducting the audit (including reporting and follow-up costs);

(2) Communication costs such as telephone charges for arranging the audit, e-mails, mail or similar communication services;

(3) Travel costs for expenses such as transportation, lodging, subsistence and related items incurred by state employees traveling for the purpose of conducting the audit. Such costs may be charged on an actual cost basis or on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed by the department;

- (4) Customary standard commercial airfare costs (coach or equivalent);
- (5) Costs for materials and supplies (including the costs of producing reports and audit findings);
- (6) Equipment costs necessary for conducting the audit;
- (7) Collection costs, including court costs, lien and warrant fees, and related costs; and
- (8) Other costs which the department establishes that are directly related to the audit or collection of the penalty (i.e. appeal costs).

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 192-12-011 Continued claim definitions.
- WAC 192-12-012 Conditional payment of continued claim recipients when eligibility is questioned.
- WAC 192-12-020 Week defined.
- WAC 192-12-180 Training defined.
- WAC 192-12-184 Training—Unemployment benefits while pursuing training.
- WAC 192-12-190 Directive to attend job search workshop or training or retraining course according to RCW 50.20.044.
- WAC 192-12-300 Mailing addresses for notice to employer.
- WAC 192-12-310 Notice to employer.
- WAC 192-12-320 Mailing of determination notices under RCW 50.20.180.
- WAC 192-12-330 Predetermination procedure—Separation issue.
- WAC 192-12-340 Discharges for misconduct for felony or gross misdemeanor—Responsibility for providing information.
- WAC 192-16-019 Interpretative regulations—Effective date of RCW 50.20.065—Discharges for felony or gross misdemeanor.
- WAC 192-16-023 Interpretative regulations—Disqualification of students—RCW 50.20.095.
- WAC 192-23-014 Failure to establish ability to or availability for work.
- WAC 192-23-015 Failure to establish active search for work.

- WAC 192-23-016 Failure to meet work search requirements.
- WAC 192-23-017 Failure to respond to a request for information regarding late filing of claims.
- WAC 192-23-019 Directive to report for reemployment services.
- WAC 192-23-061 Failure to respond to a request for information regarding a discharge from work.
- WAC 192-23-096 Failure to provide information regarding attendance at school.
- WAC 192-23-800 Certification of ineligibility.
- WAC 192-23-810 Certification of return to full-time work or report of hours worked consistent with full-time work.
- WAC 192-28-105 Recovery of benefit overpayment—Notification to individual.
- WAC 192-28-110 Recovery of benefit overpayment—Fault provisions.
- WAC 192-28-115 Recovery of benefit overpayment—Equity and good conscience provisions.
- WAC 192-28-120 Recovery of benefit overpayment—By repayment or offset against past or future benefits.

**WSR 04-20-001  
EMERGENCY RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Economic Services Administration)**

[Filed September 22, 2004, 3:48 p.m., effective September 22, 2004]

Effective Date of Rule: Immediately.

Purpose: 45 C.F.R. 303.32(a) lists program requirements for serving and enforcing medical support obligations under Title IV-D of the Social Security Act: The state must have procedures requiring the IV-D agency to send a National Medical Support Notice to an employer within two days of entry of the noncustodial parent into the state directory of new hires, and there are communication requirements with the Title XIX agency (medical assistance). The federal Office of Child Support Enforcement will only recommend continued approval of Washington's state plan upon the adoption of such requirements. At the same time we are filing this emergency rule, the DSHS Division of Child Support (DCS)

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is commencing the regular rule-making process on this subject.

Statutory Authority for Adoption: RCW 74.20A.310.

Other Authority: 45 C.F.R. 303.32(a); 45 C.F.R. 303.32(c)(2); 45 C.F.R. 303.31 (a)(6) and (a)(8).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: 45 C.F.R. 303.32(a) lists the required state laws for a valid state plan under Title IV-D of the Social Security Act; the state must have procedures requiring the IV-D agency to send a National Medical Support Notice to an employer within two days of entry of the noncustodial parent into the state directory of new hires, and that the state must periodically communicate with the state's Title XIX agency regarding medical support enforcement. Failure to adopt the rule could jeopardize federal Office of Child Support Enforcement approval of, and continued federal funding for, the Washington's state Title IV-D plan.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 2, 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 2, Amended 0, Repealed 0.

Date Adopted: September 21, 2004.

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

### NEW SECTION

**WAC 388-14A-4119 How soon after a noncustodial parent is listed in the state directory of new hires must the division of child support send a national medical support notice to the employer?** The division of child support (DCS) must send a national medical support notice (NMSN) to the employer of a noncustodial parent (NCP) within two business days of the date the NCP's information is entered into the state directory of new hires (SDNH).

### NEW SECTION

**WAC 388-14A-4180 When must the division of child support communicate with the DSHS medical assistance administration?** (1) The division of child support (DCS) must inform the DSHS medical assistance administration (MAA) of the existence of a new or modified court or administrative order for child support when the order includes a requirement for medical support. MAA is the part of DSHS

which provides services for the state of Washington under Title XIX of the federal Social Security Act.

(2) DCS must provide MAA with the following information:

(a) Title IV-A case number, Title IV-E foster care case number, Medicaid number or the individual's Social Security Number;

(b) Name of the noncustodial parent (NCP);

(c) Social Security Number of the NCP;

(d) Name and Social Security Number of the child(ren) named in the order;

(e) Home address of the NCP;

(f) Name and address of the NCP's employer;

(g) Information regarding the NCP's health insurance policy; and

(h) Whether the child(ren) named in the order are covered by the policy.

(3) DCS must periodically communicate with MAA if there have been lapses (stops and starts) in health insurance coverage for Medicaid applicants.

### WSR 04-20-003

#### EMERGENCY RULES

#### DEPARTMENT OF

#### FISH AND WILDLIFE

[Order 04-261—Filed September 22, 2004, 4:50 p.m., effective September 22, 2004]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000K; 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: Rescinds the September 23, 2004, fishery scheduled to occur below Bonneville Dam. Chinook harvest near September allocation guideline. The select areas 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. All fisheries are consistent with the 2004 fall management agreement, the pre-season non-Indian allocation agreement, and consistent with actions of the Columbia River compact on September 22, 2004, and July 29, 2004. Impacts to ESA-listed stocks are included in the biological assessment of fall fisheries. The biological opinion covering these fisheries has been signed. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or



Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 22, 2004.

Evan Jacoby  
for Jeff Koenings  
Director

## NEW SECTION

**WAC 220-33-01000L Columbia River season below Bonneville.** 1) OPEN AREA: Blind Slough/Knappa Slough Select Area

Blind Slough fishing area includes all waters from markers at the mouth of Gnat Creek located approximately 0.5 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent waters extend downstream of the railroad bridge. Oregon State waters extend upstream of the railroad bridge.

Knappa Slough fishing area includes 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 boundary lines defined by markers on the western end of Minaker Island to markers on Karlson Island and the Oregon shore. An area closure of about a 100-foot radius at the mouth of Big Creek defined by markers. All waters are under concurrent jurisdiction.

a) SEASON: 7:00 p.m. to 7:00 a.m., Mondays, Tuesdays, Wednesdays, and Thursday nights immediately through September 24, 2004.

6:00 p.m. to 8:00 a.m., Mondays, Tuesdays, Wednesdays, and Thursday nights from September 27 through October 29, 2004.

b) GEAR: 6-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Additional weights and anchors may be attached directly to the lead line.

c) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries

d) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2) OPEN AREA: Tongue Point/South Channel Select Area

Tongue Point fishing area includes all waters bounded by a line from a yellow marker midway between the red light at Tongue Point and the downstream (northern most) pier (#8) to the flashing green light at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south

end of Mott Island easterly to a marker on the northwest bank on Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank. All waters are under concurrent jurisdiction.

South Channel area includes all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to flashing red marker "10" thence northwesterly to a marker on the sand bar defining the terminus of South Channel. All waters are under concurrent jurisdiction.

a) SEASON: Monday, Tuesday, Wednesday, and Thursday nights from immediately through October 29, 2004. Open hours are 4:00 p.m. to 8:00 a.m. daily.

b) GEAR: In the Tongue Point area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 250 fathoms, and weight not to exceed two pounds on any one fathom on the lead line.

In the South Channel area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on lead line. Additional weights and anchors may be attached directly to the lead line in South Channel.

c) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) MISCELLANEOUS: Participants in the Tongue Point fishery may have stored on board their boats, gill nets with lead line in excess of two pounds per fathom.

e) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3) OPEN AREA: Deep River Select Area

Deep River is open to fishing down river from the town of Deep River to the mouth (a line from navigation marker "16" southwest to a marker on the Washington shore). Concurrent waters extend downstream of the Highway 4 bridge. State waters extend upstream of the Highway 4 bridge.

a) SEASON: Monday, Tuesday, Wednesday, and Thursday nights from immediately through October 29, 2004. Open hours are 4:00 p.m. to 8:00 a.m. daily.

b) GEAR: Gillnet 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Additional weights and anchors may be attached directly to the lead line.

c) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

4) OPEN AREA: Steamboat Slough Select Area

Steamboat Slough is open to fishing in waters bounded by markers on Price Island and the Washington shore, at both upstream and downstream ends of Steamboat Slough. All open waters are under concurrent jurisdiction.



a) SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 29, 2004. Open hours are 4:00 p.m. to 8:00 a.m. daily.

b) GEAR: Gillnet 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Additional weights and anchors may be attached directly to the lead line.

c) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) MISCELLANEOUS: Transportation or possession of fish outside the fishing area is unlawful unless by licensed buyer, except fishers may transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

e) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000K Columbia River season below Bonneville. (04-254)

**WSR 04-20-006  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 04-257—Filed September 23, 2004, 1:27 p.m., effective September 26, 2004.]

Effective Date of Rule: September 26, 2004.  
Purpose: Amend commercial fishing rules.  
Citation of Existing Rules Affected by this Order: Amending WAC 220-52-073.  
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: Harvestable amounts of red and green sea urchins exist in the areas described. Prohibition of all diving from licensed sea urchin and sea cucumber harvest vessels within two days of scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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.

Date Adopted: September 22, 2004.

J. P. Koenings  
Director  
by Larry Peck

**NEW SECTION**

**WAC 220-52-07300M Sea urchins** Notwithstanding the provisions of WAC 220-52-073, effective September 26, 2004 until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Green sea urchins: Sea Urchin Districts 1, 2, 3, 4, 6 and 7 are open only on Sundays and Mondays of each week. The minimum size for green sea urchins is 2.25 inches (size in largest test diameter exclusive of spines).

(2) Red sea urchins: Sea Urchin Districts 1 and 2 are open only on Mondays through Thursdays of each week. In Sea Urchin Districts 1 and 2 it is unlawful to harvest red sea urchins smaller than 4.0 inches or larger than 5.5 inches (size in largest test diameter exclusive of spines).

(3) It is unlawful to dive for any purpose from a commercially licensed sea urchin or sea cucumber fishing vessel on Fridays and Saturdays of each week.

**WSR 04-20-007  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 04-258—Filed September 23, 2004, 1:27 p.m., effective September 27, 2004, 6:00 a.m.]

Effective Date of Rule: September 27, 2004, 6:00 a.m.  
Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100J; and amending WAC 220-52-071.

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: Harvestable amounts of sea cucumbers are available in the sea cucumber district listed. Prohibition of all diving prior to scheduled sea cucumber

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openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. Diving prohibition days have been made to match those of the commercial sea urchin 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 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.

Date Adopted: September 22, 2004.

J. P. Koenings  
Director  
by Larry Peck

**NEW SECTION**

**WAC 220-52-07100K Sea cucumbers.** Notwithstanding the provisions of WAC 220-52-071, effective immediately until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Effective 6:00 a.m. September 27, 2004 until further notice, sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 5 on Monday and Tuesday of each week.

(2) It is unlawful to dive for any purpose from a commercially licensed sea urchin or sea cucumber fishing vessel on Fridays and Saturdays of each week.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. September 27, 2004:

WAC 220-52-07100J Sea cucumbers. (04-214)

**WSR 04-20-011  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 04-262—Filed September 24, 2004, 1:39 p.m., effective September 24, 2004, 8:00 p.m.]

Effective Date of Rule: September 24, 2004, 8:00 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-47-607.

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: This regulation implements the limited participation purse seine coho fishery in Area 8A negotiated during the North of Falcon fishery planning meetings. The names of the participating vessels was determined by lottery and was not confirmed in time to make this a part of the permanent rule process. This fishery is not expected to exceed chinook or summer chum by-catch levels modeled during the preseason process. 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.

Date Adopted: September 24, 2004.

Evan Jacoby  
for Jeff Koenings  
Director

**NEW SECTION**

**WAC 220-47-608 Puget Sound all-citizen commercial salmon fishery.** Notwithstanding the provisions of Chapter 220-47 WAC, effective immediately until further notice, it is unlawful to take, fish for or possess salmon taken for commercial purposes in Puget Sound Salmon Management and Catch Reporting Areas except in accordance with the open periods, mesh size, areas, species restrictions, notification, and landing requirements set forth in this section, provided that unless otherwise amended, all permanent rules remain in effect:

**Lawful gill net gear:**

Lawful gill net gear in Puget Sound Areas 7, and 7A, shall not contain meshes of a size less than 5 inches nor greater than 5 1/2 inches. It is unlawful to fish for salmon with gill net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department-issued certification card.

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**Lawful purse seine gear:**

1) It is unlawful to fish for salmon with purse seine gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department-issued certification card.

2) If fishers are enrolled in the "Rolling Wedge" evaluation program they may use the rolling wedge in lieu of brailing provided they comply with the following conditions:

(a) Have enrolled by contacting the Department at 902-2717 prior to June 1, 2004

(b) Pay the funding fee of \$100 per day of the opening

(c) Allow WDFW observer on board for all fishing activities

(d) No more than 125 fish may be on deck at any one time.

(e) Place all lethargic or injured fish in the operating recovery box until they appear recovered or they are dead  
Dimensions and capacities of required recovery boxes:

(i) Recovery boxes must have two chambers, if one box, or it may be two boxes with one chamber in each box.

(ii) Each recovery box chamber must have an inside length measurement of 48 inches, an inside width measurement of 10 inches, and an inside height measurement of 16 inches.

(iii) Each chamber of the recovery box must have an inlet hole measuring between 3/4 inch and 1 inch in diameter, and the inlet hole must be centered horizontally across the door or wall of the chamber and the bottom of the hole must be located 1 3/4 inches above the floor of the chamber.

(iv) Each chamber of the recovery box must include a water outlet hole on the opposite wall from the inlet hole, and the outlet hole must be at least 1 1/2 inches in diameter with the bottom of the outlet hole located 12 inches above the floor of the chamber.

(v) Flow of water through each chamber of the recovery boxes must be not less than 16 gallons per minute nor more than 20 gallons per minute.

(f) Each box and chamber must be operating during any time that the net is being retrieved or picked.

(g) The vessel operator must demonstrate to department employees, upon request, that the pumping system is delivering the proper volume of fresh seawater into each chamber.

All salmon not to be retained must be released immediately with care and the least possible injury to the fish, or placed into the operating recovery box.

**Area 6D:**

**Skiff Gill Nets** - (a) Open to skiff gill nets using 5-inch minimum and 5 1/2-inch maximum mesh from 7:00 a.m. to 7:00 p.m. on the following dates: 9/27, 9/28, 9/29, 9/30, 10/1, 10/4.

(b) It is unlawful to retain chinook or pink salmon taken in Area 6D at any time, or any chum salmon taken in Area 6D prior to October 4. Any chinook, chum or pink salmon required to be released, must be removed from the net by cutting the meshes ensnaring the fish.

**Areas 7 and 7A:**

**Reef Nets** - Open to reef net gear according to the times, dates, and conditions as prescribed and listed here:

TIME

7:00 a.m. to 7:00 p.m.  
Daily

DATES

Immediately through October 4

It is unlawful to retain chinook salmon at all times, and it is unlawful to retain chum or wild coho salmon prior to October 1. It is unlawful to fish for salmon with reef net gear in Areas 7 and 7A unless the vessel operator has attended a "Fish Friendly" best fishing practices workshop and is in possession of a department-issued certification card.

**Area 7B:**

**Purse Seines** - Open in Area 7B to purse seines using the 5-inch strip during the following hours and dates.

7:00 a.m. Immediately through 12:00 p.m. October 4.

**Gill Nets** - Open to gill nets as follows:

<u>Areas</u>	<u>Mesh Size</u>	<u>Hours</u>	<u>Dates</u>
7B	5" minimum	immediately through 12:00 p.m.	October 4

**Area 8A:**

**Purse Seine** - Waters of Area 8A north of a line from the Mukilteo Ferry Dock to the Clinton Ferry Dock open to purse seines vessels ESPERANZA and NORMAN B. only using the 5-inch strip from 7:00 a.m. to 7:00 p.m. on September 27.

Waters of Area 8A north of a line from from the Mukilteo Ferry Dock to the Clinton Ferry Dock open to purse seines vessels ANNA LOUISE and MOMENTO only using the 5-inch strip from 7:00 a.m. to 7:00 p.m. on October 4.

It is unlawful to retain chinook salmon, and any chinook salmon caught with purse seine gear must be released immediately.

**Area 8D**

**Purse Seine** - Open to purse seines using the 5-inch strip as follows:

<u>Hours</u>	<u>Dates</u>
7:00 a.m. to 7:00 p.m.	10/4

It is unlawful to retain chinook salmon, and any chinook salmon caught with purse seine gear must be released immediately.

**Gill Nets** - Open to gill nets using 5-inch minimum mesh as follows:

<u>Hours</u>	<u>Dates</u>
6:00 p.m. to 8:00 a.m.	September 26 September 27
6:00 p.m. to 8:00 a.m.	September 28 September 29
6:00 p.m. to 8:00 a.m.	September 30 October 1
6:00 p.m. to 8:00 a.m.	October 3 October 4

**Area 9A:**

**Gill Nets** - Open to gill nets using 5-inch minimum mesh as follows:

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Hours

6:00 a.m. Immediately  
through 12:00 p.m.

Dates

October 4

It is unlawful to retain chum salmon in Area 9A prior to October 1 and unlawful to retain Chinook salmon at any time. Any salmon not to be retained must be released from the net by cutting the meshes ensnaring the fish.

**Area 12A:**

**Beach Seines** - (a) Open to holders of beach seine permits from 7:00 a.m. to 7:00 p.m. on the following dates: 9/27, 9/28, 9/29, 9/30, 10/1.

Open in those waters of Area 12A lying northerly of a line extending from Whitney Point to the flashing light off Fishermans Point then to Fishermans Point on the Bolton Peninsula.

**All Other Saltwater and Freshwater Areas:** Closed.

**"Quick Reporting" Fisheries:**

All fisheries opened under this section, and any fishery openings under authority of the Fraser Panel for sockeye or pink salmon in Areas 7 and 7A are designated as "Quick Reporting Required" fisheries.

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

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 8:00 p.m. September 24, 2004:

WAC 220-47-607      Puget Sound all-citizen commercial salmon fishery. (04-253)

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. October 4, 2004:

WAC 220-47-608      Puget Sound all-citizen commercial salmon fishery.

**WSR 04-20-014  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 04-263—Filed September 24, 2004, 3:22 p.m., effective September 27, 2004, 6:00 a.m.]

Effective Date of Rule: September 27, 2004, 6:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-32-05100C; and amending WAC 220-32-051.

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: Sets week six of the tribal commercial fishery. Allows commercial sale of platform and hook and line caught fish to be sold in the treaty Indian fishery and commercial sale of tributary caught fish by the Yakama Nation tribal members when those tributary seasons are open and when the commercial gillnet season is open in the mainstem Columbia. Harvestable numbers of salmon and steelhead are available. Season is consistent with the management agreement and the biological opinion. Consistent with action of the Columbia River compact of September 24, 2004, and conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 24, 2004.

Evan Jacoby  
for Jeff Koenings  
Director

NEW SECTION

**WAC 220-32-05100D Columbia River salmon seasons above Bonneville Dam.** Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, carp, or sturgeon taken for commercial purposes in Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H, and the Klickitat River and White Salmon rivers, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, shad, carp, sturgeon, steelhead and walleye under the following provisions pursuant to lawfully enacted tribal rules:

1) Open Periods: 6:00 a.m. September 27, 2004 to 6:00 p.m. September 30, 2004

a) Open Areas: SMCRA 1F, 1G, 1H

b) Gear: Gill Nets. No mesh restriction

c) Allowable sale includes: chinook, coho, steelhead, walleye, carp, and shad. Sturgeon may not be sold. Sturgeon between 45 inches and 60 inches in length may be retained in the Bonneville Pool (SMCRA 1F) for subsistence purposes

only. Sturgeon between 4 feet and 5 feet in length may be retained in The Dalles and John Day pools (SMCRA 1G, 1H) for subsistence purposes only. Commercial sales of platform and hook and line caught fish are allowed during commercial gillnet openings.

d) Sanctuaries: The small 150 foot sanctuary around Spring Creek Hatchery and all other standard sanctuaries will be in place.

2) Open Periods: Immediately until further notice.

a) Open Areas: SMCRA 1F, 1G, 1H, the Klickitat River and the White Salmon River.

b) Gear: Hoop nets, dip bag nets, or hook and line.

c) Allowable sale includes: Chinook, coho, steelhead, walleye, carp and shad. Sturgeon between 45 inches and 60 inches in length may be retained in the Bonneville Pool (SMCRA 1F) for subsistence purposes only. Sturgeon between 4 feet and 5 feet in length may be retained in The Dalles and John Day pools (SMCRA 1G, 1H) for subsistence purposes only. Commercial sales of platform and hook and line caught fish are allowed during commercial gillnet openings. Sockeye may not be sold but may be retained for subsistence purposes. Fish taken in the Klickitat and White Salmon rivers may be sold when those rivers are open pursuant to lawfully enacted tribal rules.

3) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad

tunnel approximately 1/8 miles downstream from the west bank.

h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.

4) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:

a. Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.

b. Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.

c. Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. September 27, 2004:

WAC 220-32-05100C Columbia River salmon seasons above Bonneville Dam.

#### **WSR 04-20-015 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE**

[Order 04-264—Filed September 24, 2004, 3:23 p.m., effective September 27, 2004, 7:00 a.m.]

Effective Date of Rule: September 27, 2004, 7:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000L; 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: Sets the second week of the late fall salmon fishery consistent with the allocation agree-

ment. Provides opportunity for directed chinook and coho target seasons - harvestable numbers of salmon are available. Sturgeon landing limits are consistent with the joint state sturgeon management agreement and provide for sturgeon harvest opportunity throughout the late fall salmon fishery. All salmon returning to the select area net pens are harvestable. All fisheries are consistent with the 2004 fall management agreement, the preseason non-Indian allocation agreement, and consistent with actions of the Columbia River compact on September 24, 2004, and July 29, 2004. Impacts to ESA-listed stocks are included in the biological assessment of fall fisheries. The biological opinion covering these fisheries has been signed. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 24, 2004.

Evan Jacoby  
for Jeff Koenings  
Director

## NEW SECTION

**WAC 220-33-01000M Columbia River season below Bonneville.** Notwithstanding the provisions of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections:

1) OPEN AREA: SMCRA 1A, 1B, 1C.

a) SEASON: 7:00 a.m. to 7:00 p.m. September 27, 2004  
7:00 a.m. to 7:00 p.m. September 29, 2004

b) GEAR: 6-inch maximum mesh size, unslackened floater gill nets or 9-inch minimum and 9 3/4 inch maximum mesh

c) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) SANCTUARIES: Elokomin-A, Abernathy, Cowlitz, Kalama-A, Lewis-A.

e) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3) OPEN AREA: SMCRA 1D, 1E.

a) SEASON: 8:00 p.m. September 27 to 1:00 a.m. September 28, 2004

8:00 p.m. September 29 to 1:00 a.m. September 30, 2004

b) GEAR: 8-inch minimum mesh restriction and 9 3/4 inch maximum mesh restriction

c) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) SANCTUARIES: Lewis-A, Sandy, Washougal.

e) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

4) OPEN AREA: Blind Slough/Knapa Slough Select Area  
Blind Slough fishing area includes all waters from markers at the mouth of Gnat Creek located approximately 0.5 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent waters extend downstream of the railroad bridge. Oregon State waters extend upstream of the railroad bridge.

Knappa Slough fishing area includes 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 boundary lines defined by markers on the western end of Minaker Island to markers on Karlson Island and the Oregon shore. An area closure of about a 100-foot radius at the mouth of Big Creek defined by markers. All waters are under concurrent jurisdiction.

a) SEASON: 7:00 p.m. to 7:00 a.m., Mondays, Tuesdays, Wednesdays, and Thursday nights from September 20 through September 24, 2004.

6:00 p.m. to 8:00 a.m., Mondays, Tuesdays, Wednesdays, and Thursday nights from September 27 through October 29, 2004.

b) GEAR: 6-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Additional weights and anchors may be attached directly to the lead line.

c) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries

d) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

5) OPEN AREA: Tongue Point/South Channel Select Area  
Tongue Point fishing area includes all waters bounded by a line from a yellow marker midway between the red light at Tongue Point and the downstream (northern most) pier (#8) to the flashing green light at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank. All waters are under concurrent jurisdiction.

South Channel area includes all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to flashing red marker "10" thence north-

westerly to a marker on the sand bar defining the terminus of South Channel. All waters are under concurrent jurisdiction.

a) SEASON: Monday, Tuesday, Wednesday, and Thursday nights from immediately through October 29, 2004. Open hours are 4:00 p.m. to 8:00 a.m. daily.

b) GEAR: In the Tongue Point area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 250 fathoms, and weight not to exceed two pounds on any one fathom on the lead line.

In the South Channel area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on lead line. Additional weights and anchors may be attached directly to the lead line in South Channel.

c) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) MISCELLANEOUS: Participants in the Tongue Point fishery may have stored on board their boats, gill nets with lead line in excess of two pounds per fathom.

e) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

6) OPEN AREA: Deep River Select Area

Deep River is open to fishing down river from the town of Deep River to the mouth (a line from navigation marker "16" southwest to a marker on the Washington shore). Concurrent waters extend downstream of the Highway 4 bridge. State waters extend upstream of the Highway 4 bridge.

a) SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 29, 2004. Open hours are 4:00 p.m. to 8:00 a.m. daily.

b) GEAR: Gillnet 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Additional weights and anchors may be attached directly to the lead line.

c) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

7) OPEN AREA: Steamboat Slough Select Area

Steamboat Slough is open to fishing in waters bounded by markers on Price Island and the Washington shore, at both upstream and downstream ends of Steamboat Slough. All open waters are under concurrent jurisdiction.

a) SEASON: Monday, Tuesday, Wednesday, and Thursday nights from immediately through October 29, 2004. Open hours are 4:00 p.m. to 8:00 a.m. daily.

b) GEAR: Gillnet 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Additional weights and anchors may be attached directly to the lead line.

c) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Satur-

day). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) MISCELLANEOUS: Transportation or possession of fish outside the fishing area is unlawful unless by licensed buyer, except fishers may transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

e) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

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

### REPEALER

The following section of the Washington Administrative Code is repealed effective 7:00 a.m. September 27, 2004:

WAC 220-33-01000L Columbia River season  
below Bonneville. (04-261)

### WSR 04-20-016 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 04-265—Filed September 24, 2004, 3:24 p.m., effective September 27, 2004, 6:00 a.m.]

Effective Date of Rule: September 27, 2004, 6:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-40-02700E and 220-40-02700F; and amending WAC 220-40-027.

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: Area 2H upstream of channel marker 40 is being opened to target an expected surplus of hatchery coho. By this date chinook are expected to have mostly cleared to upstream holding areas. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 24, 2004.

Evan Jacoby  
for Jeff Koenings  
Director

**NEW SECTION**

**WAC 220-40-02700F Salmon—Willapa Bay fall fishery.** Notwithstanding the provisions of WAC 220-40-027, effective immediately through December 31, 2004, it is unlawful to fish for salmon in Willapa Bay for commercial purposes or to possess salmon taken from those waters for commercial purposes, except that:

**Fishing periods**

Gill net gear may be used to fish for salmon. All non-legal sturgeon and steelhead must be handled with care to minimize injury to fish and released immediately to the river:

Time	Area
6:00 a.m. September 27 through 6:00 p.m. September 30,	Areas 2G east of a line projected true south from the most waterward exposed end of the rock jetty located near Washaway Beach, 2H, 2J north of a true east-west line drawn through the North Entrance Marker to the Nahcotta Boat Basin (RF #2), and 2M.
6:00 p.m. September 28 through 6:00 p.m. September 29.	Area 2K.
6:00 a.m. - 6 p.m. October 1, 6:00 a.m. - 6 p.m. October 2, 6:00 a.m. - 6 p.m. October 3, and 6:00 a.m. - 6 p.m. October 4.	Areas 2G east of a line projected true south from the most waterward exposed end of the rock jetty located near Washaway Beach, 2H.
6:00 a.m. - 6 p.m. October 10, 6:00 a.m. - 6 p.m. October 11, 6:00 a.m. - 6 p.m. October 12, and 6:00 a.m. - 6 p.m. October 13.	Areas 2G east of a line drawn true south from the most waterward exposed end of the rock jetty located near Washaway Beach, 2H, 2J north of a true east-west line drawn through the North Entrance Marker to the Nahcotta Boat Basin (RF #2), and 2M.

Time
6:00 p.m. October 15 through 6:00 p.m. October 20 and 6:00 p.m. October 24 through 6:00 p.m. October 26,

Area
Areas 2G west of a line drawn true north-south through Willapa Channel Marker 10 and east of a line projected true south from the most waterward exposed end of the rock jetty located near Washaway Beach but excluding that portion of area 2G lying southerly and easterly of a line from Island Sands Light to Ramsey Point, 2J north of a true east-west line drawn through the North Entrance Marker to the Nahcotta Boat Basin (RF #2), and 2M.

Noon, November 6 through noon November 30, 2004 Areas 2G, 2H, 2J and 2M

The Tokeland Boat basin is closed to commercial fishing during the openings in SMCRA 2G described in this section. The Tokeland Boat basin means that portion of SMCRA 2G bounded on the south by the shoreline of the boat basin, on the west by the seawall and on the north and east by a line from the Tokeland Channel Marker "3" (flashing green, 4-second) to Tokeland Channel Marker "4" to the tip of the seawall.

**Gear**

- Gill net gear restrictions - All areas:
- o Drift gill net gear only. It is unlawful to use set net gear.
  - o September 27 through September 30, 2004 - 6-inch maximum mesh, no more than 55 meshes deep. Net must hang straight from top to bottom. Strings may only be used to secure break-away panels.
  - o October 1 through October 4, 2004 - 4-1/4" inch maximum mesh tangle net gear.
  - o October 5 through October 31, 2004 - 6-1/2 inch maximum mesh.
  - o November 1 through November 30, 2004 - 9-inch minimum mesh.

**Other**

**Quick Reporting Requirement**

All wholesale dealers and fishers retailing their fish will be required to report their landing by 10:00 a.m. the day following landing. Ticket information can be telephoned in by calling 1-866-791-1280 or faxing the information to 360-664-4689 or e-mailing to harborfishtickets@dfw.wa.gov. Report the dealer name, the purchasing location, the date of purchase, the fish ticket numbers, the gear used, the catch area, the species. The total number for each and the total weight for each species.

**Tangle Net Add-on (October 1, 2, 3, and 4, 2004) requirements**

- Soak time shall not exceed 45 minutes. Soak time, defined as the time elapsed from when the first of

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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.

- Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box shall be operating during any time that the net is being retrieved or picked. The flow in the recover 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 recover 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 at 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 department employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river/bay water into each chamber.
- All chinook, non-legal sturgeon, and steelhead must be handled with care to minimize injury to fish and released immediately to the river/bay or to an operating recovery box.
- Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released to the river/bay.
- All fish placed in recovery boxes must be released to the river/bay prior to landing or docking.
- Fishers must be willing to take department observers when participating in these openings and provide Notice of Intent to Participate to Quick Reporting phone, fax or email, WAC 220-69-240, prior to 10:00 a.m., September 24, 2004.

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

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

## REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. September 27, 2004:

WAC 220-40-02700E Salmon—Willapa Bay fall fishery. (04-246)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. January 1, 2005:

WAC 220-40-02700F Salmon—Willapa Bay fall fishery.

## WSR 04-20-017 EMERGENCY RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)  
[Filed September 27, 2004, 8:24 a.m., effective October 1, 2004]

Effective Date of Rule: October 1, 2004.

Purpose: Implementation of the comprehensive assessment reporting evaluation (CARE) for children being assessed or reassessed for Medicaid personal care (MPC) requires that the rules governing family support services be revised to be consistent with MPC and CARE rules in chapters 388-71 and 388-72A WAC. The rates for family support increase on October 1, 2004, due to the vendor rate increase contained in chapter 276, Laws of 2004 (2003-05 supplemental budget). These emergency rules replace the emergency rules filed as WSR 04-18-048 on August 26, 2004.

Citation of Existing Rules Affected by this Order: Amending WAC 388-825-210, 388-825-228, 388-825-230, 388-825-232, 388-825-234, 388-825-236, 388-825-238, 388-825-242, 388-825-248, 388-825-252, and 388-825-254.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120 [71A.12.120].

Other Authority: Chapter 71A.12 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; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Proposed rules have been filed for permanent adoption as WSR 04-16-088. The hearing was held on September 7, 2004. These revisions regarding the implementation of CARE rules governing children have been in place since September 1, 2004, to prevent duplication of services between MPC and family support and ensure compliance with first use of Medicaid and prevent the misuse of respite care and MPC for childcare. The increase in the rates for family support must be in place by October 1, 2004.

Many children receiving personal care services through MPC also receive services through the family support program. Revised rules governing MPC and CARE will clearly differentiate personal care from respite care and childcare. It is necessary that the department clarify the family support program rules to differentiate between personal care from respite care; delete Medicaid personal care and CAP waiver as family support services; clarify the purpose of family support, definitions of services, and limitations of services consistent with rules governing personal care.

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Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 11, 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 11, 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 11, Repealed 0.

Date Adopted: September 21, 2004.

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-16-014, filed 7/25/02, effective 8/25/02)

**WAC 388-825-210 What basic services can my family receive from the family support opportunity program?** A number of basic services are available. Some services have their own eligibility requirements. Specific services are:

(1) ~~((Case management services))~~ **Family support plan:** ~~((Your family will benefit from case management services.))~~ The family and the case manager will develop a family support plan which includes needs assessment, referral, service coordination, service authorization, case monitoring and coordination for community guide services.

(2) ~~((Community guide services: Once your case manager assesses your family situation, you will be offered access to the services of a community guide. The community guide will assist your family in using the natural and informal community supports relevant to the age of your family member with developmental disabilities and the specific needs of your family. Community guide services will support your family and help develop connections to your community.))~~ **Community guide services** per WAC 388-825-220 through 388-825-226.

(3) ~~((Short-term intervention services: Your family may be eligible for up to eleven hundred dollars in short-term intervention funding if necessary services are not otherwise available. This funding is not intended to cover basic subsistence such as food or shelter costs. Short-term intervention funding is available only for those specialized costs directly related to and resulting from your child's disability.))~~

(4) ~~Personal care services: Medicaid personal care can provide your family with long-term in-home personal assistance. (See WAC 388-15-202 and 388-15-203.) In-home personal assistance may be available through Medicaid personal care or through a state-funded alternative.~~

(5) ~~Community alternatives program (CAP) waiver: If eligible, your family may participate in the CAP waiver program. The CAP waiver gives eligible clients the opportunity to participate in the federal Medicaid program and DDD the opportunity to obtain federal funds for community-based ser-~~

~~vices. (See WAC 388-825-170, 388-825-180 and 388-825-190.)~~

~~(6) Early intervention services: These services are for your children (from birth through thirty-five months old) and include early childhood programs, birth through two public school programs, children with special health care needs programs, and Part C services (IDEA).~~

~~(7))~~ **Short-term intervention services** per WAC 388-825-228 and 388-825-230.

(4) **Emergency services:** Your family can request emergency funds to be used to respond to a single incident, situation or short term crisis such as care giver hospitalization, absence, or incapacity. Your request must be made through your case manager and include an explanation of how you plan to resolve the emergency situation. Your request will be reviewed by ~~((the regional administrator or designee. If approved, you will receive emergency services for a limited time period, not to exceed two months))~~ DDD.

(a) If approved, you will receive emergency services for a limited time period, not to exceed two months.

(b) If denied, you have no appeal rights.

~~((8) Serious need services: Your family may request serious need funds to take care of needs not met by other basic services, including short-term intervention services, personal care services or use of a community guide. Serious need funds are short or long-term funds used to provide additional support to allow the individual with disabilities to continue living at home))~~

(5) **Serious need services** per WAC 388-825-232 through 388-825-238.

AMENDATORY SECTION (Amending WSR 02-01-074, filed 12/14/01, effective 1/14/02)

**WAC 388-825-228 How can short-term intervention services through the family support opportunity program help my family?** If your family is eligible, you may receive up to one thousand ~~((three))~~ four hundred ~~((fifty))~~ dollars per year in short-term intervention ~~((funds)),~~ funding to pay for necessary services not otherwise available.

(1) Short-term intervention funds can be authorized for a one-time only need or for an episodic service need that occurs over a one-year period.

(2) Short-term intervention funding cannot be used for basic subsistence such as food or shelter but is available for those specialized costs directly related to and resulting from your child's disability. ~~((Short-term intervention funds can be authorized for a one-time only need or for an episodic service need that occurs over a one-year period.))~~

AMENDATORY SECTION (Amending WSR 99-04-071 [99-19-104], filed 9/20/99, effective 9/20/99)

**WAC 388-825-230 Specifically how can short-term intervention funds be used?** Short-term intervention funds can be used to purchase ~~((a wide range of services and supports, such as))~~ the following services related to and resulting from the client's disability:

(1) Respite care ~~((, including))~~ for intermittent relief to the family caregiver and may include community activities providing respite ~~((, attendant care or nursing care));~~

(2) Training ~~((such as parenting classes))~~ and supports such as disability related support groups or parenting classes. This does not include registration or costs related to conferences;

(3) The purchase, rental, loan or refurbishment of specialized equipment, adaptive equipment or supplies not covered by other resources, including Medicaid. Specific examples are mobility devices such as walkers and wheelchairs, communication devices and medical supplies. Diapers may be approved only for those three years of age and older.

(4) Environmental modifications including home damage repairs caused by the client and home modifications ~~((made necessary because of a family member's))~~ specific to the client's disability;

(5) Occupational therapy, physical therapy, communication therapy, behavior management, visual and auditory services, or counseling needed by developmentally disabled individuals ~~((but))~~ and not covered by another resource such as Medicaid, public schools ~~((and))~~ or child development services funding;

(6) Medical/dental services not covered by any other resource. These services may include the payment of insurance premiums and deductibles but are limited to the portion of the premium or deduction that applies to the client.

(7) Nursing services, not covered by another resource, that ~~((cannot be provided by an unlicensed care giver but))~~ can only be rendered by a registered or licensed practical nurse. Examples of such services are ventilation, catheterization, and insulin shots. Parents can provide this service without licensure and will not be paid providers of this service for their natural, step or adopted child;

(8) Special formulas or specially prepared foods necessary because of the client's disability and prescribed by a licensed physician;

(9) Parent/family counseling for grief and loss issues, genetic counseling or behavior management. Payments cannot be approved for services occurring after the death of the DDD client;

(10) Specialized clothing adapted for a physical disability, excessive wear clothing, or specialized footwear;

(11) Specialized utility costs including extraordinary utility costs resulting from the client's disability or medical condition;

(12) If another resource is not available, transportation costs, including gas, ferry or transit cost, so a client can receive essential services and ~~((maintain))~~ appointments; per diem costs may be reimbursed for medical appointments~~((; and~~

~~((13) Other services approved by a DDD regional administrator or designee, according to established department guidelines)).~~

Funds cannot be used for the purchase or rental of a car or for airfare.

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

**AMENDATORY SECTION** (Amending WSR 99-04-071 [99-19-104], filed 9/20/99, effective 9/20/99)

**WAC 388-825-232 How can serious need funds help my family?** Your family may need extraordinary support

~~((for children or adults))~~ that exceeds your annual family support opportunity allotment for the child or adult with developmental disabilities living in your home ((in addition to the basic family support services)). The purpose of serious need funds is to help you get that support when you need it.

(1) If funding is available and your request is approved, it may be short or long-term in nature and can be used for services such as ~~((additional personal care,))~~ respite care, behavior management and licensed nursing care.

(2) If your request is denied, there is no right to appeal since this request exceeds your annual family support opportunity allotment.

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

**AMENDATORY SECTION** (Amending WSR 02-16-014, filed 7/25/02, effective 8/25/02)

**WAC 388-825-234 How can my family qualify for serious need funds?** Your family may qualify for serious need funds if all of the following conditions are met:

(1) The basic program services outlined in WAC 388-825-210 (community guide, ~~((personal care services,))~~ short-term intervention services, etc.) are currently being used by your family or they have been exhausted;

(2) You and your case manager have examined other resources ~~((like the))~~ such as Medicaid personal care, medically intensive ((home care program)) services; private insurance, local mental health programs and programs available through the public schools ~~((and have found them either unavailable, inappropriate or insufficient for your needs))~~ and the department determines that your need exceeds these services; and

(3) The support is crucial for the child or adult with developmental disabilities to continue living in your home.

**AMENDATORY SECTION** (Amending WSR 99-04-071 [99-19-104], filed 9/20/99, effective 9/20/99)

**WAC 388-825-236 How does my family request serious need funds?** You must contact your case manager ~~((who will submit a written request to the appropriate DDD regional administrator))~~ to request serious need funds. The request must:

(1) Indicate the type of services your family needs;

(2) Explain why those services can only be obtained through the use of serious need funds;

(3) Outline the changes you anticipate in your family situation if the requested services are not received; and

(4) Estimate the length of time your family will need the requested services~~((; and~~

~~((5) Propose funding review dates)).~~

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

**AMENDATORY SECTION** (Amending WSR 02-01-074, filed 12/14/01, effective 1/14/02)

**WAC 388-825-238 What amount of serious need funding is available to my family?** (1) The maximum amount of funding available is four hundred fifty-two dollars

per month or two thousand seven hundred twelve dollars in a six-month period, unless the department determines your family member requires licensed nursing care and the funding is used to pay for nursing care. If licensed care is required, the maximum funding level is two thousand four hundred fifty dollars per month.

(2) ~~((remember:~~

~~(a))~~ Funding must be available in order to receive serious need services.

~~((b))~~ (3) Services paid for by serious needs funds will be reviewed by DDD every six months.

**AMENDATORY SECTION** (Amending WSR 99-04-071 [99-19-104], filed 9/20/99, effective 9/20/99)

**WAC 388-825-242 What department restrictions apply to family support payments?** (1) Family support opportunity services payments are authorized only after you have accessed what is available to you under Medicaid and any other private health insurance plan, including Medicaid personal care, to meet your identified need.

(2) All family support service payments must be authorized by the department.

~~((2))~~ (3) The department may contract directly with:

(a) A service provider, or

(b) A parent for the reimbursement of goods or services purchased by the parent, or

(c) An agency to purchase goods and services on behalf of a client.

~~((3))~~ (4) The department's authorization period will start when you agree to be in this program. The period will last one year and may be renewed if you continue to need services.

(5) The department does not pay for treatment determined by DSHS/medical assistance administration (MAA) or private insurance to be experimental.

(6) Respite care cannot be a replacement for child care while the parent or guardian is at work regardless of the age of the client.

(7) The department shall not authorize a birth parent, adoptive parent, step-parent or any other primary caregiver (or their spouse) living in the same household with the client for respite, nursing, therapy, or counseling services.

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

**AMENDATORY SECTION** (Amending WSR 02-16-014, filed 7/25/02, effective 8/25/02)

**WAC 388-825-248 Who is covered under these rules?** These sections (WAC 388-825-200 through 388-825-242) apply to persons enrolled in family support after June 1996. Those enrolled before June 1996 are covered under WAC 388-825-252 through ~~((288-825-256 [388-825-256]))~~ 388-825-256.

**AMENDATORY SECTION** (Amending WSR 04-02-014, filed 12/29/03, effective 1/29/04)

**WAC 388-825-252 Family support services.** (1) The purpose of the family support program is to(~~:~~

~~(a))~~ reduce or eliminate the need for out-of-home residential placement of ~~((a client where the in-home placement is in the client's best interest;~~

~~(b)~~ Allow a client to live in the most independent setting possible; and

~~(c)~~ ~~Have access to services best suited to a client's needs)~~ an individual with developmental disabilities where it is in the best interest of the person to continue living with their family.

(2) The department's family support services ~~((shall))~~ include(~~:~~) the following and become available only after you have used your full benefits through Medicaid, private insurance, school and child development services:

(a) Respite care(~~(, including the use of))~~ is intermittent relief to the family caregiver and may include community activities which provide respite;

(b) ~~((Attendant care;~~

~~(e))~~ Nursing services provided by a registered nurse or licensed practical nurse, that cannot be provided by an unlicensed caregiver, including but not limited to, ventilation, catheterization, insulin injections, etc.~~((, when not covered by another resource;~~

~~(d));~~

~~(c)~~ Therapeutic services(~~(, provided these therapeutic services are not covered by another resource such as medicaid, private insurance, public schools, or child development services funding;))~~ including(~~:~~

(i) Physical therapy;

(ii) Occupational therapy;

(iii) Behavior management therapy; and

(iv) Communication therapy; or

~~(v)~~ Counseling for the client relating to a disability) occupational therapy, physical therapy, communication therapy, behavior management, or counseling needed by individuals with developmental disabilities.

(3) Receiving family support services is based on:

(a) Funding for state paid services available in the state operating budget;

(b) SSP funding available to the ~~((client))~~ individual/family(~~(; or~~

~~(e)~~ HCBS waiver status).

(4) The following rules, subsections (5) through (9), apply only to family support services authorized by the department and do not govern services purchased by the family with SSP (state supplementary payment) funding (see WAC 388-827-0145 and 388-827-0170).

(5) Up to nine hundred dollars of the service need level amount in WAC 388-825-254 may be used during a one year period for ~~((flexible))~~ use as follows. The requested service must be necessary as a result of the disability of the ~~((client;))~~ individual and after you have used your full benefits through Medicaid, private insurance, school and child development services:

(a) Training and supports including parenting classes and disability related support groups. This does not include registration or costs related to conferences;

(b) Specialized equipment and supplies including the purchase, rental, loan or refurbishment of specialized equipment or adaptive equipment not covered by another resource including Medicaid. Mobility devices such as walkers and

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wheelchairs are included, as well as communication devices and medical supplies such as diapers for ~~((those more than))~~ children three years of age and older;

(c) Environmental modification including home repairs for damages ~~((, and))~~ or modifications to the home needed because of the disability of the ((client)) individual;

(d) Medical/dental services not covered by any other resource. This may include the payment of insurance premiums and deductibles and is limited to the premiums and deductibles of the ~~((client))~~ individual;

(e) Special formulas or specially prepared foods as prescribed by a licensed physician and needed because of the disability of the ((client)) individual;

(f) Parent/family counseling related to the individual's disability, dealing with a diagnosis, grief and loss issues, genetic counseling and behavior management. Payments cannot be approved for services occurring after the death of the eligible individual;

(g) Specialized clothing adapted for a physical disability, excessive wear clothing, or specialized footwear;

(h) Specialized utility costs including extraordinary supplemental utility costs related to the ~~((client's))~~ individual's disability or medical condition;

~~(i) ((Transportation costs for gas or tickets (ferry fare, transit cost) for a client to get to essential services and appointments, if another resource is not available;~~

~~(j) Other services approved by the DDD regional administrator or designee that will replace or reduce ongoing departmental expenditures and will reduce the risk of out-of-home placement. Exemption requests under this section are not subject to appeal)) If another resource is not available, transportation costs, including gas, ferry or transit cost, so an individual can receive essential services and appointments; per diem costs may be reimbursed for medical appointments. Funds cannot be used for the purchase or rental of a car or for airfare.~~

(6) Recommendations will be made to the regional administrator by a review committee. The regional administrator will approve or disapprove the request and will communicate reasons for denial to the committee.

(7) Payment for services specified in subsection (5) ~~((, except (5)(a) and (h),))~~ shall cover only the portion of cost attributable to the ~~((client))~~ individual.

(8) Requests must be received by DDD no later than midway through the service authorization period unless circumstances exist justifying an emergency.

(9) A plan shall be developed jointly by the family and the department for each service authorization period. The department may choose whether to contract directly with the vendor, to authorize purchase by another agency, or may reimburse the parent of the ~~((client))~~ individual.

(10) Emergency services. Emergency funds may be requested for use in response to a single incident or situation or short term crisis such as care giver hospitalization, absence, or incapacity. The request shall include anticipated resolution of the situation. Funds shall be provided for a limited period not to exceed two months. All requests are to be reviewed and approved or denied by ~~((the regional administrator or designee.~~

~~((11) A departmental service authorization shall state the type, amount, and period (duration) of service. Each department authorization shall constitute a new service for a new period.~~

~~((12) If the client))~~ DDD.

(a) If approved, you will receive emergency services for a limited time period, not to exceed two months.

(b) If denied, you have no appeal rights.

((11) If the individual becomes eligible and begins to receive Medicaid Personal Care services as defined in ((WAC 388-71-0202 and 388-71-0203)) chapter 388-71 and 388-72A WAC or other DSHS in-home residential support service, the family support funding will be reduced at the beginning of the next month of service. The family will receive notice of the reconfiguration of services at least five working days before the beginning of the month.

~~((13) If requested family support services are not authorized, such actions shall be deemed a denial of services.~~

((14)) (12) Family support services may be authorized below the amount requested by the family for the period. When, during the authorized service period, family support services are reduced or terminated below the amount specified in service authorizations, the department shall deem such actions as a reduction or termination of services.

#### NEW SECTION

**WAC 388-825-253 Family support service restrictions.** (1) Family support services payments are authorized only after you have used what is available to you under Medicaid and any other private health insurance plan.

(2) All family support service payments must be authorized by the department.

(3) The department may contract directly with:

(a) A service provider; or

(b) A parent for the reimbursement of goods purchased by the parent; or

(c) An agency to purchase goods and services on behalf of an individual.

(4) The department's authorization period will start when you agree to be in this program. The period will last one year and may be renewed if you continue to need services.

(5) The department does not pay for treatment determined by DSHS/MAA or private insurance to be experimental.

(6) Respite cannot be a replacement for child care while the parent or guardian is at work regardless of the age of the individual.

(7) The department shall not authorize a birth parent, adoptive parent, stepparent or any other primary caregiver (or their spouse) living in the same household with the individual to provide respite, nursing, therapy, or counseling services.

**AMENDATORY SECTION** (Amending WSR 04-02-014, filed 12/29/03, effective 1/29/04)

**WAC 388-825-254 Service need level rates.** (1) The department shall base periodic service authorizations on:

(a) Requests for family support services described in WAC 388-825-252 (2) and (5);

(b) Service need levels. The amount of SSP (state supplementary payment) available to ~~((a-client))~~ an individual will be included when calculating the monthly allocation of state family support dollars.

(c) Availability of family support funding;

(d) Authorization by a review committee, in each regional office, which reviews each request for service;

(e) The amounts designated in subsection (2)(a) through (d) of this section are subject to periodic increase if vendor rate increases are mandated by the legislature.

(2) Service need level lid amounts as follows:

~~((#))~~ (a) Clients designated for service need level one (WAC 388-825-256) may receive up to one thousand one hundred ~~((fifty-six))~~ ninety-eight dollars per month or two thousand four hundred sixty-two dollars per month if the ~~((client))~~ individual requires licensed nursing care in the home:

~~((A))~~ If a client

(i) If an individual is receiving funding through Medicaid Personal Care or other DSHS in-home residential support, the maximum payable through family support shall be five hundred ~~((twelve))~~ thirty-one dollars per month;

~~((B))~~ (ii) If the combined total of family support services at this maximum plus in-home support is less than one thousand one hundred ~~((fifty-six))~~ ninety-eight dollars additional family support can be authorized to bring the total to one thousand one hundred ~~((fifty-six))~~ ninety-eight dollars.

~~((#))~~ (b) Clients designated for service need level two (WAC 388-825-256) may receive up to four hundred ~~((fifty-six))~~ seventy-two dollars per month if not receiving funding through Medicaid personal care:

~~((A))~~ If a client

(i) If an individual is receiving funds through Medicaid personal care or other DSHS in-home residential support service, the maximum receivable through family support shall be two hundred ~~((fifty-six))~~ sixty-five dollars per month;

~~((B))~~ (ii) If the combined total of family support services at this maximum plus in-home support is less than four hundred seventy-two ~~((fifty-six hundred four))~~ dollars, additional family support can be authorized to bring the total to four hundred ~~((fifty-six))~~ seventy-two dollars.

~~((#))~~ (c) Clients designated for service need level three (WAC 388-825-256) may receive up to two hundred ~~((fifty-six))~~ sixty-five dollars per month provided the ~~((client))~~ individual is not receiving Medicaid personal care. If the ~~((client))~~ individual is receiving Medicaid personal care or other DSHS in-home residential support service, the maximum receivable through family support shall be one hundred ~~((twenty-eight))~~ thirty-three dollars per month; and

~~((iv))~~ (d) Clients designated for service level four (WAC 388-825-256) may receive up to one hundred ~~((twenty-eight))~~ thirty-three dollars per month family support services.

~~((d))~~ Availability of family support funding;

~~(e) Authorization by a review committee, in each regional office, which reviews each request for service;~~

~~(f) The amounts designated in subsection (1)(b)(i) through (iv) of this section are subject to periodic increase if vendor rate increases are mandated by the legislature.~~

~~((2))~~ (3) The department shall authorize family support services contingent upon the applicant providing accurate and complete information on disability-related requests.

~~((3))~~ (4) The department shall ensure service authorizations do not exceed maximum amounts for each service need level based on the availability of funds.

~~((4))~~ The department shall not authorize a birth parent, adoptive parent, or stepparent living in the same household as the client as the direct care provider for respite, attendant, nursing, therapy, or counseling services for a child seventeen years of age or younger.

## WSR 04-20-018

### EMERGENCY RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed September 27, 2004, 8:25 a.m., effective September 27, 2004]

Effective Date of Rule: Immediately.

Purpose: The Division of Developmental Disabilities has received approval from the federal Centers for Medicare and Medicaid Services (CMS) to implement four home and community based service (HCBS) waivers, which replace the current community alternatives program (CAP) waiver, and as a result is adopting new chapter 388-845 WAC, DDD home and community based services waivers.

These rules only replace the emergency rules in chapter 388-845 WAC filed as WSR 04-16-019, removing respite care from the aggregate package of services in the Basic and Basic Plus waivers, and implementing a new respite assessment for individuals in the Basic and Basic Plus waivers. Emergency rules in chapter 388-825 WAC as filed in WSR 04-16-019 remain in effect.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

Other Authority: Chapter 71A.12 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; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: These rules were originally filed on an emergency basis as WSR 04-08-020. The approval of the HCBS waivers by CMS required the department to implement new rules on April 1, 2004, to protect the health and welfare of eligible clients by ensuring no interruption in services to current participants in the CAP waiver occurs, and to ensure a continuation of federal matching funds under 42 C.F.R. 441, Subpart G - Home and Community Based Services—Waiver Requirements.

The department has filed a notice of intent to adopt permanent rules as WSR 03-20-103. Ongoing negotiations with CMS and the need to obtain extensive feedback from stake-

holders have delayed the filing of proposed rules for adoption on a permanent basis until the negotiations are completed and the feedback is obtained.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 116, 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 116, Amended 0, Repealed 0.

Date Adopted: September 21, 2004.

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 04-22 issue of the Register.

**WSR 04-20-034**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 04-269—Filed September 29, 2004, 1:59 p.m., effective September 29, 2004]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000C; and amending WAC 220-52-040.

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 state may not authorize commercial shellfish harvests absent agreed planning or compliance with a process. The provisions of this rule are in conformity with agreed plans with applicable tribes which have been entered into as required by court order. The pot limits for the commercial crab fishery in the Puget Sound licensing district are to maintain commercial harvest allocation plans. The reduction from a 75-pot restriction to a 50-pot restriction in Region 1, is a result of recent information and discussions with the Puget Sound commercial crab industry that indicate a pot reduction is necessary to meet allocation objectives. 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.

Date Adopted: September 29, 2004.

Evan Jacoby  
for Jeff Koenings  
Director

**NEW SECTION**

**WAC 220-52-04000D Commercial crab fishery— Lawful and unlawful gear, methods, and other unlawful acts.** Notwithstanding the provisions of WAC 220-52-040:

(1) Dungeness crab pots may be deployed between 8:00 a.m. October 1, 2004 and 7:59 a.m. October 3, 2004 in Puget Sound waters from a vessel not designated on a persons Puget Sound crab license provided that the primary or alternate operator designated on the license is on board the non-designated vessel ("barge" vessel), and provided prior notice has been given as indicated below.

(2) The license holder must leave a telephone message at the La Conner office, (360) 466-4345, extension 245, with the following information:

- a) Name and license number of license owner.
- b) Name of designated primary operator if different from license owner.
- c) Name of alternate operator if used to deploy pots from a non-designated vessel.
- d) Buoy brand number and number of pots to be deployed from a non-designated vessel.
- e) Name and identification numbers (WN and/or Coast Guard) of the non-designated vessel.

(3) Effective 8:00 a.m. October 1, 2004 until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 50 pots per license, per buoy tag number in Marine Fish Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, and 22B. The remaining 50 buoy tags per license must be onboard the designated vessel and available for inspection in the pot limited areas.

(4) Effective 8:00 a.m. October 1, 2004 until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 75 pots per license, per buoy tag number in Marine Fish Shellfish Catch Reporting Areas 23A, 23B, 23C, 23D, 25A, 25E, 29, 24A, 24B, 24C, 24D, and 26A-E. The remaining 25 buoy tags per license must be onboard the designated vessel and available for inspection in the pot limited areas.



**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-52-04000C Commercial crab fishery—  
Lawful and unlawful gear,  
methods, and other unlawful  
acts. (04-252)

**WSR 04-20-036**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 04-267—Filed September 29, 2004, 1:59 p.m., effective October 1, 2004, 12:01 a.m.]

Effective Date of Rule: October 1, 2004, 12:01 a.m.

Purpose: Amend personal use fishing 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 hatchery steelhead are expected to return to the waters above Priest Rapids Dam (19,900). Only a relatively small number of the returning hatchery steelhead are needed for hatchery production and spawning escapement objectives. Therefore, the excess hatchery steelhead are available for harvest. The recreational fishery will reduce the proportion of hatchery origin steelhead contributing to the adult spawning escapement, thereby minimizing impacts to wild steelhead returning to the upper Columbia River. This will increase the proportion of wild and hatchery adult crosses with wild steelhead on the spawning grounds and thus improving the natural production potential in the upper Columbia River Basin. NOAA fisheries approves of these 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 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.

Date Adopted: September 29, 2004.

Evan Jacoby  
for Jeff Koenings  
Director

**NEW SECTION**

**WAC 232-28-61900R Exceptions to statewide rules—Columbia, Methow, Okanogan and Similkameen rivers.** Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. October 1, 2004 until further notice, it is unlawful to violate the following provisions in the following waters:

(1) For purposes of this section, "adipose fin clipped steelhead" means steelhead with an adipose fin clip and a healed scar at the site of the fin clip, whether or not any other fins are clipped or a healed scar is present at any other fin position.

(2) Columbia River from Rocky Reach Dam to Highway 17 Bridge at Bridgeport - Open until further notice. Night closure. Daily limit may contain up to two adipose fin clipped steelhead. Release steelhead with disk tag attached.

(3) Methow River - Mouth (Highway 97 Bridge) upstream to the second powerline crossing, and from the first Highway 153 Bridge north of Pateros to the confluence with the Chewuch River. Open until further notice. Selective gear rules except lawful to fish from motorized vessels. Night closure. All species: Release all fish except up to two adipose fin clipped steelhead per day may be retained. Release steelhead with disk tag attached.

(4) Okanogan River - Open until further notice, except closed from Lake Osoyoos Control Dam (Zosel Dam) downstream to one-quarter mile below railroad trestle. Selective gear rules except lawful to fish from motorized vessels. Night closure. Gamefish: Open to all gamefish downstream from Highway 97 Bridge at Malott. Daily limit may contain up to two adipose fin clipped steelhead. Release steelhead with disk tag attached. Above Highway 97 Bridge at Malott, open only for adipose fin clipped steelhead. Daily limit may contain up to two adipose fin clipped steelhead. Release steelhead with disk tag attached.

(5) Similkameen River - Mouth to 400 feet below Enloe Dam - Open November 15 until further notice. Selective gear rules. Night closure. All species: Release all fish except up to two adipose fin clipped steelhead per day may be retained. Release steelhead with disk tag attached.

**WSR 04-20-038**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 04-270—Filed September 29, 2004, 4:42 p.m., effective September 29, 2004]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.



Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900S; 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: This regulation was inadvertently left out of the permanent rules filing. 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.

Date Adopted: September 29, 2004.

Evan Jacoby  
for Jeff Koenings  
Director

NEW SECTION

**WAC 232-28-61900S Exceptions to statewide rules—Puyallup River.** Notwithstanding the provisions of WAC 232-28-619, effective immediately through November 30, 2004, in those waters of the Puyallup River from the 11th Street Bridge to Carbon River, single point barbless hooks are required.

REPEALER

The following section of the Washington Administrative Code is repealed effective December 1, 2004:

WAC 232-28-61900S      Exceptions to statewide rules—Puyallup River.

**WSR 04-20-039  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 04-266—Filed September 29, 2004, 4:43 p.m., effective October 1, 2004, 12:01 a.m.]

Effective Date of Rule: October 1, 2004, 12:01 a.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900P; 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: Prior to October 1, this section of the Columbia River is closed to salmon fishing to protect ESA-listed steelhead that are beginning to congregate near the mouth of the Methow River during the summer. The recreational fishery for hatchery steelhead in the upper Columbia River will open October 1. Once the steelhead fishery opens, there is no reason to prohibit chinook harvest during the last fifteen days of the salmon season in the upper Columbia River. 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.

Date Adopted: September 29, 2004.

Evan Jacoby  
for Jeff Koenings  
Director

NEW SECTION

**WAC 232-28-61900Q Exceptions to statewide rules—Columbia and Okanogan rivers.** Notwithstanding the provisions of WAC 232-28-619, effective immediately until further notice, it is unlawful to violate the following provisions:

(1) **Columbia River**

From a true north and south line (magnetic 338 degrees N) through Buoy 10 upstream to Rocky Point/Tongue Point line (Buoy 10) -

(a) Open through December 31. Daily limit of 6 salmon, but no more than 2 adults. Release chinook, chum, sockeye and wild coho. Minimum size is 12 inches in length.

From Rocky Point/Tongue Point line upstream to Bonneville Dam -

(a) Open through December 31. Daily limit of 6 salmon. No more than 2 adults of which no more than one may be an

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adult chinook. Release chum, sockeye and wild coho. Minimum size 12 inches in length.

From Bonneville Dam to Hwy. 395 Bridge at Pasco -

(a) Open through December 31. Daily limit of 6 salmon, of which no more than 2 may be adults. Release chum and sockeye. Minimum size is 12 inches in length.

From Hwy 395 Bridge at Pasco to Priest Rapids Dam -

(a) Open through December 31, from Highway 395 Bridge at Pasco to the Old Hanford townsite woodin powerline towers. Daily limit of 6 salmon, no more than two adults. Minimum size 12 inches in length.

(b) Open through October 22, from the Old Hanford townsite woodin powerline towers to Priest Rapids Dam. Daily limit 6 salmon, of which no more than two may be adults. Minimum size 12 inches in length.

From Priest Rapids Dam to Rocky Reach Dam -

Open through October 15. Daily limit of 6 salmon, no more than 2 adults. Release coho. Minimum size 12 inches in length.

From Rocky Reach Dam to Wells Dam -

Open through October 15. Daily limit of 6 salmon, no more than 2 adults. Release coho. Minimum size 12 inches in length. Night Closure effective through October 15.

From Wells Dam to Hwy. 17 bridge at Bridgeport -

Open through October 15. Daily limit of 6 salmon, no more than 2 adults. Release coho. Minimum size 12 inches in length. Night Closure effective through October 15.

(2) **Okanogan River (Okanogan Co.)** from mouth to highway 97 bridge immediately upstream of mouth -

(a) Open through October 15. Daily limit of 6 salmon, no more than 2 adults. Release coho. Minimum size 12 inches in length. Selective gear rules except lawful to fish from a floating device equipped with a motor and Night Closure effective through October 15.

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

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. October 1, 2004:

WAC 232-28-61900P Exceptions to statewide rules—Columbia and Okanogan rivers. (04-260)

**WSR 04-20-040  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 04-268—Filed September 29, 2004, 4:44 p.m., effective September 29, 2004]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000M; 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: Adds additional time to the late fall salmon fishery consistent with the allocation agreement, and the increased run forecast of Upriver Bright fall chinook. Provides opportunity for directed chinook and coho target seasons - harvestable numbers of salmon are available. Sturgeon landing limits are consistent with the joint state sturgeon management agreement and provide for sturgeon harvest opportunity throughout the late fall salmon fishery. All salmon returning to the select area net pens are harvestable. All fisheries are consistent with the 2004 fall management agreement, the pre-season non-Indian allocation agreement, and consistent with actions of the Columbia River compact on September 29, 2004, September 24, 2004, and July 29, 2004. Impacts to ESA-listed stocks are included in the biological assessment of fall fisheries. The biological opinion covering these fisheries has been signed. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 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.

Date Adopted: September 29, 2004.

Evan Jacoby  
for Jeff Koenings  
Director

**NEW SECTION**

**WAC 220-33-01000N Columbia River season below Bonneville.** Notwithstanding the provisions of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections:

- 1) OPEN AREA: SMCRA 1A, 1B, 1C.
- a) SEASON: 7:00 a.m. to 7:00 p.m. September 29, 2004
- b) GEAR: 6-inch maximum mesh size, unslackened floater gill nets or 9-inch minimum an 9 3/4 inch maximum mesh

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c) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) SANCTUARIES: Elokomin-A, Abernathy, Cowlitz, Kalama-A, Lewis-A.

e) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2) OPEN AREA: SMCRA 1A, 1B, 1C.

a) SEASON: 7:00 a.m. September 30 to 7:00 a.m. October 1, 2004

b) GEAR: No minimum mesh restriction and 9 3/4 inch maximum mesh restriction

c) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) SANCTUARIES: Elokomin-A, Abernathy, Cowlitz, Kalama-A, Lewis-A.

OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3) OPEN AREA: SMCRA 1D, 1E.

a) SEASON: 8:00 p.m. September 29 to 1:00 a.m. September 30, 2004

1:00 a.m. September 30 to 7:00 a.m. October 1, 2004

b) GEAR: 8-inch minimum mesh restriction and 9 3/4 inch maximum mesh restriction

c) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) SANCTUARIES: Lewis-A, Sandy, Washougal.

e) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

4) OPEN AREA: Blind Slough/Knappa Slough Select Area

Blind Slough fishing area includes all waters from markers at the mouth of Gnat Creek located approximately 0.5 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent waters extend downstream of the railroad bridge. Oregon State waters extend upstream of the railroad bridge.

Knappa Slough fishing area includes 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 boundary lines defined by markers on the western end of Minaker Island to markers on Karlson Island and the Oregon shore. An area closure of about a 100-foot radius at the mouth of Big Creek defined by markers. All waters are under concurrent jurisdiction.

a) SEASON: 6:00 p.m. to 8:00 a.m., Mondays, Tuesdays, Wednesdays, and Thursday nights immediately through October 29, 2004.

b) GEAR: 6-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line. Additional weights and anchors may be attached directly to the lead line.

c) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries

d) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

5) OPEN AREA: Tongue Point/South Channel Select Area  
Tongue Point fishing area includes all waters bounded by a line from a yellow marker midway between the red light at Tongue Point and the downstream (northern most) pier (#8) 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 of Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank. All waters are under concurrent jurisdiction.

South Channel area includes all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to flashing red marker "10" thence northwesterly to a marker on the sand bar defining the terminus of South Channel. All waters are under concurrent jurisdiction.

a) SEASON: Monday, Tuesday, Wednesday, and Thursday nights from immediately through October 29, 2004. Open hours are 4:00 p.m. to 8:00 a.m. daily.

b) GEAR: In the Tongue Point area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 250 fathoms, and weight not to exceed two pounds on any one fathom on the lead line.

In the South Channel area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on lead line. Additional weights and anchors may be attached directly to the lead line in South Channel.

c) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) MISCELLANEOUS: Participants in the Tongue Point fishery may have stored on board their boats, gill nets with lead line in excess of two pounds per fathom.

e) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

6) OPEN AREA: Deep River Select Area

Deep River is open to fishing down river from the town of Deep River to the mouth (a line from navigation marker "16" southwest to a marker on the Washington shore). Concurrent waters extend downstream of the Highway 4 bridge. State waters extend upstream of the Highway 4 bridge.

a) SEASON: Monday, Tuesday, Wednesday, and Thursday nights immediately through October 29, 2004. Open hours are 4:00 p.m. to 8:00 a.m. daily.

b) GEAR: Gillnet 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Additional weights and anchors may be attached directly to the lead line.

c) **ALLOWABLE SALE:** Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) **OTHER:** Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

7) **OPEN AREA:** Steamboat Slough Select Area

Steamboat Slough is open to fishing in waters bounded by markers on Price Island and the Washington shore, at both upstream and downstream ends of Steamboat Slough. All open waters are under concurrent jurisdiction.

a) **SEASON:** Monday, Tuesday, Wednesday, and Thursday nights from immediately through October 29, 2004. Open hours are 4:00 p.m. to 8:00 a.m. daily.

b) **GEAR:** Gillnet 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Additional weights and anchors may be attached directly to the lead line.

c) **ALLOWABLE SALE:** Salmon and sturgeon. A maximum of five sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) **MISCELLANEOUS:** Transportation or possession of fish outside the fishing area is unlawful unless by licensed buyer, except fishers may transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

e) **OTHER:** Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

**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:

WAC 220-33-01000M Columbia River season  
below Bonneville. (04-264)

**WSR 04-20-043  
EMERGENCY RULES  
DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES  
(Economic Services Administration)**

[Filed September 30, 2004, 4:11 p.m., effective October 1, 2004]

Effective Date of Rule: October 1, 2004.

Purpose: Amending WAC 388-400-0005 Who is eligible for temporary assistance for needy families?, 388-400-0025 General assistance-unemployable—General eligibility requirements, 388-400-0040 Am I eligible for benefits through the Washington Basic Food program?, and 388-416-0015 Certification periods for categorically needy (CN) medical and children's health insurance program (CHIP); which are rules related to simplified reporting for cash assistance,

medical assistance, and Basic Food. These rules explain general eligibility requirements for department programs and certification periods for categorically needy medical and the children's health insurance program. The department has filed proposed rules as WSR 04-17-117 and 04-19-131.

Citation of Existing Rules Affected by this Order: Amending WAC 388-400-0005, 388-400-0025, 388-400-0040, and 388-416-0015.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Other Authority: SB 6411 (chapter 54, Laws of 2004).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: These rules are necessary to implement the department's simplified reporting initiative for cash assistance, medical assistance, and the Washington Basic Food program while the department completes the regular rule-making process. SB 6411 (chapter 54, Laws of 2004) requires the department to implement simplified reporting for food stamps by October 2004.

The Farm Security and Rural Investment Act of 2002 and 7 C.F.R. 273.12 provide states the option to implement simplified reporting for the food stamp program. The department plans to implement simplified reporting for cash, medical, and the Basic Food program beginning in October 2004.

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 4, 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 4, Repealed 0.

Date Adopted: September 27, 2004.

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-15-057, filed 7/13/04, effective 8/13/04)

**WAC 388-400-0005 Who is eligible for temporary assistance for needy families?** (1) You can get temporary assistance for needy families (TANF), if you:

(a) Can be in a TANF/SFA assistance unit as allowed under WAC 388-408-0015 through 388-408-0030;

(b) Meet the citizenship/alien status requirements of WAC 388-424-0001;

(c) Live in the state of Washington. A child must live with a caretaker relative, guardian, or custodian who meets the state residency requirements of WAC 388-468-0005;

- (d) Do not live in a public institution unless specifically allowed under RCW 74.08.025;
- (e) Meet TANF/SFA:
- (i) Income requirements under chapter 388-450 WAC;
- (ii) Resource requirements under chapter 388-470 WAC; and
- (iii) Transfer of property requirements under chapter 388-488 WAC.
- (f) Assign your rights to child support as required under WAC 388-422-0005;
- (g) Cooperate with the division of child support (DCS) as required under WAC 388-422-0010 by helping them:
- (i) Prove who is the father of children applying for or getting TANF or SFA; and
- (ii) Collect child support.
- (h) Tell us your Social Security number as required under WAC 388-476-0005;
- (i) Cooperate in a review of your eligibility as required under WAC 388-434-0005;
- (j) Cooperate in a quality assurance review as required under WAC 388-464-0001;
- (k) Participate in the WorkFirst program as required under chapter 388-310 WAC; ~~(and)~~
- (l) Report changes of circumstances as required under WAC 388-418-0005; and
- (m) Complete a six-month report and provide proof of any changes as required under WAC 388-418-0011.
- (2) If you are an adult and do not have a child living with you, you must be pregnant and meet the requirements of WAC 388-462-0010.
- (3) If you are an unmarried pregnant teen or teen parent:
- (a) Your living arrangements must meet the requirements of WAC 388-486-0005; and
- (b) You must attend school as required under WAC 388-486-0010.
- (4) In addition to rules listed in subsection (1) of this section, a child must meet the following rules to get TANF:
- (a) Meet the age requirements under WAC 388-404-0005; and
- (b) Live in the home of a relative, court-ordered guardian, court-ordered custodian, or other adult acting *in loco parentis* as required under WAC 388-454-0005; or
- (c) If the child lives with a parent or other adult relative that provides care for the child, that adult cannot have used up their sixty-month lifetime limit of TANF or SFA cash benefits as defined in WAC 388-484-0005.
- (5) You cannot get TANF if you have been:
- (a) Convicted of certain felonies and other crimes under WAC 388-442-0010; or
- (b) Convicted of unlawful practices to get public assistance under WAC 388-446-0005 or 388-446-0010.

AMENDATORY SECTION (Amending WSR 04-15-057, filed 7/13/04, effective 8/13/04)

**WAC 388-400-0025 Who is eligible for general assistance-unemployable** (~~General eligibility requirements~~) **benefits?** (1) You can get general assistance-unemployable (GAU) benefits if you:

- (a) ~~(You)~~ Are incapacitated as required under WAC 388-448-0010 through 388-448-0120;
- (b) ~~(You)~~ Are at least eighteen years old or, if under eighteen, a member of a married couple;
- (c) ~~(You)~~ Are in financial need according to GAU income and resource rules in chapters 388-450, 388-470 and 388-488 WAC;
- (d) ~~(You)~~ Meet the general assistance citizenship/alien status requirements under WAC 388-424-0015(2);
- (e) ~~(You)~~ Provide a Social Security number as required under WAC 388-476-0005;
- (f) ~~(You)~~ Reside in the state of Washington as required under WAC 388-468-0005;
- (g) ~~(You)~~ Undergo a treatment and referral assessment as provided under WAC 388-448-0130 through 388-448-0150;
- (h) ~~(You)~~ Assign interim assistance as provided under WAC 388-448-0210;
- (i) Report changes of circumstances as required under WAC 388-418-0005; and
- (j) Complete a six-month report and provide proof of any changes as required under WAC 388-418-0011.
- (2) You cannot get GAU benefits if:
- (a) You are eligible for temporary assistance for needy families (TANF) benefits;
- (b) You are eligible for state family assistance (SFA) benefits unless you are not eligible under WAC 388-400-0010;
- (c) You have the ability to, but refuse to meet a TANF or SFA eligibility rule;
- (d) You are eligible for supplemental security income (SSI) benefits;
- (e) You are an ineligible spouse of an SSI recipient; or
- (f) You were denied benefits or your benefits were terminated by the Social Security Administration (SSA) for failing to follow a SSI program rule or application requirement.
- (3) The assistance unit will be established according to WAC 388-408-0010.
- (4) You may be eligible for GAU if you reside in a public institution. A "public institution" is an institution that is supported by public funds, and a governmental unit either is responsible for it or exercises administrative control over it. Your eligibility will depend upon the type of institution you are in.
- (a) If you reside in a public institution and are otherwise eligible for GAU, you may be eligible for general assistance if you are:
- (i) A patient in a public medical institution; or
- (ii) A patient in a public mental institution and are:
- (A) Sixty-five years of age or older; or
- (B) Twenty years of age or younger.
- (b) You are not eligible for GAU when you are in the custody of or confined in a public institution such as a state penitentiary or county jail including placement:
- (i) In a work release program; or
- (ii) Outside of the institution.

**AMENDATORY SECTION** (Amending WSR 04-15-057, filed 7/13/04, effective 8/13/04)

**WAC 388-400-0040 Am I eligible for benefits through the Washington Basic Food program?** The Washington Basic Food program (Basic Food) is a nutrition program to help low-income individuals and families buy food. This rule is a summary of the rules for Basic Food.

(1) When you apply for Basic Food, we decide who is in your assistance unit (AU) based on the requirements under WAC 388-408-0035.

(2) To be eligible for Basic Food benefits, your AU must meet the eligibility requirements of the most current version of the Food Stamp Act of 1977.

(3) To be eligible for **federal** Basic Food benefits, each AU member must meet the citizenship or alien status requirements for federal benefits as described under WAC 388-424-0020.

(4) An AU member who is not eligible for federal benefits may be eligible for **state-funded** Basic Food benefits if they meet the requirements described under WAC 388-400-0045.

(5) To be eligible for **federal** or **state** Basic Food benefits, each AU member must:

(a) Be a resident of the state of Washington as required under WAC 388-468-0005;

(b) Meet the citizenship or alien status requirements of either WAC 388-424-0020 or 388-424-0025;

(c) Provide their Social Security number as required under WAC 388-476-0005;

(d) Provide proof of identity as required under WAC 388-490-0005;

(e) Participate in the food stamp employment and training program (FSE&T) as required under chapter 388-444 WAC; and

(f) Meet the eligibility criteria for strikers as described under WAC 388-480-0001.

(6) To be eligible for Basic Food, your AU must:

(a) Have countable income at or below gross and net income standards as described under WAC 388-478-0060; ~~((and))~~

(b) Have countable resources at or below your AU's resource limit under WAC 388-470-0005 unless your AU is categorically eligible under WAC 388-414-0001;

(c) Report changes of circumstances as required under WAC 388-418-0005; and

(d) Complete a six-month report and provide proof of any changes if required under WAC 388-418-0011.

(7) If your AU has income under the gross income standard, we deduct certain expenses from your income under WAC 388-450-0200 before we calculate your Basic Food benefits.

(8) If an eligible person in your AU is elderly or disabled, some rules may help your AU to be eligible for Basic Food or to get more Basic Food benefits. These include:

(a) Resources limits and excluding certain resources under chapter 388-470 WAC;

(b) An excess shelter deduction over the limit set for AUs without an elderly or disabled individual under WAC 388-450-0190;

(c) A deduction for out-of-pocket medical expenses for the elderly or disabled individual if they are over thirty-five dollars a month under WAC 388-450-0200; and

(d) Being exempt from the **gross** income standard under WAC 388-478-0060.

(9) For Basic Food, **elderly** means a person who is age sixty or older;

(10) For Basic Food, **disabled** means a person who:

(a) Gets SSI;

(b) Gets disability payments or blindness payments under Title I, II, XIV, or XVI of the Social Security Act;

(c) Gets disability retirement benefits from a state, local or federal government agency because of a disability considered permanent under section 221(i) of the Social Security Act;

(d) Gets disability benefits from the Railroad Retirement Act under sections 2 (a)(1)(iv) and (v) and:

(i) Meets Title XIX disability requirements; or

(ii) Is eligible for Medicare.

(e) Receives disability-related medical assistance under Title XIX of the Social Security Act;

(f) Is a veteran and receives disability payments based on one hundred percent disability;

(g) Is a spouse of a veteran and:

(i) Either needs an attendant or is permanently housebound; or

(ii) Has a disability under section 221(i) of the Social Security Act and is eligible for death or pension payments under Title 38 of the USC.

(11) If a person in your AU attends an institution of higher education and does not meet the requirements to be an eligible student under WAC 388-482-0005, we do not consider this person as a member of your AU.

(12) If your AU lives on or near an Indian reservation and participates in a tribal food distribution program approved by Food and Nutrition Service (FNS), your AU is not eligible for Basic Food benefits.

(13) If an AU member is ineligible for any of the following reasons, we count the ineligible person's income as described under WAC 388-450-0140:

(a) Able-bodied adults without dependents who are no longer eligible under WAC 388-444-0030;

(b) Persons ~~((convicted of a drug-related felony or))~~ fleeing a felony prosecution, conviction, or confinement under WAC 388-442-0010;

(c) Persons who do not attest to citizenship or alien status as defined in WAC 388-424-0001;

(d) Persons who are ineligible aliens under WAC 388-424-0020;

(e) Persons disqualified for an intentional program violation under WAC 388-446-0015;

(f) Persons who do not provide a Social Security number when required under WAC 388-476-0005; or

(g) Persons who failed to meet work requirements under chapter 388-444 WAC.

**AMENDATORY SECTION** (Amending WSR 04-03-019, filed 1/12/04, effective 2/12/04)

**WAC 388-416-0015 Certification periods for categorically needy (CN) medical and children's health insurance program (CHIP).** (1) A certification period is the period of time a person is determined eligible for a categorically needy (CN) medical program. Unless otherwise stated in this section, the certification period begins on the first day of the month of application and continues to the last day of the last month of the certification period.

(2) For a child eligible for the newborn medical program, the certification period begins on the child's date of birth and continues through the end of the month of the child's first birthday.

(3) For a woman eligible for a medical program based on pregnancy, the certification period ends the last day of the month that includes the sixtieth day from the day the pregnancy ends.

(4) For families and children the certification period is twelve months with a six-month report required as a condition of eligibility as described in WAC 388-418-0011. When the medical assistance unit is also receiving benefits under a cash or food assistance program, the medical certification period is updated to begin anew at each:

- (a) Approved application for cash or food assistance; or
- (b) Completed eligibility review.

(5) For an SSI-related person the certification period is twelve months.

(6) When the child turns nineteen the certification period ends even if the ~~((six\*))~~ twelve-month period is not over. The certification period may be extended past the end of the month the child turns nineteen when:

- (a) The child is receiving inpatient services on the last day of the month the child turns nineteen;
- (b) The inpatient stay continues into the following month or months; and
- (c) The child remains eligible except for exceeding age nineteen.

(7) A retroactive certification period can begin up to three months immediately before the month of application when:

- (a) The client would have been eligible for medical assistance if the client had applied; and
- (b) The client received covered medical services as described in WAC 388-529-0100.

(8) If the client is eligible only during the three-month retroactive period, that period is the only period of certification.

(9) Any months of a retroactive certification period are added to the designated certification periods described in this section.

(10) For a child determined eligible for CHIP medical benefits as described in chapter 388-542 WAC:

(a) The certification periods are described in subsections (1), (4), and (6) of this section;

(b) There is not a retroactive eligibility period as described in subsections (7), (8), and (9); and

(c) For a child who has creditable coverage at the time of application, the certification period begins on the first of the

month after the child's creditable coverage is no longer in effect, if:

- (i) All other CHIP eligibility factors are met; and
- (ii) An eligibility decision is made per WAC 388-406-0035.

**WSR 04-20-044**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Division)

[Filed September 30, 2004, 4:13 p.m., effective October 17, 2004]

Effective Date of Rule: October 17, 2004.

Purpose: To amend WAC 388-418-0005 What types of changes must I report for cash, Basic Food, and medical assistance?, with regard to what changes people must report for cash assistance, medical assistance, and the Washington Basic Food program. These changes are necessary to implement the department's simplified reporting initiative for cash, medical, and the Washington Basic Food program. SB 6411 requires the department to implement simplified reporting in October 2004. The department filed a proposed rule as WSR 04-17-108 and a public hearing was held on September 21, 2004.

Citation of Existing Rules Affected by this Order: Amending WAC 388-418-0005.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510.

Other Authority: SB 6411 (chapter 54, Laws of 2004).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: These rules are necessary to implement the department's simplified reporting initiative for cash assistance, medical assistance, and the Washington Basic Food program while the department completes the regular rule-making process. SB 6411 (chapter 54, Laws of 2004) requires the department to implement simplified reporting for food stamps by October 2004.

The Farm Security and Rural Investment Act of 2002 and 7 C.F.R. 273.12 provide states the option to implement simplified reporting for the food stamp program. The department plans to implement simplified reporting for cash, medical, and the Basic Food program beginning in October 2004.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

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Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: September 27, 2004.

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 04-06-026, filed 2/23/04, effective 3/25/04)

**WAC 388-418-0005 How will I know what ((type of) changes I must ((I) report ((for cash, Basic Food, and medical assistance))?)** ((For purposes of this section, an "assistance unit" or "AU" is a group of people who live together and whose income or resources we count to decide what benefits the AU gets. Even if someone in your AU is not eligible to get a benefit, we still count that person's income or resources if they are financially responsible for you or someone in your AU, such as a common child. If you are a parent of a child who gets long term care benefits, you need only report changes in income or resources that are actually contributed to the child. Tables one, two and three below show the types of changes you must report based on the type of assistance you get. Use table one to see if you must report a change for cash or Basic Food. Use table two to see if you must report a change for children's, pregnant women's, or family medical assistance. Use table three to see if you must report a change for SSI related medical or long term care medical assistance.

Type of change to report when you or anyone in your assistance unit (AU):	Do I have to report this change for cash assistance?	Do I have to report this change for Basic Food?
(4) Moves to a new residence;	Yes	Yes
(5) Has a change in shelter costs;	Yes, but only if you went from having no shelter costs to having a shelter cost, or from having shelter costs to not having to pay anything. You don't have to report a change in the amount you pay.	Yes, report the change at your recertification. If your shelter costs go up, you could get more benefits. Report the change sooner to see if you will get more benefits.
(6) Gets married, divorced, or separated;	Yes	Yes
(7) Gets a vehicle;	Yes	Yes
(8) Has a disability that ends;	Yes	Yes
(9) Has countable resources that are more than the resource limits under WAC 388-470-0005;	Yes	Yes
(10) Gets a job or changes employers;	Yes	Yes, but only if it causes a change in the person's income.
(11) Changes from part time to full time or full time to part time work. We use your employer's definition of part time and full time work;	Yes	Yes
(12) Has a change in hourly wage rate or salary;	Yes	Yes
(13) Stops working;	Yes	Yes

Type of change to report when you or anyone in your assistance unit (AU):	Do I have to report this change for cash assistance?	Do I have to report this change for Basic Food?
(1) Starts to get money from a new source;	Yes	Yes, but only if the change causes a change in the person's income.
(2) Has unearned income that changed by more than fifty dollars from amount we budgeted;	Yes	Yes
(3) Moves into or out of your home, including new births or if an AU member dies. This also includes when someone temporarily moves in or out;	Yes	Yes

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Table 1 - Cash Assistance and Basic Food		
Type of change to report when you or anyone in your assistance unit (AU):	Do I have to report this change for cash assistance?	Do I have to report this change for Basic Food?
(14) Has a pregnancy that begins or ends;	Yes	No
(15) Has a change in uncovered medical expenses;	No	Yes, report this change only at your next eligibility review. If you are elderly or disabled and you have an increase in uncovered medical expenses, report this change sooner as you may be eligible to get more benefits.
(16) A change in work hours to below 20 hours per week averaged monthly.	No	Yes, but only if there are no children in your AU and the person is a nonexempt ABAWD under WAC 388-444-0030 and 388-444-0035.
(17) A change in legal obligation to pay child support.	No	Yes

Table 2 - Medical Assistance		
Type of change to report when you or anyone in your assistance unit (AU):	Do I have to report this change for family medical assistance (i.e., TANF-related) or Children's Medical?	Do I have to report this change for Pregnancy Medical?
(18) Starts to get money from a new source;	Yes	No
(19) Has unearned income that changed;	Yes	No

Table 2 - Medical Assistance		
Type of change to report when you or anyone in your assistance unit (AU):	Do I have to report this change for family medical assistance (i.e., TANF-related) or Children's Medical?	Do I have to report this change for Pregnancy Medical?
(20) Moves into or out of your home, including newborns or if an AU member dies. This also includes when someone temporarily moves in or out;	Yes	Yes
(21) Moves to a new residence;	Yes	Yes
(22) Has a change in shelter costs;	No	No
(23) Gets married, divorced, or separated;	Yes	No
(24) Gets a vehicle;	No	No
(25) Has a disability that ends;	No	No
(26) Has countable resources that are more than the resource limits under WAC 388-470-0005;	No	No
(27) Gets a job or changes employers;	Yes	No
(28) Changes from part-time to full-time or full-time to part-time work. We use your employer's definition of part-time and full-time work;	Yes	No
(29) Has a change in hourly wage rate or salary;	Yes	No
(30) Stops working;	Yes	No

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Table 2—Medical Assistance

Type of change to report when you or anyone in your assistance unit (AU):	Do I have to report this change for family medical assistance (i.e., TANF-related) or Children's Medical?	Do I have to report this change for Pregnancy-Medical?
(31) Has a pregnancy that begins or ends;	Yes	Yes
(32) Has a change in uncovered medical expenses.	Yes, but only if an AU member has a spenddown.	Yes, but only if an AU member has a spenddown.

Table 3—SSI Related Medical Assistance and Long Term Care

Type of change to report when you or anyone in your assistance unit (AU):	Do I have to report this change for SSI related medical assistance?	Do I have to report this change for long term care (i.e., COPEs, CAP, or nursing-home)
(33) Starts to get money from a new source;	Yes	Yes
(34) Has unearned income that changed;	Yes	Yes
(35) Has a change in earnings or stops working	Yes	Yes
(36) Moves into or out of your home, including newborns or if an AU member dies. This also includes when someone temporarily moves in or out;	Yes	Yes
(37) Moves to a new residence;	Yes	Yes
(38) Has a change in shelter costs;	No, unless you went from paying rent to not paying any rent. You do not need to report if your rent amount changes.	Yes, if client or community spouse live in their own home
(39) Gets married, divorced, or separated;	Yes	Yes

Table 3—SSI Related Medical Assistance and Long Term Care

Type of change to report when you or anyone in your assistance unit (AU):	Do I have to report this change for SSI related medical assistance?	Do I have to report this change for long term care (i.e., COPEs, CAP, or nursing-home)
(40) Gets a vehicle;	Yes, but only if that person or their spouse gets SSI related medical	Yes, but only if that person gets long term care
(41) Has a disability that ends;	Yes	Yes
(42) Has countable resources that are more than the resource limits, under WAC 388-470-0005 or 388-513-1350;	Yes, but only if that person or their spouse get SSI related medical	Yes, but only if that person gets long term care
(43) Has a change in uncovered medical expenses.	Yes, but only if an AU member has a spenddown.	Yes.))

You must report changes to the department based on the kinds of assistance you receive. The set of changes you must report for people in your assistance unit under chapter 388-408 WAC is based on the benefits you receive that require you to report the most changes. It is the first program that you receive benefits from in the list below.

For example:

If you receive Long Term Care and Basic Food benefits, you tell us about changes based on the Long Term Care requirements because it is the first program in the list below you receive benefits from.

(1) If you receive Long Term Care benefits such as Basic, Basic Plus, Core, Community Protection, COPEs, nursing home, Hospice, or Medically Needy Waiver, you must tell us if you have a change of:

- (a) Address;
- (b) Marital status;
- (c) Living arrangement;
- (d) Income;
- (e) Resources;
- (f) Medical expenses; and

(g) If we allow you expenses for your spouse or dependents, you must report changes in their income or shelter cost.

(2) If you receive medical benefits based on age, blindness, or disability (SSI-related medical), you need to tell us if:

- (a) You move;
- (b) Someone moves into or out of your home;
- (c) Your resources change; or
- (d) Your income changes. This includes the income of you, your spouse or your child living with you.

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(3) If you receive Basic Food and all adults in your assistance unit are elderly or disabled and have no earned income, you need to tell us if:

(a) You move;

(b) You start getting money from a new source;

(c) Your income changes by more than fifty dollars;

(d) Your liquid resources, such as your cash on hand or bank accounts, are more than two thousand dollars; or

(e) Someone moves into or out of your home.

(4) If you receive cash benefits, you need to tell us if:

(a) You move;

(b) Someone moves out of your home;

(c) Your total gross monthly income goes over the:

(i) Payment standard under WAC 388-478-0030 if you receive general assistance or ADATSA benefits; or

(ii) Earned income limit under WAC 388-450-0165 for all other programs;

(d) You have liquid resources more than four thousand dollars; or

(e) You have a change in employment. Tell us if you:

(i) Get a job or change employers;

(ii) Change from part-time to full-time or full-time to part-time;

(iii) Have a change in your hourly wage rate or salary; or

(iv) Stop working.

(5) If you receive Children's Medical or Family Medical benefits, you need to tell us if:

(a) You move;

(b) Someone moves out of your home; or

(c) If your income goes up or down by one hundred dollars or more a month and you expect this income change will continue for at least two months.

(6) If you receive Basic Food benefits, you need to tell us if:

(a) You move; or

(b) Your total gross monthly income is more than the gross monthly income limit under WAC 388-478-0060.

(7) If you receive Pregnancy Medical benefits, you need to tell us if:

(a) You move;

(b) Someone moves out of the home; or

(c) You have a change in your pregnancy.

(8) If you receive other medical benefits, you need to tell us if:

(a) You move; or

(b) Someone moves out of the home.

**WSR 04-20-046  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 04-272—Filed September 30, 2004, 4:24 p.m., effective October 1, 2004, 12:01 a.m.]

Effective Date of Rule: October 1, 2004, 12:01 a.m.

Purpose: Amend personal use 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 recreational fishery upstream of Rocky Reach Dam will open to the retention of adipose-only clipped steelhead, and therefore the requirement for an adipose clip and right ventral clip is no longer necessary. 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.

Date Adopted: September 30, 2004.

Jim Lux  
for Jeff Koenings  
Director

EMERGENCY

**NEW SECTION**

**WAC 232-28-61900T Exceptions to statewide rules—Columbia, Methow, Okanogan and Similkameen rivers.** Notwithstanding the provisions of WAC 232-28-619, effective 12:01 a.m. October 1, 2004 until further notice, it is unlawful to violate the following provisions in the following waters:

(1) For purposes of this section, "adipose fin clipped steelhead" means steelhead with an adipose fin clip and a healed scar at the site of the fin clip, whether or not any other fins are clipped or a healed scar is present at any other fin position.

(2) Columbia River from Rocky Reach Dam to Highway 17 Bridge at Bridgeport - Open until further notice. Night closure. Daily limit may contain up to two adipose fin clipped steelhead. Release steelhead with disk tag attached.

(3) Columbia River from Highway 395 Bridge at Pasco to the Old Hanford townsite wooden powerline towers upstream of Ringold Hatchery - Open until further notice. Daily limit may contain up to two steelhead with only adipose fin clipped. Release steelhead with disk tag attached.

(4) Methow River - Mouth (Highway 97 Bridge) upstream to the second powerline crossing, and from the first Highway 153 Bridge north of Pateros to the confluence with the Chewuch River. Open until further notice. Selective gear

rules except lawful to fish from motorized vessels. Night closure. All species: Release all fish except up to two adipose fin clipped steelhead per day may be retained. Release steelhead with disk tag attached.

(5) Okanogan River - Open until further notice, except closed from Lake Osoyoos Control Dam (Zosel Dam) downstream to one-quarter mile below railroad trestle. Selective gear rules except lawful to fish from motorized vessels. Night closure. Gamefish: Open to all gamefish downstream from Highway 97 Bridge at Malott. Daily limit may contain up to two adipose fin clipped steelhead. Release steelhead with disk tag attached. Above Highway 97 Bridge at Malott, open only for adipose fin clipped steelhead. Daily limit may contain up to two adipose fin clipped steelhead. Release steelhead with disk tag attached.

(6) Similkameen River - Mouth to 400 feet below Enloe Dam - Open November 15 until further notice. Selective gear rules. Night closure. All species: Release all fish except up to two adipose fin clipped steelhead per day may be retained. Release steelhead with disk tag attached.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900R Exceptions to statewide rules—Columbia, Methow, Okanogan and Similkameen rivers. (04-267)

**WSR 04-20-047  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 04-271—Filed September 30, 2004, 4:25 p.m., effective September 30, 2004]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100K.

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 state sea cucumber harvest target amounts for the 2004 summer fishery, set by the Sea Cucumber/Sea Urchin Advisory Board, have been taken. 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 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 30, 2004.

Jim Lux  
for Jeff Koenings  
Director

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07100K Sea cucumbers. (04-258)

**WSR 04-20-062**

**EMERGENCY RULES**

**DEPARTMENT OF REVENUE**

[Filed October 1, 2004, 1:25 p.m., effective October 1, 2004]

Effective Date of Rule: Immediately.

Purpose: New section WAC 458-16-1000, this rule describes the property tax exemption that may be claimed by a federally recognized Indian tribe for property exclusively used for essential government services in accordance with the 2004 changes to RCW 84.36.010. The rule explains the parameters of the exemption, how the exemption may be obtained, how a tribe may appeal a denial of the exemption, how essential government services is defined, and provides applicable examples.

Statutory Authority for Adoption: RCW 84.36.010 and 84.36.865.

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 amendments to RCW 84.36.010 are effective for assessment year 2004, meaning taxpayers and assessors need an established process allowing the exemption to be claimed before the end of this year. The department is unable to adopt a permanent rule before then, making an emergency rule necessary.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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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.

Janis P. Bianchi, Manager  
Interpretations and Technical Advice Unit

## NEW SECTION

**WAC 458-16-1000 Property belonging to federally recognized Indian tribes—Definitions—Exemption—Declaration process—Appeal rights.** (1) **Introduction.** This section implements Substitute House Bill 1322 (SHB 1322) as passed by the 2004 legislature and published in the 2004 regular session laws as Chapter 236. SHB 1322 amends RCW 84.36.010 to exempt "all property belonging exclusively to any federally recognized Indian tribe located in the state, if that property is used exclusively for essential government services." This section explains the exemption, how the exemption may be obtained, how essential government services is defined, and how a tribe or an assessor may appeal an exemption determination.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Assessor" means a county assessor or any person authorized to act on behalf of the assessor.

(b) "Board" or "BTA" means the state board of tax appeals described in chapter 82.03 RCW and chapters 456-09 and 456-10 WAC.

(c) "Declaration" means the exemption declaration filed by an Indian tribe with the Department to claim the property tax exemption authorized in RCW 84.36.010.

(d) "Department" means the department of revenue, property tax division.

(e) "Essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services. See Subsections (4) and (5) below that outline more complete and detailed examples of "essential government services" for the purposes of this section.

(f) "Federally recognized Indian tribe," "Indian tribe," or "tribe" means any Indian nation, tribe, band, community, or other entity that is recognized as an "Indian tribe" by the United States Department of the Interior. The phrase "federally recognized Indian tribe" and the term "tribe" have the same meaning as "Indian tribe." See WAC 458-20-192 for more explicit information regarding these defined terms.

(g) "State" means the state of Washington.

(3) **Exemption.** To qualify for the exemption set forth in SHB 1322, real and personal property located in the state must: (1) belong exclusively to a federally recognized Indian tribe; and (2) be used exclusively for essential government services. Property owned by the United States government

and held in trust for a federally recognized Indian tribe is exempt from property tax.

(a) **When do the amendments to RCW 84.36.010 take effect?** The effective date of the amendments is June 10, 2004. After that date an Indian tribe may file an exemption declaration for the property granted exemption under RCW 84.36.010 as amended by Chapter 236. Such a declaration must be filed with the department. This exemption is first applicable to taxes due in 2005.

(b) **How a tribe may claim this exemption - exemption declaration required.**

(i) **Declaration form - how it may be obtained.** An Indian tribe claiming the property tax exemption described in this section must submit an exemption declaration and supporting documentation regarding the ownership and use of the property to the department. The declaration must be on a form prescribed by the department and signed by an authorized agent of the tribe. This information will be used to determine whether the property qualifies for exemption. An exemption declaration may be obtained from the department or downloaded from the state's internet site under the agency index for Revenue at <http://dor.wa.gov/>.

(ii) **Exemption declaration.** Declarations must be filed with the department to exempt property for taxes due the following year. A tribe may submit one exemption declaration for all real and personal property that it owns exclusively if the property is used exclusively for an essential government service. If real property is owned in part and/or used in part by another individual or entity, a separate exemption declaration must be submitted for each parcel.

(iii) **Other documentation a Tribe may be required to submit with exemption declaration to determine eligibility.** In addition to the exemption declaration, a tribe may be asked to submit the following information regarding the real or personal property for which exemption is sought to determine the amount of and eligibility for the exemption:

(A) An accurate description of the real and personal property including the county tax parcel number(s), and a copy of the current deed(s);

(B) An accurate map identifying by dimension the use of all real property that shows buildings, building sites, parking areas, landscaping, vacant areas, and floor plans of the buildings. This map or floor plan will be used to determine whether the property is entitled to a total or partial exemption based upon the use of the area;

(C) If the property is rented or loaned to another party, a copy of the rental agreement or other document explaining the terms of the lease or loan. This documentation must describe:

(I) What property is rented or loaned;

(II) The name of the party to whom the property is rented or loaned; and

(III) How the property is being used.

(iv) **Department's review of exemption declaration and notice of exemption determination.** Upon receipt of the exemption declaration the department will review the declaration and all supporting documentation. The department may physically inspect the property in order to verify exempt use. Additional information may be requested about the ownership and use of the property, if the department

needs this information to determine whether the property qualifies for exemption. An exemption declaration is not considered complete until the department receives all required information. The department shall then determine the taxable status of the property. The burden is upon the tribe to demonstrate exempt use and ownership. The department may deny the exemption declaration, in whole or in part, if it believes the property does not qualify for exemption. If the exemption declaration is denied for any portion of the property, the department must clearly state the reason(s) for denial in the written determination. A denial may be appealed, as explained in subsection (12) of this section.

(v) **When will the property be exempt from payment of taxes?** If an exemption declaration is approved, the property is exempt from property taxes due the year immediately following the year in which the declaration is submitted and for all subsequent years unless the property is sold or transferred or the tribe ceases to use the property exclusively for essential government services (see subsection 10).

(4) **Essential government services as defined in RCW 84.36.010.** For the purposes of this section, "essential government services" mean services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services. Property used for essential government services includes property:

(a) Providing access to water or land where treaty rights are exercised by a tribe or tribal members;

(b) Used for the protection and stewardship of forest land, shoreline, watershed, or other environmentally sensitive areas;

(c) Used for the preservation of historically or culturally significant sites; and

(d) Used by a utility company providing services to residents of Indian country, as defined in WAC 458-20-192. The property of a utility company that provides services to an area extending outside of Indian country does not qualify for exemption.

(5) **Examples regarding essential government services.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide and are not to be used to determine eligibility for exemption. All examples assume exclusive ownership of property located in the state by a federally recognized tribe.

(a) A tribe uses property for a courthouse, police station, fire station, hospital, library, and public schoolhouse. Each of these uses is a use for essential government services.

(b) A tribe acquires off-reservation land along the headwaters of a stream flowing into the reservation. The land is maintained as a conservation zone, limiting pollution and protecting water quality. The property is used for essential government services.

(c) A tribe operates a fish hatchery as part of its fisheries program. The property is used for essential government services.

(d) A tribe operates a fish cannery and processing center. The property is used for a commercial activity and is not used for essential government services.

(e) A tribe maintains and operates a parking lot or garage that is adjacent to its tribal administration building and courthouse. The parking lot or garage is integrally related to the essential government services provided in close proximity to its location. The property is used for essential government services. However, if the parking lot or garage is also used for ineligible purposes, it is taxable.

(f) A tribe operates a sawmill and log yard used to process and store timber or logs removed from its forest lands. Both the sawmill and log yard are commercial activities. The property is not used for essential government services.

(6) **Property jointly owned by an Indian tribe and another individual or entity used exclusively for essential government services - Eligibility for exemption.** The percentage of the property owned exclusively by a tribe and used exclusively for essential government services is eligible for exemption.

(7) **Property used for qualifying and non-qualifying purposes - Mixed use of property - Eligibility for exemption.** If property belongs exclusively to an Indian tribe and is used for qualifying and non-qualifying purposes and if the two uses are physically separate on the real property, the department shall administratively segregate the portion of the property that is used exclusively for essential government services and exempt that portion of the property from property tax. The portion of the property that is used for non-qualifying uses is subject to taxation.

(a) An administrative segregation occurs when the department separates the exempt value from the taxable value. The assessor may create a new tax parcel number that exists solely for property tax purposes.

(b) Example: a tribal administrative office may be located in the same building as a convenience store run as a commercial enterprise. The portion of the building used for tribal administration offices is exempt and the portion of the building used as a convenience store is taxable.

(c) If the property is used at times for exempt or qualifying services and at other times for nonexempt purposes, the "exclusively used" standard is not met and the property is taxable.

(8) **Property owned by an Indian tribe that is leased - Eligibility for exemption.** If property belonging exclusively to an Indian tribe is leased to an individual, a for-profit or nonprofit entity, a tribal member, or another governmental entity, the tenant's or lessee's activities will determine whether the property qualifies for exemption.

(9) **Property used for commercial or enterprise activities - Ineligible for exemption.** Property used for commercial or enterprise activities does not qualify for exemption. For purposes of this section, a "commercial or enterprise activity" means an activity financed and operated in a manner similar to a private business enterprise. The burden is upon the tribe to prove that the property is not used for commercial or enterprise activities. The collection of a fee, such as a fee for the use of the picnic area in a park, does not make an activity a commercial or enterprise activity. Property used for a commercial or enterprise activity will not qualify for the exemption when funds received from the activity are used to provide essential government services. For example, if a tribe owns exclusively property on which it operates a gas

station and the profits from the gas station are used to pay for essential government services, the property does not qualify for the exemption.

(10) **Sale, transfer, or cessation of use of exempt property.** If a tribe sells or transfers property or ceases to use real property for an essential government service as required under RCW 84.36.010, the exemption will be cancelled as of the date the property was sold or transferred or the exempt use of the property ceased. Real property that no longer retains its exempt status will be assessed a pro rata portion of the taxes allocable to the property for the remaining portion of the tax year after the date the property lost its exempt status. If only a portion of the property has lost its exempt status, only that portion of the property is subject to tax. See RCW 84.40.350 through 84.40.390 for a more complete explanation of what occurs when the status of real property changes from exempt to taxable.

(a) **Duty to notify department.** A tribe must notify the department of any change in the ownership or use of the property that might affect its exempt status within a reasonable amount of time. If any portion of the exempt property is loaned or rented, the tribe is required to report this change to the department because the loan or rental may affect the taxable status of the property. Any other person who knows or has information regarding a change in ownership or use of exempt property may notify the department of any such change. Upon receipt of change notice, the department will determine whether the property retains its exempt status.

(b) **Notice to tribe.** The department must notify the tribal owner of the exempt property if the exemption is being removed, in whole or in part. The tribe may appeal the removal of the exemption to the BTA. At the same time, the tribe may provide additional information to the department for reconsideration of the determination.

(11) **Can the exemption be claimed for prior years - Refunds?** A tribe may submit an exemption declaration for previous years, up to a maximum of three years from the date taxes were paid on the property, if the taxpayer provides the department with acceptable proof that the property qualified for exemption during the pertinent assessment years. If the exemption is granted, the tribe must submit a refund claim to the county treasurer. RCW 84.69.020(2) and 84.69.030. However, no exemption can be claimed for any time period prior to 2004, the first assessment year affected by RCW 84.36.010 as amended by Chapter 236.

(12) **Administrative appeal rights - Board of Tax Appeals.** The tribe or assessor may appeal an exemption determination made by the department to the BTA under RCW 82.03.130 (1)(c). A notice of appeal can be obtained from the department or the BTA, or downloaded from the BTA internet site, <http://bta.state.wa.us/>.

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

**WSR 04-20-063  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 04-273—Filed October 1, 2004, 3:27 p.m., effective October 4, 2004, 6:00 a.m.]

Effective Date of Rule: October 4, 2004, 6:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-32-05100D; and amending WAC 220-32-051.

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: Sets week seven of the tribal commercial fishery. Allows commercial sale of platform and hook and line caught fish to be sold in the treaty Indian fishery and commercial sale of tributary caught fish by the Yakama Nation tribal members, including Drano Lake, when those tributary seasons are open and when the commercial gillnet season is open in the mainstem Columbia. Harvestable numbers of salmon and steelhead are available. Season is consistent with the management agreement and the biological opinion. Consistent with action of the Columbia River compact of October 1, 2004, and conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 1, 2004.

Evan Jacoby  
for Jeff Koenings  
Director

**NEW SECTION**

**WAC 220-32-05100E Columbia River salmon seasons above Bonneville Dam.** Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, carp, or sturgeon taken for commercial purposes in

Columbia River Salmon Management and Catch Reporting Areas 1F, 1G, and 1H, and the Klickitat and White Salmon rivers, and Drano Lake, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, shad, carp, sturgeon, steelhead and walleye under the following provisions pursuant to lawfully enacted tribal rules:

1) Open Periods: 6:00 a.m. October 4, 2004 to 6:00 p.m. October 8, 2004

a) Open Areas: SMCRA 1F, 1G, 1H

b) Gear: Gill Nets. No mesh restriction

c) Allowable sale includes: chinook, coho, steelhead, walleye, carp, and shad. Sturgeon may not be sold. Sturgeon between 45 inches and 60 inches in length may be retained in the Bonneville Pool (SMCRA 1F) for subsistence purposes only. Sturgeon between 4 feet and 5 feet in length may be retained in The Dalles and John Day pools (SMCRA 1G, 1H) for subsistence purposes only. Commercial sales of platform and hook and line caught fish are allowed during commercial gillnet openings.

d) Sanctuaries: The small 150 foot sanctuary around Spring Creek Hatchery and all other standard sanctuaries will be in place.

2) Open Periods: Immediately until further notice.

a) Open Areas: SMCRA 1F, 1G, 1H, the Klickitat River, White Salmon River, and Drano Lake.

b) Gear: Hoop nets, dip bag nets, or hook and line.

c) Allowable sale includes: Chinook, coho, steelhead, walleye, carp and shad. Sturgeon between 45 inches and 60 inches in length may be retained in the Bonneville Pool (SMCRA 1F) for subsistence purposes only. Sturgeon between 4 feet and 5 feet in length may be retained in The Dalles and John Day pools (SMCRA 1G, 1H) for subsistence purposes only. Commercial sales of platform and hook and line caught fish are allowed during commercial gillnet openings. Sockeye may not be sold but may be retained for subsistence purposes. Fish taken in the Klickitat and White Salmon rivers, and Drano Lake may be sold when those rivers are open pursuant to lawfully enacted tribal rules. Yakama tribal members must have a permit issued by the Yakama Nation to fish in Drano Lake. Fisheries in Drano Lake will likely occur from Tuesday nights at 9:00 p.m. until Wednesdays at noon.

3) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upstream from the eastern shoreline.

4) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:

a. Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.

b. Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.

c. Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. October 4, 2004:

WAC 220-32-05100D

Columbia River salmon seasons above Bonneville Dam. (04-263)



**WSR 04-20-064**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 04-274—Filed October 1, 2004, 3:28 p.m., effective October 1, 2004]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-33-01000N; 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: Sets the October late fall salmon fishery consistent with the allocation agreement. Harvestable numbers of salmon are available. Sturgeon landing limits are consistent with the joint state sturgeon management agreement and provide for sturgeon harvest opportunity throughout the late fall salmon fishery. All salmon returning to the select area net pens are harvestable. All fisheries are consistent with the 2004 fall management agreement, the pre-season non-Indian allocation agreement, and consistent with actions of the Columbia River compact on October 1, 2004, and July 29, 2004. Impacts to ESA-listed stocks are included in the biological assessment of fall fisheries. The biological opinion covering these fisheries has been signed. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 1, 2004.

Evan Jacoby  
for Jeff Koenings  
Director

**NEW SECTION**

**WAC 220-33-01000P Columbia River season below Bonneville.** Notwithstanding the provisions of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch

Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections:

1) OPEN AREA: SMCRA 1A, 1B, 1C, 1D and 1E.

SEASON: 7:00 a.m. October 4 to 7:00 a.m. October 5

7:00 a.m. October 7 to 7:00 a.m. October 8

7:00 a.m. October 11 to 7:00 a.m. October 12

7:00 a.m. October 14 to 7:00 a.m. October 15

7:00 a.m. October 18 to 7:00 a.m. October 19

7:00 a.m. October 21 to 7:00 a.m. October 22

a) GEAR: No minimum mesh and 9 3/4 inch maximum mesh restriction.

b) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

c) SANCTUARIES: Elokomin-A, Abernathy, Cowlitz, Kalama-A, Lewis-A, Washougal, Sandy from October 4 through October 15. Cowlitz, Kalama-A, Lewis-A, Washougal, Sandy from October 18 through October 29.

d) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

2) OPEN AREA: SMCRA 1B upstream of a line between Harrington Point in Washington and to Settler Point in Oregon, 1C, 1D and 1E.

SEASON: 7:00 a.m. October 25 to 7:00 a.m. October 26

7:00 a.m. October 28 to 7:00 a.m. October 29

a) GEAR: No minimum mesh and 9 3/4 inch maximum mesh restriction.

e) ALLOWABLE SALE: Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

f) SANCTUARIES: Elokomin-A, Abernathy, Cowlitz, Kalama-A, Lewis-A, Washougal, Sandy from October 4 through October 15. Cowlitz, Kalama-A, Lewis-A, Washougal, Sandy from October 18 through October 29.

g) OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3) OPEN AREA: Blind Slough/Knapa Slough Select Area  
Blind Slough fishing area includes all waters from markers at the mouth of Gnat Creek located approximately 0.5 mile upstream of the county road bridge downstream to markers at the mouth of Blind Slough. Concurrent waters extend downstream of the railroad bridge. Oregon State waters extend upstream of the railroad bridge.

northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to boundary lines defined by markers on the western end of Minaker Island to markers on Karlson Island and the Oregon shore. An area closure of about a 100-foot radius at the mouth of Big Creek defined by markers. All waters are under concurrent jurisdiction.

a) SEASON: 6:00 p.m. to 8:00 a.m., Mondays, Tuesdays, Wednesdays, and Thursday nights immediately through October 29, 2004.

b) GEAR: 6-inch maximum mesh size. Maximum net length of 100 fathoms. No weight restriction on lead line.

Additional weights and anchors may be attached directly to the lead line.

c) **ALLOWABLE SALE:** Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries

d) **OTHER:** Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

4) **OPEN AREA:** Tongue Point/South Channel Select Area  
Tongue Point fishing area includes all waters bounded by a line from a yellow marker midway between the red light at Tongue Point and the downstream (northern most) pier (#8) to the flashing green light at the rock jetty on the northwesterly tip of Mott Island, a line from a marker at the south end of Mott Island easterly to a marker on the northwest bank on Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the opposite bank. All waters are under concurrent jurisdiction.

South Channel area includes all waters bounded by a line from a marker on John Day Point through the green buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to flashing red marker "10" thence northwesterly to a marker on the sand bar defining the terminus of South Channel. All waters are under concurrent jurisdiction.

a) **SEASON:** Monday, Tuesday, Wednesday, and Thursday nights from immediately through October 29, 2004. Open hours are 4:00 p.m. to 8:00 a.m. daily.

b) **GEAR:** In the Tongue Point area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 250 fathoms, and weight not to exceed two pounds on any one fathom on the lead line.

In the South Channel area the mesh size is restricted to 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on lead line in South Channel.

c) **ALLOWABLE SALE:** Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) **MISCELLANEOUS:** Participants in the Tongue Point fishery may have stored on board their boats, gill nets with lead line in excess of two pounds per fathom.

e) **OTHER:** Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

5) **OPEN AREA:** Deep River Select Area

Deep River is open to fishing down river from the town of Deep River to the mouth (a line from navigation marker "16" southwest to a marker on the Washington shore). Concurrent waters extend downstream of the Highway 4 bridge. State waters extend upstream of the Highway 4 bridge.

a) **SEASON:** Monday, Tuesday, Wednesday, and Thursday nights immediately through October 29, 2004. Open hours are 4:00 p.m. to 8:00 a.m. daily.

b) **GEAR:** Gillnet 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Additional weights and anchors may be attached directly to the lead line.

c) **ALLOWABLE SALE:** Salmon and sturgeon. A maximum of five sturgeon may be processed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) **OTHER:** Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

6) **OPEN AREA:** Steamboat Slough Select Area  
Steamboat Slough is open to fishing in waters bounded by markers on Price Island and the Washington shore, at both upstream and downstream ends of Steamboat Slough. All open waters are under concurrent jurisdiction.

a) **SEASON:** Monday, Tuesday, Wednesday, and Thursday nights from immediately through October 29, 2004. Open hours are 4:00 p.m. to 8:00 a.m. daily.

b) **GEAR:** Gillnet 6-inch maximum mesh. Net length maximum of 100 fathoms, and no weight restriction on the lead line. Additional weights and anchors may be attached directly to the lead line.

c) **ALLOWABLE SALE:** Salmon and sturgeon. A maximum of five sturgeon may be possessed or sold by each vessel participating each calendar week (Sunday through Saturday). The five sturgeon possession and sales limit includes mainstem and Select Area fisheries.

d) **MISCELLANEOUS:** Transportation or possession of fish outside the fishing area is unlawful unless by licensed buyer, except fishers may transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

e) **OTHER:** Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

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

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000N Columbia River season below Bonneville. (04-268)

#### WSR 04-20-082 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 04-275—Filed October 5, 2004, 10:14 a.m., effective October 6, 2004]

Effective Date of Rule: October 6, 2004.

Purpose: Personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900U; 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: This section of the Green River is normally closed during the first half of October to protect spawning chinook from harassment. High September stream flows caused most chinook spawners to move to areas upstream of the Auburn-Black Diamond Road Bridge, largely eliminating concerns over harassment by anglers fishing for coho and steelhead.

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.

Date Adopted: October 4, 2004.

J. P. Koenings  
Director

#### NEW SECTION

**WAC 232-28-61900U Exceptions to statewide rules—Green River (King Co.)** Notwithstanding the provisions of WAC 232-28-619, effective October 6, through October 15, 2004:

(1) It is lawful to fish for and possess gamefish in those waters of the Green River from the South 277th Bridge upstream to the Auburn-Black Diamond Road Bridge. Daily limit two trout, minimum size 14 inches in length.

(2) It is lawful to fish for and possess salmon in those waters of the Green River from the South 277th Bridge upstream to the Auburn-Black Diamond Road Bridge. Daily limit 6 salmon, of which no more than 3 may be adults, minimum size 12 inches in length. Release chinook salmon.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. October 16, 2004:

WAC 232-28-61900U      Exceptions to statewide  
rules—Green River (King  
Co.)



**WSR 04-20-008**  
**NOTICE OF PUBLIC MEETINGS**  
**UNIVERSITY OF WASHINGTON**  
 [Memorandum—September 24, 2004]

ASUW Board of Directors  
 Regular Meeting Dates for 2004-2005

Following are the dates of the ASUW board of directors meetings for 2004-2005, the meetings are at 4:00 in Room 204M in the HUB.

- September 30
- October 7, 14, 21, 28
- November 4, 18
- December 2, 9, 16
- January 6, 13, 20, 27
- February 3, 10, 17, 24
- March 3, 10, 17, 31
- April 7, 14, 21, 28
- May 5, 12, 19, 26

UWT Faculty Assembly

Meeting Date	Location (Building and Room #)	Time
October 20	BHS 106	12:45 p.m.
December 1	BHS 106	12:45 p.m.
January 25		12:45 p.m.
March 8		12:45 p.m.
April 20		12:45 p.m.
May 19		12:45 p.m.

**WSR 04-20-009**  
**NOTICE OF PUBLIC MEETINGS**  
**WALLA WALLA**  
**COMMUNITY COLLEGE**  
 [Memorandum—September 22, 2004]

The following change made to Walla Walla Community College's board of trustees meeting schedule:

- Changed from:** December 15, 2004, 9:30 a.m.,  
 WWCC Main Campus
- Changed to:** December 8, 2004, 9:30 a.m.,  
 WWCC Main Campus

If you have any questions on this information, please give Irma Leonetti a call at (509) 527-4274 or e-mail at irma.leonetti@wwcc.edu.

**WSR 04-20-019**  
**OFFICE OF THE GOVERNOR**  
 [Filed September 27, 2004, 8:44 a.m.]

**NOTICE OF APPEAL**  
 RCW 34.05.330(3)

Pursuant to RCW 34.05.330(3), you are hereby notified for publication in the Washington State Register that:

On September 20, 2004, Governor received an appeal to two decisions made by the Department of Agriculture on September 16, 2004 relating to providing for added security for restricted pesticides and requiring added controls over aerial spray applications.

The petitioner is Rob Kavanaugh.

DATE: September 23, 2004

Jennifer Joly  
 General Counsel  
 to the Governor

**WSR 04-20-025**  
**NOTICE OF PUBLIC MEETINGS**  
**CLOVER PARK**  
**TECHNICAL COLLEGE**  
 [Memorandum—September 24, 2004]

The board of trustees of Clover Park Technical College, at their regularly scheduled meeting on September 8, 2004, identified the dates for their monthly meetings in the year 2005, in compliance with RCW 42.30.075.

All meetings will begin at 4 p.m. in the Boardroom, located in Building #15, on the Clover Park Technical College campus at 4500 Steilacoom Boulevard S.W., Lakewood, WA 98499-4098.

Adoption of the 2005 Meeting Calendar  
 to include Budget Workshop Sessions,  
 General Study Sessions, and Annual Retreat

January 12, 2005	Study Session	3:00 p.m.	Building #15
	Regular Meeting	4:00 p.m.	Building #15
February 9, 2005	Study Session	3:00 p.m.	Building #15
	Regular Meeting	4:00 p.m.	Building #15
March 9, 2005	Study Session	3:00 p.m.	Building #15
	Regular Meeting	4:00 p.m.	Building #15
April 13, 2005	Study Session	3:00 p.m.	Building #15
	Regular Meeting	4:00 p.m.	Building #15
May 11, 2005	Budget Workshop	2:00 p.m.	Building #15
	Study Session	3:00 p.m.	Building #15
	Regular Meeting	4:00 p.m.	Building #15

MISC.

June 8, 2005	Study Session	3:00 p.m.	Building #15
	Regular Meeting	4:00 p.m.	Building #15
July 13, 2005	Study Session	3:00 p.m.	Building #15
	Regular Meeting	4:00 p.m.	Building #15
August 10, 2005	Study Session	3:00 p.m.	Building #15
	Regular Meeting	4:00 p.m.	Building #15
September 14, 2005	Study Session	3:00 p.m.	Building #15
	Regular Meeting	4:00 p.m.	Building #15
October 8, 2005	Board of Trustees Retreat		
October 12, 2005	Study Session	3:00 p.m.	Building #15
	Regular Meeting	4:00 p.m.	Building #15
November 9, 2005	Study Session	3:00 p.m.	Building #15
	Regular Meeting	4:00 p.m.	Building #15
December 14, 2005	Study Session	3:00 p.m.	Building #15
	Regular Meeting	4:00 p.m.	Building #15
February 14-16, 2005	ACCT National Legislative Summit, Washington, D.C.		
February 27 - March 1, 2005	TACTC Legislative Contact Conference, Olympia, Washington		
April 9-12, 2005	AACC Annual Convention, Boston, Massachusetts		
May 19-21, 2005	TACTC Spring Convention, Blaine, Washington		
June 15, 2005	CPTC Graduation		
September 8-11, 2005	ACCT Annual Congress, Seattle, Washington		
October 7, 2005 (tentative)	Board of trustees retreat		

<b>Board of Trustees Tuesdays Noon</b>	
June/July 2004	July 6
July/August 2004	Hurley's - CDA Echo Bay Saturday, August 14, 1 p.m.
August/September 2004	September 7
September/October 2004	October 5
October/November 2004	November 2
November 2004	
December/January 2004[/2005]	January 4
January/February 2005	February 1
February 2005	
March/April 2005	April 5
April/May 2005	May 3
May/June 2005	June 7
June 2005	July 5
July/August 2005	Summer Social - Date TBA
August/September 2005	September 6

**WSR 04-20-029**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 [Filed September 28, 2004, 3:48 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Public Notice.  
 Subject: Medicaid state plan amendment 04-013.  
 Effective Date: November 1, 2004.  
 Document Description: The Department of Social and Health Services, Medical Assistance Administration, is updating the Medicaid state plan through state plan amendment TN 04-013 to further describe policy and methods used to establish outpatient hospital payment rates explained in attachment 4.19-B.

This state plan amendment: (1) Implements the departments new outpatient prospective payment method; and (2) eliminates the short stay determination rule (twenty-four hour rule) previously described in the state plan and replaces that rule with a new clinical-based inpatient vs. outpatient stay determination rule.

Written comments may be sent to Doug Porter, Assistant Secretary, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45080, Olympia, WA 98504-5080.

For more information regarding this clarification of language, please write to Larry Linn, Hospital and Managed Care Reimbursement Section, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45510, Olympia, WA 98504-5510.

To receive a copy of the interpretive or policy statement, contact Ann Myers, Department of Social and Health Ser-

**WSR 04-20-026**  
**NOTICE OF PUBLIC MEETINGS**  
**EASTERN WASHINGTON**  
**STATE HISTORICAL SOCIETY**  
 [Memorandum—September 24, 2004]

Following is the schedule for the board of trustees for the Eastern Washington State Historical Society for our fiscal year, July 2004 through June 2005. We are agency number 395 and our board is a volunteer board.

Eastern Washington State Historical Society  
 2004-2005 Board of Trustees Meeting Schedule  
 12:00 Noon - 1:30 p.m.  
 (unless otherwise noted)

vices, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504, phone (360) 725-1345, weblink <http://maa.dshs.wa.gov>, TDD (800) 848-5429, fax (360) 586-9727, e-mail Myersea@dshs.wa.gov.

To receive a copy of the interpretive or policy statement, contact Larry Linn, Department of Social and Health Services, Medical Assistance Administration, Division of Business and Finance, P.O. Box 45510, Olympia, WA 98504, phone (360) 725-1108, weblink <http://maa.dshs.wa.gov>, TDD (800) 848-5429, fax (360) 753-9152, e-mail Linnld@dshs.wa.gov.

September 24, 2004  
Ann Myers

### WSR 04-20-030

#### INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed September 28, 2004, 3:50 p.m.]

#### DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Public Notice.

Subject: Medicaid state plan amendment 04-014.

Effective Date: November 1, 2004.

Document Description: The Department of Social and Health Services, Medical Assistance Administration, is updating the Medicaid state plan through state plan amendment TN 04-014 to further describe policy and methods used in establishing hospital payment rates explained in attachment 4.19-A, Part I and attachment 4.19-B of the plan.

This state plan amendment eliminates the short stay determination rule (twenty-four hour rule) previously described in the state plan and replaces that rule with a new clinical-based inpatient vs. outpatient stay determination rule.

Written comments may be sent to Doug Porter, Assistant Secretary, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45080, Olympia, WA 98504-5080.

For more information regarding this clarification of language, please write to Larry Linn, Hospital and Managed Care Reimbursement Section, Medical Assistance Administration, Department of Social and Health Services, P.O. Box 45510, Olympia, WA 98504-5510.

To receive a copy of the interpretive or policy statement, contact Ann Myers, Department of Social and Health Services, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504, phone (360) 725-1345, weblink <http://maa.dshs.wa.gov>, TDD (800) 848-5429, fax (360) 586-9727, e-mail Myersea@dshs.wa.gov.

To receive a copy of the interpretive or policy statement, contact Larry Linn, Department of Social and Health Services, Medical Assistance Administration, Division of Business and Finance, P.O. Box 45510, Olympia, WA 98504, phone (360) 725-1108, weblink <http://maa.dshs.wa.gov>,

TDD (800) 848-5429, fax (360) 753-9152, e-mail Linnld@dshs.wa.gov.

September 24, 2004  
Ann Myers

### WSR 04-20-031

#### INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed September 28, 2004, 3:52 p.m.]

#### DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 04-66 MAA.

Subject: Children's office visits and EPSDT screening fees corrections.

Effective Date: September 20, 2004.

Document Description: **Retroactive to dates of service on and after July 1, 2004**, the Medical Assistance Administration (MAA) has corrected the originally published fees for children's office visits and early periodic screening, diagnosis, and treatment (EPSDT) screenings listed in this memorandum.

To receive a copy of the interpretive or policy statement, contact Barbara Salmon, Rules and Publications Section, Department of Social and Health Services, Medical Assistance Administration, Division of Policy and Analysis, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1349 or go to website <http://maa.dshs.wa.gov/download/publicationsfees.htm> (click on "Numbered Memos," "Year 2003"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail salmobl@shs.wa.gov.

September 24, 2004  
Ann Myers, Manager  
Rules and Publications Section

### WSR 04-20-037

#### NOTICE OF PUBLIC MEETINGS WESTERN WASHINGTON UNIVERSITY

[Memorandum—September 29, 2004]

#### WESTERN WASHINGTON UNIVERSITY BOARD OF TRUSTEES

#### Special Meeting

Thursday, September 30, 2004

**Time:** 9:30 a.m.  
**Location:** Preston Gates & Ellis  
IDX Tower  
Conference Room No. 2  
925 Fourth Avenue, Suite 2900  
Seattle, WA

Executive session pertaining to collective bargaining.  
Action may be taken.

NOTE: Executive session will be held in closed session as authorized in RCW 42.30.110. Any action will be reported in open public session.

**WSR 04-20-041**

**DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed September 30, 2004, 11:33 a.m.]

As per RCW 49.46.020, the Department of Labor and Industries has calculated the adjusted minimum wage rate to be \$7.35, effective January 1, 2005.

Please call (360) 902-6411 if you have any questions.

Christine Swanson  
Legislative and Rules Manager  
Specialty Compliance Services

**WSR 04-20-065**

**NOTICE OF PUBLIC MEETINGS  
EASTERN WASHINGTON UNIVERSITY**

[Memorandum—September 24, 2004]

The Eastern Washington University board of trustees will hold a special meeting via conference call on Thursday, September 30, from 2:00 - 3:00 p.m. in PUB 263. The purpose of this meeting is to discuss the 2005 board meeting schedule, hold an election for the board officers for 2004-05, and to consider and act upon the contract with the classified staff if it is ratified by them at their election early next week.

**WSR 04-20-066**

**NOTICE OF PUBLIC MEETINGS  
BIG BEND  
COMMUNITY COLLEGE**

[Memorandum—September 28, 2004]

In accordance with RCW 42.30.075 please be advised that the board of trustees for Big Bend Community College, District No. 18, has revised its regular meeting schedule as follows:

November 23  
~~December 28~~ Canceled

The November meeting will be held at 1:30 p.m. in the lobby of Building 1100, Wallenstien Theater, on the campus of Big Bend Community College, 7662 Chanute Street, Moses Lake, WA.

**WSR 04-20-071**

**NOTICE OF PUBLIC MEETINGS  
EDMONDS COMMUNITY COLLEGE**

[Memorandum—September 29, 2004]

Following are two revisions to the 2004 meeting schedule of the Edmonds Community College board of trustees.

The November 15 meeting has been rescheduled to November 6 - Special study session, Ellensburg, Washington, 8 a.m. - 5 p.m.

A special study session has been scheduled for December 13, Edmonds Community College, Snohomish Hall 304A, 4:30 p.m.

**WSR 04-20-073**

**NOTICE OF PUBLIC MEETINGS  
WHATCOM COMMUNITY COLLEGE**

[Memorandum—September 29, 2004]

The board of trustees of Whatcom Community College, District Number Twenty-One, has rescheduled its regular meeting of Tuesday, October 12, 2004, and Tuesday, November 9, 2004. The rescheduled meetings will be held on Wednesday, October 13, 2004, and Wednesday, November 10, 2004. Both meetings will begin at 2:00 in the boardroom of the Laidlaw Center.

**WSR 04-20-074**

**NOTICE OF PUBLIC MEETINGS  
UNIVERSITY OF WASHINGTON**

[Memorandum—October 4, 2004]

Following is the updated GPSS meeting schedule. This new schedule replaces the earlier version sent to you on September 8.

GPSS Senate and Executive Meeting  
Dates and Times 2004-2005

GPSS Senate  
Meetings are at 4:30 p.m. in the HUB Room 310 on the following dates:  
October 6, 20  
November 10  
December 8  
January 12  
February 9  
March 9  
April 6, 20  
May 11  
June 1



## GPSS Executive

Meetings are at 4:30 p.m. in the HUB Room 300 on the following dates:

- October 13
- November 17
- December 1
- January 5, 19
- February 2, 16
- March 2, 30
- April 13, 27
- May 18
- June 8

## WSR 04-20-095

## DEPARTMENT OF ECOLOGY

[Filed October 5, 2004, 2:42 p.m.]

## Public Hearing Notice

## Including New and Revised Puget Sound Clean Air Agency Regulations in the State Implementation Plan

**Background Information:** Local air pollution control agencies periodically submit air quality regulations to the Department of Ecology (ecology) for inclusion in Washington's state implementation plan (SIP). The SIP is a collection of air pollution regulations, programs and plans to ensure that state air quality meets the National Ambient Air Quality Standards established by the federal Environmental Protection Agency.

Ecology will hold a public hearing to receive comments on including amendments to Puget Sound Clean Air Agency (PSCAA) regulations I and II in the SIP.

**Regulations:** PSCAA repealed, adopted and revised the following regulations on July 24, 2003, September 25, 2003, March 25, 2004, and September 23, 2004.

New Regulations: Regulation I, Section 13.02.

Revised Regulations: Regulation I, Sections 3.11, 3.25, 12.03 and 13.07 (recodify as Section 13.03); Regulation II, Sections 1.05, 2.07 and 3.04.

Repealed Regulations: Regulation I, Section 13.02, 13.03, 13.04, and 13.05.

Changes to the above regulations clarify the distinction between automobile refinishing and original equipment manufacturing; adjust the maximum penalty for inflation; reduce emissions from fueling motor vehicles; and provide for additional clarifications and administrative updates.

**Hearing Schedule:** On Thursday, November 18, 2004, at 9:15 a.m., at the Puget Sound Clean Air Agency, 110 Union Street, Suite 500, Seattle, WA 98101.

For ecology's purposes, comments must be limited to including the PSCAA amendments in the SIP. Comments may be provided at the hearing or mailed, e-mailed, or faxed to Brett Rude, Department of Ecology, P.O. Box 4700 [47600], Olympia, WA 98504-7600, fax (360) 407-7534, e-

mail brud461@ecy.wa.gov. Comments must be postmarked by 5:00 p.m. November 18, 2004.

**For More Information:** Contact Brett Rude, Department of Ecology, Air Quality Program, (360) 407-6847, brud461@ecy.wa.gov.

## WSR 04-20-096

## DEPARTMENT OF ECOLOGY

[Filed October 5, 2004, 2:43 p.m.]

## Public Hearing Notice

Proposed State Implementation Plan Revision: Spokane Carbon Monoxide Maintenance Plan and Redesignation Request

**Background Information:** Local air pollution control agencies periodically submit air quality plan updates and regulations to the Department of Ecology (ecology) for inclusion in Washington's state implementation plan (SIP). The SIP is a collection of air pollution regulations, programs and plans to ensure that state air quality meets the National Ambient Air Quality Standards established by the federal Environmental Protection Agency.

The Spokane area is designated nonattainment for carbon monoxide air pollution. This means that, in the past, the area did not meet federal health-based standards for carbon monoxide. As the area has been meeting the standards since 1994, it can now be redesignated to attainment by the EPA.

The Spokane County Air Pollution Control Agency and ecology have prepared a carbon monoxide maintenance plan and redesignation request. The maintenance plan shows that the Spokane area meets federal Clean Air Act requirements for carbon monoxide; summarizes the progress of the area in meeting the carbon monoxide standard; and includes a plan to assure that the area will continue to meet the standard for ten years after it is redesignated. It also includes a formal request to EPA to redesignate the Spokane, Washington, carbon monoxide nonattainment area to attainment for the health-based carbon monoxide National Ambient Air Quality Standard.

**Copies of the Plan are Available for Review at the Following Locations:** Spokane County Air Pollution Control Authority, 1101 West College, Suite 403, Spokane, WA 99201; at the Spokane Regional Transportation Council, 211 West First Avenue, Suite 310, Spokane, WA 99201; at the Spokane Public Library, 906 West Main, Spokane, WA 99201; or at the Department of Ecology, Eastern Regional Office, 4601 North Monroe Street, Spokane, WA 99205-1295.

**Hearing Schedule:** On Tuesday, November 16, 2004, at 4:30 p.m., at the Washington Department of Ecology, Eastern Regional Office, 2nd Floor Conference Room, 4601 North Monroe Street, Spokane, WA 99205-1295.

Comments may be provided at the hearing or mailed, e-mailed, or faxed to Brett Rude, Department of Ecology, P.O. Box 4700 [47600], Olympia, WA 98504-7600, fax (360) 407-7534, e-mail brud461@ecy.wa.gov. Comments must be postmarked by 5:00 p.m. November 16, 2004.

**For More Information:** Contact Brett Rude, Department of Ecology, Air Quality Program, (360) 407-6847, brud461@ecy.wa.gov.

If you need special accommodations, please call Tami Dahlgren at (360) 407-6800. If you are a person with a speech or hearing impairment, call 711, or 1-800-833-6388 for TTY.

**WSR 04-20-104**

**NOTICE OF PUBLIC MEETINGS  
TRAFFIC SAFETY COMMISSION**

[Memorandum—October 1, 2004]

**2005 COMMISSION MEETING DATES**

Below are the 2005 meeting dates for the Washington Traffic Safety Commission. Please note that the dates and time have changed.

- Thursday, January 20
- Thursday, April 21
- Thursday, July 21
- Thursday, October 13

Each meeting will be held at 10:30 a.m. in the conference room of the Washington Traffic Safety Commission. Please pass this information along to anyone who may be interested.

Please note that the July 21 meeting is a critical one. We need to have the commissioners in attendance to approve the highway safety plan. Please contact Michelle Nicholls for additional information.

For special accommodation needs or to request an auxiliary aid for these meetings, please contact Michelle Nicholls at (360) 586-3864.

MISC.

**Table of WAC Sections Affected**

**KEY TO TABLE**

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

**Symbols:**

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJECT = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind of existing section
- REVIEW = Review of previously adopted rule
- SUSP = Suspending an existing section

**Suffixes:**

- C = Continuance of previous proposal
- E = Emergency action
- P = Proposed action
- S = Supplemental notice
- W = Withdrawal of proposed action
- 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 #
1- 21-070	AMD	04-02-071	4- 25-721	AMD-P	04-17-085	16-170-010	NEW	04-08-062
4- 25-400	PREP	04-08-033	4- 25-730	PREP	04-08-033	16-170-020	NEW-P	04-05-119
4- 25-400	AMD-P	04-17-085	4- 25-730	AMD-P	04-17-085	16-170-020	NEW	04-08-062
4- 25-410	PREP	04-08-033	4- 25-735	PREP	04-08-033	16-170-030	NEW-P	04-05-119
4- 25-410	AMD-P	04-17-085	4- 25-735	AMD-P	04-17-085	16-170-030	NEW	04-08-062
4- 25-510	PREP	04-08-033	4- 25-745	PREP	04-08-033	16-170-035	NEW-P	04-05-119
4- 25-510	AMD-P	04-17-085	4- 25-745	AMD-P	04-17-085	16-170-035	NEW	04-08-062
4- 25-530	PREP	04-06-085	4- 25-746	PREP	04-08-033	16-170-037	NEW-P	04-05-119
4- 25-530	AMD-P	04-17-086	4- 25-746	AMD-P	04-17-085	16-170-037	NEW	04-08-062
4- 25-540	PREP	04-08-033	4- 25-750	PREP	04-08-033	16-170-040	NEW-P	04-05-119
4- 25-540	AMD-P	04-17-085	4- 25-750	AMD-P	04-17-085	16-170-040	NEW	04-08-062
4- 25-550	PREP	04-08-033	4- 25-756	PREP	04-11-033	16-170-050	NEW-P	04-05-119
4- 25-550	AMD-P	04-17-085	4- 25-756	AMD-P	04-17-087	16-170-050	NEW	04-08-062
4- 25-551	PREP	04-08-033	4- 25-782	PREP	04-11-033	16-170-060	NEW-P	04-05-119
4- 25-551	AMD-P	04-17-085	4- 25-782	AMD-P	04-17-087	16-170-060	NEW	04-08-062
4- 25-610	PREP	04-08-033	4- 25-783	PREP	04-08-033	16-170-070	NEW-P	04-05-119
4- 25-610	AMD-P	04-17-085	4- 25-783	AMD-P	04-17-085	16-170-070	NEW	04-08-062
4- 25-620	PREP	04-08-033	4- 25-790	PREP	04-08-033	16-170-075	NEW-P	04-05-119
4- 25-620	AMD-P	04-17-085	4- 25-790	AMD-P	04-17-085	16-170-075	NEW	04-08-062
4- 25-626	PREP	04-08-033	4- 25-791	PREP	04-08-033	16-170-080	NEW-P	04-05-119
4- 25-626	AMD-P	04-17-085	4- 25-791	AMD-P	04-17-085	16-170-080	NEW	04-08-062
4- 25-630	PREP	04-08-033	4- 25-792	PREP	04-08-033	16-170-090	NEW-P	04-05-119
4- 25-630	AMD-P	04-17-085	4- 25-792	AMD-P	04-17-085	16-170-090	NEW	04-08-062
4- 25-631	PREP	04-08-033	4- 25-793	PREP	04-08-033	16-170-100	NEW-P	04-05-119
4- 25-631	AMD-P	04-17-085	4- 25-793	AMD-P	04-17-085	16-170-100	NEW	04-08-062
4- 25-640	PREP	04-08-033	4- 25-795	PREP	04-08-033	16-170-110	NEW-P	04-05-119
4- 25-640	AMD-P	04-17-085	4- 25-795	AMD-P	04-17-085	16-170-110	NEW	04-08-062
4- 25-650	PREP	04-08-033	4- 25-820	PREP	04-11-033	16-170-115	NEW-P	04-05-119
4- 25-650	AMD-P	04-17-085	4- 25-820	AMD-P	04-17-087	16-170-115	NEW	04-08-062
4- 25-660	PREP	04-08-033	4- 25-830	PREP	04-08-033	16-170-120	NEW-P	04-05-119
4- 25-660	AMD-P	04-17-085	4- 25-830	AMD-P	04-17-085	16-170-120	NEW	04-08-062
4- 25-661	PREP	04-08-033	4- 25-831	PREP	04-08-033	16-170-125	NEW-P	04-05-119
4- 25-661	AMD-P	04-17-085	4- 25-831	AMD-P	04-17-085	16-170-125	NEW	04-08-062
4- 25-670	PREP	04-08-033	4- 25-910	PREP	04-08-033	16-170-130	NEW-P	04-05-119
4- 25-670	AMD-P	04-17-085	4- 25-910	AMD-P	04-17-085	16-170-130	NEW	04-08-062
4- 25-710	PREP	04-08-033	16- 08-003	NEW	04-02-063	16-170-135	NEW-P	04-05-119
4- 25-710	AMD-P	04-17-085	16- 08-004	NEW	04-02-063	16-170-135	NEW	04-08-062
4- 25-720	PREP	04-08-033	16- 54-030	AMD-E	04-15-021	16-170-140	NEW-P	04-05-119
4- 25-720	AMD-P	04-17-085	16-157-020	AMD-X	04-16-092	16-170-140	NEW	04-08-062
4- 25-721	PREP	04-08-033	16-170-010	NEW-P	04-05-119	16-170-145	NEW-P	04-05-119

**TABLE**

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-170-145	NEW	04-08-062	16-230-825	PREP	04-03-004	16-231-500	PREP	04-03-004
16-170-150	NEW-P	04-05-119	16-230-830	PREP	04-03-004	16-231-505	PREP	04-03-004
16-170-150	NEW	04-08-062	16-230-835	PREP	04-03-004	16-231-510	PREP	04-03-004
16-170-155	NEW-P	04-05-119	16-230-835	PREP	04-13-057	16-231-515	PREP	04-03-004
16-170-155	NEW	04-08-062	16-230-840	PREP	04-03-004	16-231-520	PREP	04-03-004
16-170-170	NEW-P	04-05-119	16-230-845	PREP	04-03-004	16-231-525	PREP	04-03-004
16-170-170	NEW	04-08-062	16-230-850	PREP	04-03-004	16-231-530	PREP	04-03-004
16-170-175	NEW-P	04-05-119	16-230-855	PREP	04-03-004	16-231-600	PREP	04-03-004
16-170-175	NEW	04-08-062	16-230-860	PREP	04-03-004	16-231-605	PREP	04-03-004
16-170-180	NEW-P	04-05-119	16-230-860	PREP	04-13-057	16-231-610	PREP	04-03-004
16-170-180	NEW	04-08-062	16-230-861	PREP	04-03-004	16-231-613	PREP	04-03-004
16-218	PREP	04-19-121	16-230-862	PREP	04-03-004	16-231-615	PREP	04-03-004
16-219-010	REP-X	04-13-059	16-230-863	PREP	04-03-004	16-231-620	PREP	04-03-004
16-219-010	REP	04-18-024	16-230-864	PREP	04-03-004	16-231-700	PREP	04-03-004
16-219-100	REP-X	04-06-073	16-230-866	PREP	04-03-004	16-231-705	PREP	04-03-004
16-219-100	REP	04-10-105	16-230-868	PREP	04-03-004	16-231-710	PREP	04-03-004
16-219-105	REP-X	04-06-073	16-231-100	PREP	04-03-004	16-231-715	PREP	04-03-004
16-219-105	REP	04-10-105	16-231-105	PREP	04-03-004	16-231-720	PREP	04-03-004
16-228-1220	PREP	04-03-005	16-231-107	PREP	04-03-004	16-231-725	PREP	04-03-004
16-228-1231	PREP	04-03-004	16-231-110	PREP	04-03-004	16-231-800	PREP	04-03-004
16-228-1250	PREP	04-03-004	16-231-115	PREP	04-03-004	16-231-805	PREP	04-03-004
16-229	PREP	04-14-102	16-231-119	PREP	04-03-004	16-231-810	PREP	04-03-004
16-230-250	REP-X	04-13-058	16-231-125	PREP	04-03-004	16-231-815	PREP	04-03-004
16-230-250	REP	04-18-023A	16-231-130	PREP	04-03-004	16-231-820	PREP	04-03-004
16-230-260	REP-X	04-13-058	16-231-135	PREP	04-03-004	16-231-825	PREP	04-03-004
16-230-260	REP	04-18-023A	16-231-140	PREP	04-03-004	16-231-830	PREP	04-03-004
16-230-270	REP-X	04-13-058	16-231-145	PREP	04-03-004	16-231-835	PREP	04-03-004
16-230-270	REP	04-18-023A	16-231-149	PREP	04-03-004	16-231-840	PREP	04-03-004
16-230-281	REP-X	04-13-058	16-231-153	PREP	04-03-004	16-231-900	PREP	04-03-004
16-230-281	REP	04-18-023A	16-231-156	PREP	04-03-004	16-231-905	PREP	04-03-004
16-230-290	REP-X	04-13-058	16-231-159	PREP	04-03-004	16-231-910	PREP	04-03-004
16-230-290	REP	04-18-023A	16-231-162	PREP	04-03-004	16-231-912	PREP	04-03-004
16-230-400	PREP	04-03-004	16-231-165	PREP	04-03-004	16-231-915	PREP	04-03-004
16-230-410	PREP	04-03-004	16-231-168	PREP	04-03-004	16-231-920	PREP	04-03-004
16-230-420	PREP	04-03-004	16-231-171	PREP	04-03-004	16-231-925	PREP	04-03-004
16-230-430	PREP	04-03-004	16-231-174	PREP	04-03-004	16-231-930	PREP	04-03-004
16-230-440	PREP	04-03-004	16-231-177	PREP	04-03-004	16-231-935	PREP	04-03-004
16-230-450	PREP	04-03-004	16-231-180	PREP	04-03-004	16-232-001	PREP	04-03-004
16-230-460	PREP	04-03-004	16-231-183	PREP	04-03-004	16-232-005	PREP	04-03-004
16-230-470	PREP	04-03-004	16-231-200	PREP	04-03-004	16-232-007	PREP	04-03-004
16-230-600	PREP	04-03-004	16-231-205	PREP	04-03-004	16-232-010	PREP	04-03-004
16-230-605	PREP	04-03-004	16-231-210	PREP	04-03-004	16-232-015	PREP	04-03-004
16-230-610	PREP	04-03-004	16-231-215	PREP	04-03-004	16-232-020	PREP	04-03-004
16-230-615	PREP	04-03-004	16-231-220	PREP	04-03-004	16-232-025	PREP	04-03-004
16-230-620	PREP	04-03-004	16-231-225	PREP	04-03-004	16-232-027	PREP	04-03-004
16-230-625	PREP	04-03-004	16-231-230	PREP	04-03-004	16-232-030	PREP	04-03-004
16-230-630	PREP	04-03-004	16-231-235	PREP	04-03-004	16-232-035	PREP	04-03-004
16-230-635	PREP	04-03-004	16-231-300	PREP	04-03-004	16-232-041	PREP	04-03-004
16-230-640	PREP	04-03-004	16-231-305	PREP	04-03-004	16-232-044	PREP	04-03-004
16-230-645	PREP	04-03-004	16-231-310	PREP	04-03-004	16-232-047	PREP	04-03-004
16-230-650	PREP	04-03-004	16-231-315	PREP	04-03-004	16-232-050	PREP	04-03-004
16-230-655	PREP	04-03-004	16-231-320	PREP	04-03-004	16-232-053	PREP	04-03-004
16-230-660	PREP	04-03-004	16-231-325	PREP	04-03-004	16-232-056	PREP	04-03-004
16-230-665	PREP	04-03-004	16-231-330	PREP	04-03-004	16-232-059	PREP	04-03-004
16-230-670	PREP	04-03-004	16-231-335	PREP	04-03-004	16-232-062	PREP	04-03-004
16-230-673	PREP	04-03-004	16-231-400	PREP	04-03-004	16-232-065	PREP	04-03-004
16-230-675	PREP	04-03-004	16-231-405	PREP	04-03-004	16-232-068	PREP	04-03-004
16-230-800	PREP	04-03-004	16-231-410	PREP	04-03-004	16-232-071	PREP	04-03-004
16-230-810	PREP	04-03-004	16-231-413	PREP	04-03-004	16-232-074	PREP	04-03-004
16-230-813	PREP	04-03-004	16-231-415	PREP	04-03-004	16-232-077	PREP	04-03-004
16-230-815	PREP	04-03-004	16-231-420	PREP	04-03-004	16-232-100	PREP	04-03-004
16-230-820	PREP	04-03-004	16-231-425	PREP	04-03-004	16-232-105	PREP	04-03-004

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-232-110	PREP	04-03-004	16-301-485	REP-P	04-05-118	16-390-242	NEW	04-11-078
16-232-115	PREP	04-03-004	16-301-485	REP	04-08-043	16-390-245	NEW-P	04-08-128
16-232-120	PREP	04-03-004	16-302-385	AMD-P	04-05-120	16-390-245	NEW	04-11-078
16-232-200	PREP	04-03-004	16-302-385	AMD	04-08-044	16-390-250	NEW-P	04-08-128
16-232-205	PREP	04-03-004	16-302-685	AMD	04-06-018	16-390-250	NEW	04-11-078
16-232-210	PREP	04-03-004	16-303-340	AMD	04-06-029	16-390-260	NEW-P	04-08-128
16-232-215	PREP	04-03-004	16-319-041	AMD	04-06-028	16-390-260	NEW	04-11-078
16-232-220	PREP	04-03-004	16-324-375	AMD-X	04-07-170	16-390-270	NEW-P	04-08-128
16-232-225	PREP	04-03-004	16-324-375	AMD	04-12-026	16-390-270	NEW	04-11-078
16-232-300	PREP	04-03-004	16-324-393	AMD-X	04-07-170	16-390-280	NEW-P	04-08-128
16-232-305	PREP	04-03-004	16-324-393	AMD	04-12-026	16-390-280	NEW	04-11-078
16-232-310	PREP	04-03-004	16-324-398	AMD-X	04-07-170	16-400-007	REP-P	04-08-128
16-232-315	PREP	04-03-004	16-324-398	AMD	04-12-026	16-400-007	REP	04-11-078
16-250-155	PREP	04-06-074	16-324-720	REP-X	04-07-170	16-400-008	REP-P	04-08-128
16-250-155	AMD-P	04-11-093	16-324-720	REP	04-12-026	16-400-008	REP	04-11-078
16-250-155	AMD	04-14-076	16-324-730	REP-X	04-07-170	16-400-010	REP-P	04-08-128
16-252-155	PREP	04-06-074	16-324-730	REP	04-12-026	16-400-010	REP	04-11-078
16-252-155	AMD-P	04-11-093	16-324-740	REP-X	04-07-170	16-400-040	REP-P	04-08-128
16-252-155	AMD	04-14-076	16-324-740	REP	04-12-026	16-400-040	REP	04-11-078
16-301-250	AMD	04-06-019	16-324-750	REP-X	04-07-170	16-400-045	REP-P	04-08-128
16-301-265	AMD	04-06-019	16-324-750	REP	04-12-026	16-400-045	REP	04-11-078
16-301-270	AMD	04-06-019	16-328	PREP	04-09-082	16-400-060	REP-P	04-08-128
16-301-310	AMD	04-06-019	16-328-011	AMD-P	04-13-150	16-400-060	REP	04-11-078
16-301-325	AMD	04-06-019	16-328-011	AMD	04-17-039	16-400-100	REP-P	04-08-128
16-301-330	AMD	04-06-019	16-333	PREP	04-09-081	16-400-100	REP	04-11-078
16-301-335	AMD	04-06-019	16-333-041	AMD-P	04-13-149	16-400-150	REP-P	04-08-128
16-301-365	AMD-P	04-05-118	16-333-041	AMD	04-17-038	16-400-150	REP	04-11-078
16-301-365	AMD	04-08-043	16-350	PREP	04-19-123	16-400-210	REP-P	04-08-128
16-301-375	AMD-P	04-05-118	16-350-040	AMD-P	04-07-171	16-400-210	REP	04-11-078
16-301-375	AMD	04-08-043	16-350-040	AMD	04-11-025	16-400-270	REP-P	04-08-128
16-301-380	AMD-P	04-05-118	16-350-045	AMD-P	04-07-171	16-400-270	REP	04-11-078
16-301-380	AMD	04-08-043	16-350-045	AMD	04-11-025	16-401	PREP	04-04-108
16-301-395	AMD-P	04-05-118	16-354	PREP	04-13-145	16-401	PREP	04-06-082
16-301-395	AMD	04-08-043	16-354-040	AMD-X	04-19-124	16-401	PREP	04-09-079
16-301-396	NEW-P	04-05-118	16-354-050	AMD-X	04-19-124	16-401-027	AMD-P	04-13-146
16-301-396	NEW	04-08-043	16-390-005	NEW-P	04-08-128	16-401-027	AMD	04-17-037
16-301-410	AMD-P	04-05-118	16-390-005	NEW	04-11-078	16-401-070	NEW-P	04-07-172
16-301-410	AMD	04-08-043	16-390-010	NEW-P	04-08-128	16-401-070	NEW	04-11-026
16-301-415	AMD-P	04-05-118	16-390-010	NEW	04-11-078	16-402	AMD-P	04-06-083
16-301-415	AMD	04-08-043	16-390-020	NEW-P	04-08-128	16-402	PREP	04-07-045
16-301-420	AMD-P	04-05-118	16-390-020	NEW	04-11-078	16-402	AMD	04-09-084
16-301-420	AMD	04-08-043	16-390-030	NEW-P	04-08-128	16-402-010	AMD-P	04-06-083
16-301-430	AMD-P	04-05-118	16-390-030	NEW	04-11-078	16-402-010	AMD	04-09-084
16-301-430	AMD	04-08-043	16-390-040	NEW-P	04-08-128	16-402-020	AMD-P	04-06-083
16-301-435	AMD-P	04-05-118	16-390-040	NEW	04-11-078	16-402-020	AMD	04-09-084
16-301-435	AMD	04-08-043	16-390-060	NEW-P	04-08-128	16-402-030	NEW-P	04-06-083
16-301-440	AMD-P	04-05-118	16-390-060	NEW	04-11-078	16-402-030	NEW	04-09-084
16-301-440	AMD	04-08-043	16-390-100	NEW-P	04-08-128	16-402-040	NEW-P	04-06-083
16-301-450	REP-P	04-05-118	16-390-100	NEW	04-11-078	16-402-040	NEW	04-09-084
16-301-450	REP	04-08-043	16-390-150	NEW-P	04-08-128	16-402-100	NEW-E	04-07-046
16-301-455	REP-P	04-05-118	16-390-150	NEW	04-11-078	16-402-100	NEW-P	04-11-111
16-301-455	REP	04-08-043	16-390-200	NEW-P	04-08-128	16-402-100	NEW	04-14-090
16-301-460	REP-P	04-05-118	16-390-200	NEW	04-11-078	16-402-100	NEW-E	04-14-103
16-301-460	REP	04-08-043	16-390-210	NEW-P	04-08-128	16-402-110	NEW-E	04-07-046
16-301-465	REP-P	04-05-118	16-390-210	NEW	04-11-078	16-402-110	NEW-P	04-11-111
16-301-465	REP	04-08-043	16-390-220	NEW-P	04-08-128	16-402-110	NEW	04-14-090
16-301-470	REP-P	04-05-118	16-390-220	NEW	04-11-078	16-402-110	NEW-E	04-14-103
16-301-470	REP	04-08-043	16-390-230	NEW-P	04-08-128	16-402-120	NEW-E	04-07-046
16-301-475	REP-P	04-05-118	16-390-230	NEW	04-11-078	16-402-120	NEW-P	04-11-111
16-301-475	REP	04-08-043	16-390-240	NEW-P	04-08-128	16-402-120	NEW	04-14-090
16-301-480	REP-P	04-05-118	16-390-240	NEW	04-11-078	16-402-120	NEW-E	04-14-103
16-301-480	REP	04-08-043	16-390-242	NEW-P	04-08-128	16-402-130	NEW-E	04-07-046

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-402-130	NEW-P	04-11-111	16-481-030	AMD	04-17-035	16-532-060	AMD-W	04-10-056
16-402-130	NEW	04-14-090	16-481-050	AMD-P	04-13-147	16-532-065	REP-W	04-10-056
16-402-130	NEW-E	04-14-103	16-481-050	AMD	04-17-035	16-532-101	REP	04-10-059
16-403	PREP	04-18-009	16-481-060	AMD-P	04-13-147	16-532-103	NEW-W	04-10-055
16-449-001	REP	04-05-117	16-481-060	AMD	04-17-035	16-532-105	NEW-W	04-10-055
16-449-010	REP	04-05-117	16-481-070	AMD-P	04-13-147	16-532-110	AMD-W	04-10-075
16-449-020	REP	04-05-117	16-481-070	AMD	04-17-035	16-532-115	NEW-W	04-10-075
16-449-030	REP	04-05-117	16-481-075	REP-P	04-13-147	16-532-120	AMD	04-10-059
16-450-005	NEW	04-05-117	16-481-075	REP	04-17-035	16-536-005	NEW-P	04-04-107
16-450-010	NEW	04-05-117	16-512-002	REP	04-07-128	16-536-005	NEW	04-17-021
16-450-012	NEW	04-05-117	16-512-005	AMD	04-07-128	16-536-006	NEW-P	04-04-107
16-450-014	NEW	04-05-117	16-512-006	NEW	04-07-128	16-536-006	NEW	04-17-021
16-450-016	NEW	04-05-117	16-512-010	AMD	04-07-128	16-536-010	AMD-P	04-04-107
16-450-020	NEW	04-05-117	16-512-020	AMD	04-07-128	16-536-010	AMD	04-17-021
16-450-022	NEW	04-05-117	16-512-030	REP	04-07-128	16-536-020	AMD-P	04-04-107
16-450-024	NEW	04-05-117	16-512-040	AMD	04-07-128	16-536-020	AMD	04-17-021
16-450-026	NEW	04-05-117	16-512-050	AMD	04-07-128	16-536-030	REP-P	04-04-107
16-450-028	NEW	04-05-117	16-528-004	NEW	04-10-057	16-536-030	REP	04-17-021
16-450-032	NEW	04-05-117	16-528-005	NEW	04-10-057	16-536-040	AMD-P	04-04-107
16-450-040	NEW	04-05-117	16-528-010	AMD	04-10-057	16-536-040	AMD	04-17-021
16-450-042	NEW	04-05-117	16-528-020	AMD	04-10-057	16-536-060	AMD-P	04-04-107
16-450-044	NEW	04-05-117	16-528-030	REP	04-10-057	16-536-060	AMD	04-17-021
16-450-046	NEW	04-05-117	16-528-040	AMD	04-10-057	16-540-005	NEW-P	04-20-099
16-450-048	NEW	04-05-117	16-528-110	AMD	04-10-058	16-540-006	NEW-P	04-20-099
16-450-050	NEW	04-05-117	16-528-150	AMD	04-10-058	16-540-010	AMD-P	04-20-099
16-450-060	NEW	04-05-117	16-528-220	REP	04-10-058	16-540-020	AMD-P	04-20-099
16-450-070	NEW	04-05-117	16-529-005	NEW-P	04-19-120	16-540-030	REP-P	04-20-099
16-458-075	REP-P	04-08-128	16-529-006	NEW-P	04-19-120	16-540-040	AMD-P	04-20-099
16-458-075	REP	04-11-078	16-529-010	AMD-P	04-19-120	16-540-060	AMD-P	04-20-099
16-458-085	REP-P	04-08-128	16-529-030	AMD-P	04-19-120	16-540-070	REP-P	04-20-099
16-458-085	REP	04-11-078	16-529-040	AMD-P	04-19-120	16-545-005	NEW-P	04-09-104
16-459-001	REP	04-05-117	16-529-050	AMD-P	04-19-120	16-545-006	NEW-P	04-09-104
16-459-00101	REP	04-05-117	16-529-060	AMD-P	04-19-120	16-545-010	AMD-P	04-09-104
16-459-010	REP	04-05-117	16-529-070	AMD-P	04-19-120	16-545-020	AMD-P	04-09-104
16-459-020	REP	04-05-117	16-529-080	AMD-P	04-19-120	16-545-030	REP-P	04-09-104
16-459-030	REP	04-05-117	16-529-100	AMD-P	04-19-120	16-561-005	NEW-P	04-07-194
16-459-040	REP	04-05-117	16-529-110	AMD-P	04-19-120	16-561-005	NEW-C	04-18-132
16-470	PREP	04-09-080	16-529-120	AMD-P	04-19-120	16-561-005	NEW-P	04-19-119
16-470-105	AMD-C	04-05-025	16-529-130	REP-P	04-19-120	16-561-006	NEW-P	04-07-194
16-470-105	AMD	04-09-027	16-529-150	AMD-P	04-19-120	16-561-006	NEW-C	04-18-132
16-470-750	NEW-E	04-08-082	16-529-160	AMD-P	04-19-120	16-561-006	NEW-P	04-19-119
16-470-755	NEW-E	04-08-082	16-529-190	AMD-P	04-19-120	16-561-010	AMD-P	04-07-194
16-470-760	NEW-E	04-08-082	16-529-200	AMD-P	04-19-120	16-561-010	AMD-C	04-18-132
16-470-765	NEW-E	04-08-082	16-529-300	AMD-P	04-19-120	16-561-010	AMD-P	04-19-119
16-470-770	NEW-E	04-08-082	16-530-005	NEW-P	04-03-111	16-561-020	AMD-P	04-07-194
16-470-775	NEW-E	04-08-082	16-530-005	NEW	04-16-026	16-561-020	AMD-C	04-18-132
16-470-912	AMD-P	04-13-148	16-530-006	NEW-P	04-03-111	16-561-020	AMD-P	04-19-119
16-470-912	AMD	04-17-036	16-530-006	NEW	04-16-026	16-561-030	REP-P	04-07-194
16-470-917	AMD-P	04-13-148	16-530-010	AMD-P	04-03-111	16-561-030	REP-C	04-18-132
16-470-917	AMD	04-17-036	16-530-010	AMD	04-16-026	16-561-030	REP-P	04-19-119
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16-481	AMD-P	04-13-147	16-530-020	AMD	04-16-026	16-561-040	AMD-C	04-18-132
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132L-276-070	AMD-P	04-10-052	132L-300-090	NEW-P	04-10-052	132V-120-210	AMD-P	04-09-017
132L-276-070	AMD	04-19-062	132L-300-090	NEW	04-19-062	132V-120-210	AMD	04-17-017
132L-276-080	AMD-P	04-10-052	132L-300-100	NEW-P	04-10-052	132V-120-220	AMD-P	04-09-017
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132L-276-100	AMD	04-19-062	132L-400-010	REP	04-19-062	132V-120-241	AMD	04-17-017
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132L-276-900	AMD	04-19-062	132Q-01-040	AMD	04-10-065	132V-120-295	NEW	04-17-017
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180- 81	PREP	04-08-056	182- 08-180	AMD-P	04-13-156	182- 12-205	NEW-P	04-13-156
180- 82	PREP	04-08-056	182- 08-180	AMD	04-18-039	182- 12-205	NEW	04-18-039
180- 82A	PREP	04-08-056	182- 08-190	AMD-P	04-13-156	182- 12-211	NEW-P	04-13-156
180- 82A-204	AMD-E	04-15-041	182- 08-190	AMD	04-18-039	182- 12-211	NEW	04-18-039
180- 82A-204	AMD-E	04-18-099	182- 08-196	AMD-P	04-13-156	182- 12-215	REP-P	04-13-156
180- 82A-204	AMD-P	04-18-105	182- 08-196	AMD	04-18-039	182- 12-215	REP	04-18-039
180- 83	PREP	04-08-056	182- 08-200	AMD-P	04-13-156	182- 12-220	REP-P	04-13-156
180- 85	PREP	04-08-056	182- 08-200	AMD	04-18-039	182- 12-220	REP	04-18-039
180- 85-025	AMD-P	04-15-112	182- 08-210	REP-P	04-13-156	182- 12-230	REP-P	04-13-156
180- 85-025	AMD	04-20-094	182- 08-210	REP	04-18-039	182- 12-230	REP	04-18-039
180- 85-033	AMD-P	04-15-112	182- 08-230	NEW-P	04-13-156	182- 12-250	NEW-P	04-13-156
180- 85-033	AMD	04-20-094	182- 08-230	NEW	04-18-039	182- 12-250	NEW	04-18-039
180- 85-077	AMD-P	04-10-087	182- 12	PREP	04-07-080	182- 12-260	NEW-P	04-13-156
180- 85-077	AMD	04-15-120	182- 12-108	NEW-P	04-13-156	182- 12-260	NEW	04-18-039
180- 85-105	AMD-P	04-04-085	182- 12-108	NEW	04-18-039	182- 12-265	NEW-P	04-13-156
180- 85-105	AMD	04-08-054	182- 12-109	NEW-P	04-13-156	182- 12-265	NEW	04-18-039
180- 86	PREP	04-08-056	182- 12-109	NEW	04-18-039	182- 12-270	NEW-P	04-13-156
180- 87	PREP	04-08-056	182- 12-110	REP-P	04-13-156	182- 12-270	NEW	04-18-039
180- 88	PREP	04-09-064	182- 12-110	REP	04-18-039	182- 16-040	PREP	04-07-079
180- 88-010	NEW-P	04-15-111	182- 12-111	AMD-P	04-13-156	182- 16-040	AMD-P	04-13-156
180- 88-010	NEW-E	04-18-102	182- 12-111	AMD	04-18-039	182- 16-050	AMD-P	04-13-156
180- 88-010	NEW-S	04-18-110	182- 12-112	NEW-P	04-13-156	182- 20-400	AMD	04-03-006
180- 88-020	NEW-P	04-15-111	182- 12-112	NEW	04-18-039	182- 25-010	AMD-P	04-19-138
180- 88-020	NEW-E	04-18-102	182- 12-115	PREP	04-11-011	182- 25-030	AMD-P	04-19-138
180- 88-020	NEW-S	04-18-110	182- 12-117	REP-P	04-13-156	182- 25-040	AMD-X	04-11-039
180- 88-030	NEW-P	04-15-111	182- 12-117	REP	04-18-039	182- 25-040	AMD	04-15-109
180- 88-030	NEW-E	04-18-102	182- 12-118	REP-P	04-13-156	182- 25-040	AMD-P	04-19-138
180- 88-030	NEW-S	04-18-110	182- 12-118	REP	04-18-039	182- 25-080	AMD-P	04-19-138
180- 88-040	NEW-P	04-15-111	182- 12-119	REP-P	04-13-156	182- 25-090	AMD-P	04-19-138
180- 88-040	NEW-E	04-18-102	182- 12-119	REP	04-18-039	182- 25-120	NEW-P	04-19-138
180- 88-040	NEW-S	04-18-110	182- 12-121	AMD-P	04-13-156	182- 50-001	NEW	04-06-021
180- 88-050	NEW-P	04-15-111	182- 12-121	AMD	04-18-039	182- 50-005	NEW	04-06-021
180- 88-050	NEW-E	04-18-102	182- 12-123	NEW-P	04-13-156	182- 50-010	NEW	04-06-021
180- 88-050	NEW-S	04-18-110	182- 12-123	NEW	04-18-039	182- 50-015	NEW	04-06-021
180- 88-060	NEW-P	04-15-111	182- 12-124	REP-P	04-13-156	182- 50-025	NEW	04-06-021
180- 88-060	NEW-E	04-18-102	182- 12-124	REP	04-18-039	182- 50-030	NEW	04-06-021
180- 88-060	NEW-S	04-18-110	182- 12-128	NEW-P	04-13-156	182- 50-035	NEW	04-06-021
180- 90	PREP	04-12-107	182- 12-128	NEW	04-18-039	182- 50-200	NEW	04-06-021
180- 95	PREP	04-12-106	182- 12-131	NEW-P	04-13-156	192- 04-040	AMD-E	04-02-039
180- 96	PREP	04-12-105	182- 12-131	NEW	04-18-039	192- 04-040	AMD-E	04-10-071
180- 97	PREP	04-12-104	182- 12-132	REP-P	04-13-156	192- 04-040	AMD-P	04-10-114
181- 01	PREP	04-16-098	182- 12-132	REP	04-18-039	192- 04-040	AMD-E	04-19-016
181- 01-002	NEW-P	04-04-105	182- 12-133	NEW-P	04-13-156	192- 04-050	AMD-E	04-02-039
181- 01-002	NEW	04-08-047	182- 12-133	NEW	04-18-039	192- 04-050	AMD-E	04-10-071
181- 01-002	AMD-E	04-16-040	182- 12-136	NEW-P	04-13-156	192- 04-050	AMD-P	04-10-114
181- 01-002	AMD-P	04-19-147	182- 12-136	NEW	04-18-039	192- 04-050	AMD-E	04-19-016
181- 01-003	NEW-P	04-04-106	182- 12-138	NEW-P	04-13-156	192- 12-011	REP-E	04-02-039
181- 01-003	NEW	04-08-048	182- 12-138	NEW	04-18-039	192- 12-011	REP-E	04-10-071
182	PREP	04-07-079	182- 12-141	NEW-P	04-13-156	192- 12-011	REP-P	04-10-114
182- 08-015	AMD-P	04-13-156	182- 12-141	NEW	04-18-039	192- 12-011	REP-E	04-19-016
182- 08-015	AMD	04-18-039	182- 12-145	REP-P	04-13-156	192- 12-012	REP-E	04-02-039
182- 08-095	REP-P	04-13-156	182- 12-145	REP	04-18-039	192- 12-012	REP-E	04-10-071
182- 08-095	REP	04-18-039	182- 12-146	NEW-P	04-13-156	192- 12-012	REP-P	04-10-114
182- 08-120	AMD-P	04-13-156	182- 12-146	NEW	04-18-039	192- 12-012	REP-E	04-19-016
182- 08-125	REP-P	04-13-156	182- 12-148	NEW-P	04-13-156	192- 12-020	REP-E	04-02-039



Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
192-150-050	AMD-E	04-19-016	192-150-210	NEW-E	04-10-071	192-230-100	NEW-E	04-19-016
192-150-055	AMD-E	04-02-039	192-150-210	NEW-P	04-10-114	192-240-035	AMD-E	04-02-039
192-150-055	AMD-E	04-10-071	192-150-210	NEW-E	04-19-016	192-240-035	AMD-E	04-10-071
192-150-055	AMD-P	04-10-114	192-150-215	NEW-E	04-02-039	192-240-035	AMD-P	04-10-114
192-150-055	AMD-E	04-19-016	192-150-215	NEW-E	04-10-071	192-240-035	AMD-E	04-19-016
192-150-060	AMD-E	04-02-039	192-150-215	NEW-P	04-10-114	192-240-040	AMD-E	04-02-039
192-150-060	AMD-E	04-10-071	192-150-215	NEW-E	04-19-016	192-240-040	AMD-E	04-10-071
192-150-060	AMD-P	04-10-114	192-150-220	NEW-E	04-02-039	192-240-040	AMD-P	04-10-114
192-150-060	AMD-E	04-19-016	192-150-220	NEW-E	04-10-071	192-240-040	AMD-E	04-19-016
192-150-065	AMD-E	04-02-039	192-150-220	NEW-P	04-10-114	192-300-050	AMD-E	04-02-039
192-150-065	AMD-E	04-10-071	192-150-220	NEW-E	04-19-016	192-300-050	AMD-E	04-10-071
192-150-065	AMD-P	04-10-114	192-180-010	AMD-E	04-02-039	192-300-050	AMD-P	04-10-113
192-150-065	AMD-E	04-19-016	192-180-010	AMD-E	04-10-071	192-300-050	AMD-E	04-19-016
192-150-085	AMD-E	04-02-039	192-180-010	AMD-P	04-10-114	192-310-010	AMD-E	04-02-039
192-150-085	AMD-E	04-10-071	192-180-010	AMD-E	04-19-016	192-310-010	AMD-E	04-10-071
192-150-085	AMD-P	04-10-114	192-180-015	AMD-E	04-02-039	192-310-010	AMD-P	04-10-113
192-150-085	AMD-E	04-19-016	192-180-015	AMD-E	04-10-071	192-310-010	AMD-E	04-19-016
192-150-090	AMD-E	04-02-039	192-180-015	AMD-P	04-10-114	192-310-025	AMD-E	04-02-039
192-150-090	AMD-E	04-10-071	192-180-015	AMD-E	04-19-016	192-310-025	AMD-E	04-10-071
192-150-090	AMD-P	04-10-114	192-180-020	AMD-E	04-02-039	192-310-025	AMD-P	04-10-113
192-150-090	AMD-E	04-19-016	192-180-020	AMD-E	04-10-071	192-310-025	AMD-E	04-19-016
192-150-110	NEW-E	04-02-039	192-180-020	AMD-P	04-10-114	192-310-030	AMD-E	04-02-039
192-150-110	NEW-E	04-10-071	192-180-020	AMD-E	04-19-016	192-310-030	AMD-E	04-10-071
192-150-110	NEW-P	04-10-114	192-180-025	AMD-E	04-02-039	192-310-030	AMD-P	04-10-113
192-150-110	NEW-E	04-19-016	192-180-025	AMD-E	04-10-071	192-310-030	AMD-E	04-19-016
192-150-115	NEW-E	04-02-039	192-180-025	AMD-P	04-10-114	192-320-070	AMD-E	04-02-039
192-150-115	NEW-E	04-10-071	192-180-025	AMD-E	04-19-016	192-320-070	AMD-E	04-10-071
192-150-115	NEW-P	04-10-114	192-180-030	AMD-E	04-02-039	192-320-070	AMD-P	04-10-113
192-150-115	NEW-E	04-19-016	192-180-030	AMD-E	04-10-071	192-320-070	AMD-E	04-19-016
192-150-120	NEW-E	04-02-039	192-180-030	AMD-P	04-10-114	192-320-075	NEW-E	04-02-039
192-150-120	NEW-E	04-10-071	192-180-030	AMD-E	04-19-016	192-320-075	NEW-E	04-10-071
192-150-120	NEW-P	04-10-114	192-180-040	NEW-E	04-02-039	192-320-075	NEW-P	04-10-113
192-150-120	NEW-E	04-19-016	192-180-040	NEW-E	04-10-071	192-320-075	NEW-E	04-19-016
192-150-125	NEW-E	04-02-039	192-180-040	NEW-P	04-10-114	192-340-100	NEW-E	04-02-039
192-150-125	NEW-E	04-10-071	192-180-040	NEW-E	04-19-016	192-340-100	NEW-E	04-10-071
192-150-125	NEW-P	04-10-114	192-200-005	NEW-E	04-02-039	192-340-100	NEW-P	04-10-113
192-150-125	NEW-E	04-19-016	192-200-005	NEW-E	04-10-071	192-340-100	NEW-E	04-19-016
192-150-130	NEW-E	04-02-039	192-200-005	NEW-P	04-10-114	196-09	AMD	04-04-001
192-150-130	NEW-E	04-10-071	192-200-005	NEW-E	04-19-016	196-09	PREP	04-15-050
192-150-130	NEW-P	04-10-114	192-200-010	NEW-E	04-02-039	196-09-010	AMD	04-04-001
192-150-130	NEW-E	04-19-016	192-200-010	NEW-E	04-10-071	196-09-050	NEW	04-04-001
192-150-135	NEW-E	04-02-039	192-200-010	NEW-P	04-10-114	196-09-055	NEW	04-04-001
192-150-135	NEW-E	04-10-071	192-200-010	NEW-E	04-19-016	196-09-060	NEW	04-04-001
192-150-135	NEW-P	04-10-114	192-200-030	NEW-E	04-02-039	196-09-100	NEW	04-04-001
192-150-135	NEW-E	04-19-016	192-200-030	NEW-E	04-10-071	196-09-110	NEW	04-04-001
192-150-140	NEW-E	04-02-039	192-200-030	NEW-P	04-10-114	196-09-120	NEW	04-04-001
192-150-140	NEW-E	04-10-071	192-200-030	NEW-E	04-19-016	196-12-005	NEW	04-04-001
192-150-140	NEW-P	04-10-114	192-220-010	NEW-E	04-02-039	196-12-010	AMD	04-04-001
192-150-140	NEW-E	04-19-016	192-220-010	NEW-E	04-10-071	196-12-020	AMD	04-04-001
192-150-150	NEW-E	04-02-039	192-220-010	NEW-P	04-10-114	196-12-030	AMD	04-04-001
192-150-150	NEW-E	04-10-071	192-220-010	NEW-E	04-19-016	196-12-045	AMD	04-04-001
192-150-150	NEW-P	04-10-114	192-220-020	NEW-E	04-02-039	196-12-050	AMD	04-04-001
192-150-150	NEW-E	04-19-016	192-220-020	NEW-E	04-10-071	196-12-055	NEW	04-04-001
192-150-200	NEW-E	04-02-039	192-220-020	NEW-P	04-10-114	196-12-065	NEW	04-04-001
192-150-200	NEW-E	04-10-071	192-220-020	NEW-E	04-19-016	196-16-006	NEW	04-04-001
192-150-200	NEW-P	04-10-114	192-220-030	NEW-E	04-02-039	196-16-007	AMD	04-04-001
192-150-200	NEW-E	04-19-016	192-220-030	NEW-E	04-10-071	196-16-010	AMD	04-04-001
192-150-205	NEW-E	04-02-039	192-220-030	NEW-P	04-10-114	196-16-020	AMD	04-04-001
192-150-205	NEW-E	04-10-071	192-220-030	NEW-E	04-19-016	196-16-031	AMD	04-04-001
192-150-205	NEW-P	04-10-114	192-230-100	NEW-E	04-02-039	196-16-035	NEW	04-04-001
192-150-205	NEW-E	04-19-016	192-230-100	NEW-E	04-10-071	196-20-005	NEW-P	04-04-027
192-150-210	NEW-E	04-02-039	192-230-100	NEW-P	04-10-114	196-20-005	NEW	04-10-067

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
196-20-010	AMD-P	04-04-027	199-08-420	NEW-E	04-10-002	199-08-570	NEW-E	04-10-002
196-20-010	AMD	04-10-067	199-08-420	NEW-P	04-18-015	199-08-570	NEW-P	04-18-015
196-20-020	AMD-P	04-04-027	199-08-425	NEW-E	04-10-002	199-08-580	NEW-E	04-10-002
196-20-020	AMD	04-10-067	199-08-425	NEW-P	04-18-015	199-08-580	NEW-P	04-18-015
196-20-030	AMD-P	04-04-027	199-08-426	NEW-E	04-10-002	204-74A	PREP	04-17-132
196-20-030	AMD	04-10-067	199-08-426	NEW-P	04-18-015	204-91A	PREP	04-10-054
196-21-005	NEW	04-04-001	199-08-427	NEW-E	04-10-002	204-91A-030	AMD-P	04-13-040
196-21-010	AMD	04-04-001	199-08-427	NEW-P	04-18-015	204-91A-030	AMD	04-20-021
196-21-020	AMD	04-04-001	199-08-428	NEW-E	04-10-002	204-91A-040	AMD-P	04-13-040
196-21-030	AMD	04-04-001	199-08-428	NEW-P	04-18-015	204-91A-040	AMD	04-20-021
196-23	PREP	04-10-011	199-08-429	NEW-E	04-10-002	204-91A-050	AMD-P	04-13-040
196-23-070	AMD	04-04-001	199-08-429	NEW-P	04-18-015	204-91A-050	AMD	04-20-021
196-24-041	REP	04-04-001	199-08-430	NEW-E	04-10-002	204-91A-060	AMD-P	04-13-040
196-24-080	REP	04-04-001	199-08-430	NEW-P	04-18-015	204-91A-060	AMD	04-20-021
196-24-085	REP	04-04-001	199-08-435	NEW-E	04-10-002	204-91A-070	AMD-P	04-13-040
196-24-100	REP	04-04-001	199-08-435	NEW-P	04-18-015	204-91A-070	AMD	04-20-021
196-24-105	REP	04-04-001	199-08-440	NEW-E	04-10-002	204-91A-080	AMD-P	04-13-040
196-24-110	REP-W	04-05-061	199-08-440	NEW-P	04-18-015	204-91A-080	AMD	04-20-021
196-25-001	AMD	04-04-001	199-08-445	NEW-E	04-10-002	204-91A-090	AMD-P	04-13-040
196-25-002	AMD-W	04-05-061	199-08-445	NEW-P	04-18-015	204-91A-090	AMD	04-20-021
196-25-005	AMD	04-04-001	199-08-450	NEW-E	04-10-002	204-91A-120	AMD-P	04-13-040
196-25-010	AMD	04-04-001	199-08-450	NEW-P	04-18-015	204-91A-120	AMD	04-20-021
196-25-020	REP	04-04-001	199-08-455	NEW-E	04-10-002	204-91A-130	AMD-P	04-13-040
196-25-030	REP	04-04-001	199-08-455	NEW-P	04-18-015	204-91A-130	AMD	04-20-021
196-25-040	AMD-W	04-05-061	199-08-460	NEW-E	04-10-002	204-91A-140	AMD-P	04-13-040
196-25-050	AMD	04-04-001	199-08-460	NEW-P	04-18-015	204-91A-140	AMD	04-20-021
196-25-100	REP	04-04-001	199-08-465	NEW-E	04-10-002	204-91A-170	AMD-P	04-13-040
196-26A	PREP	04-10-011	199-08-465	NEW-P	04-18-015	204-91A-170	AMD	04-20-021
196-26A	PREP	04-15-079	199-08-470	NEW-E	04-10-002	204-96-010	AMD	04-07-012
196-27A-025	NEW-W	04-05-061	199-08-470	NEW-P	04-18-015	208-680A-040	AMD-P	04-19-158
199-08-300	NEW-E	04-10-002	199-08-475	NEW-E	04-10-002	208-680E-025	NEW-P	04-19-158
199-08-300	NEW-P	04-18-015	199-08-475	NEW-P	04-18-015	208-680F-020	AMD-P	04-19-158
199-08-305	NEW-E	04-10-002	199-08-480	NEW-E	04-10-002	208-680G-050	AMD-P	04-19-157
199-08-305	NEW-P	04-18-015	199-08-480	NEW-P	04-18-015	208-690-010	NEW-E	04-07-182
199-08-310	NEW-E	04-10-002	199-08-485	NEW-E	04-10-002	208-690-010	NEW-P	04-11-110
199-08-310	NEW-P	04-18-015	199-08-485	NEW-P	04-18-015	208-690-010	NEW	04-15-005
199-08-315	NEW-E	04-10-002	199-08-490	NEW-E	04-10-002	208-690-020	NEW-E	04-07-182
199-08-315	NEW-P	04-18-015	199-08-490	NEW-P	04-18-015	208-690-020	NEW-P	04-11-110
199-08-320	NEW-E	04-10-002	199-08-495	NEW-E	04-10-002	208-690-020	NEW	04-15-005
199-08-320	NEW-P	04-18-015	199-08-495	NEW-P	04-18-015	208-690-030	NEW-E	04-07-182
199-08-325	NEW-E	04-10-002	199-08-500	NEW-E	04-10-002	208-690-030	NEW-P	04-11-110
199-08-325	NEW-P	04-18-015	199-08-500	NEW-P	04-18-015	208-690-030	NEW	04-15-005
199-08-335	NEW-E	04-10-002	199-08-510	NEW-E	04-10-002	208-690-031	NEW-E	04-07-182
199-08-335	NEW-P	04-18-015	199-08-510	NEW-P	04-18-015	208-690-031	NEW-P	04-11-110
199-08-340	NEW-E	04-10-002	199-08-515	NEW-E	04-10-002	208-690-035	NEW-E	04-07-182
199-08-340	NEW-P	04-18-015	199-08-515	NEW-P	04-18-015	208-690-035	NEW-P	04-11-110
199-08-350	NEW-E	04-10-002	199-08-520	NEW-E	04-10-002	208-690-035	NEW	04-15-005
199-08-350	NEW-P	04-18-015	199-08-520	NEW-P	04-18-015	208-690-040	NEW-E	04-07-182
199-08-385	NEW-E	04-10-002	199-08-525	NEW-E	04-10-002	208-690-040	NEW-P	04-11-110
199-08-385	NEW-P	04-18-015	199-08-525	NEW-P	04-18-015	208-690-040	NEW	04-15-005
199-08-390	NEW-E	04-10-002	199-08-535	NEW-E	04-10-002	208-690-045	NEW-E	04-07-182
199-08-390	NEW-P	04-18-015	199-08-535	NEW-P	04-18-015	208-690-045	NEW-P	04-11-110
199-08-395	NEW-E	04-10-002	199-08-540	NEW-E	04-10-002	208-690-045	NEW	04-15-005
199-08-395	NEW-P	04-18-015	199-08-540	NEW-P	04-18-015	208-690-050	NEW-E	04-07-182
199-08-400	NEW-E	04-10-002	199-08-545	NEW-E	04-10-002	208-690-050	NEW-P	04-11-110
199-08-400	NEW-P	04-18-015	199-08-545	NEW-P	04-18-015	208-690-050	NEW	04-15-005
199-08-405	NEW-E	04-10-002	199-08-550	NEW-E	04-10-002	208-690-060	NEW-E	04-07-182
199-08-405	NEW-P	04-18-015	199-08-550	NEW-P	04-18-015	208-690-060	NEW-P	04-11-110
199-08-410	NEW-E	04-10-002	199-08-555	NEW-E	04-10-002	208-690-060	NEW	04-15-005
199-08-410	NEW-P	04-18-015	199-08-555	NEW-P	04-18-015	208-690-070	NEW-E	04-07-182
199-08-415	NEW-E	04-10-002	199-08-565	NEW-E	04-10-002	208-690-070	NEW-P	04-11-110
199-08-415	NEW-P	04-18-015	199-08-565	NEW-P	04-18-015	208-690-070	NEW	04-15-005

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
208-690-075	NEW-E	04-07-182	220-16-550	AMD	04-07-009	220-32-05100X	REP-E	04-13-117
208-690-075	NEW-P	04-11-110	220-16-800	NEW	04-07-009	220-32-05100X	REP-E	04-14-046
208-690-075	NEW	04-15-005	220-16-800	NEW-W	04-14-085	220-32-05100Y	NEW-E	04-14-046
208-690-080	NEW-E	04-07-182	220-16-810	NEW	04-07-009	220-32-05100Y	REP-E	04-14-046
208-690-080	NEW-P	04-11-110	220-16-810	NEW-W	04-14-085	220-32-05100Y	REP-E	04-15-051
208-690-080	NEW	04-15-005	220-16-820	NEW-W	04-14-085	220-32-05100Z	NEW-E	04-15-051
208-690-090	NEW-E	04-07-182	220-16-830	NEW-W	04-14-085	220-32-05100Z	REP-E	04-15-051
208-690-090	NEW-P	04-11-110	220-16-840	NEW-W	04-14-085	220-32-05100Z	REP-E	04-15-133
208-690-090	NEW	04-15-005	220-16-850	NEW-W	04-14-085	220-32-06000B	NEW-E	04-10-064
208-690-100	NEW-E	04-07-182	220-20-056	REP	04-10-108	220-32-06000B	REP-E	04-10-064
208-690-100	NEW-P	04-11-110	220-20-080	AMD	04-08-025	220-33-01000A	NEW-E	04-08-011
208-690-100	NEW	04-15-005	220-20-100	AMD-W	04-14-085	220-33-01000A	REP-E	04-08-026
208-690-110	NEW-E	04-07-182	220-22-40000F	NEW-E	04-13-024	220-33-01000B	NEW-E	04-08-026
208-690-110	NEW-P	04-11-110	220-24-04000L	NEW-E	04-10-001	220-33-01000B	REP-E	04-09-021
208-690-110	NEW	04-15-005	220-24-04000L	REP-E	04-10-001	220-33-01000C	NEW-E	04-09-021
208-690-112	NEW-E	04-07-182	220-24-04000L	REP-E	04-11-010	220-33-01000C	REP-E	04-11-001
208-690-112	NEW-P	04-11-110	220-24-04000M	NEW-E	04-11-052	220-33-01000D	NEW-E	04-11-075
208-690-112	NEW	04-15-005	220-24-04000M	REP-E	04-11-052	220-33-01000D	REP-E	04-11-075
208-690-115	NEW-E	04-07-182	220-24-04000N	NEW-E	04-12-011	220-33-01000E	NEW-E	04-14-048
208-690-115	NEW-P	04-11-110	220-24-04000N	REP-E	04-12-011	220-33-01000E	REP-E	04-14-048
208-690-115	NEW	04-15-005	220-24-04000P	NEW-E	04-14-009	220-33-01000F	NEW-E	04-16-067
208-690-120	NEW-E	04-07-182	220-24-04000P	REP-E	04-14-009	220-33-01000F	REP-E	04-16-067
208-690-120	NEW-P	04-11-110	220-24-04000Q	NEW-E	04-14-092	220-33-01000F	REP-E	04-17-069
208-690-120	NEW	04-15-005	220-24-04000Q	REP-E	04-14-092	220-33-01000G	NEW-E	04-17-091
208-690-130	NEW-E	04-07-182	220-24-04000Q	REP-E	04-15-086	220-33-01000G	REP-E	04-17-091
208-690-130	NEW-P	04-11-110	220-24-04000R	NEW-E	04-15-086	220-33-01000H	NEW-E	04-18-007
208-690-130	NEW	04-15-005	220-24-04000R	REP-E	04-18-022	220-33-01000H	REP-E	04-18-007
208-690-140	NEW-E	04-07-182	220-24-04000S	NEW-E	04-18-022	220-33-01000I	NEW-E	04-18-020
208-690-140	NEW-P	04-11-110	220-24-04000S	REP-E	04-18-022	220-33-01000I	REP-E	04-18-020
208-690-140	NEW	04-15-005	220-24-04000S	REP-E	04-19-023	220-33-01000J	NEW-E	04-18-037
208-690-150	NEW-E	04-07-182	220-24-04000T	NEW-E	04-19-023	220-33-01000J	REP-E	04-19-083
208-690-150	NEW-P	04-11-110	220-24-04000T	REP-E	04-19-023	220-33-01000K	NEW-E	04-19-083
208-690-150	NEW	04-15-005	220-32-05100A	NEW-E	04-15-133	220-33-01000K	REP-E	04-20-003
208-690-160	NEW-E	04-07-182	220-32-05100A	REP-E	04-15-133	220-33-01000L	NEW-E	04-20-003
208-690-160	NEW-P	04-11-110	220-32-05100B	NEW-E	04-18-016	220-33-01000L	REP-E	04-20-015
208-690-160	NEW	04-15-005	220-32-05100B	REP-E	04-19-084	220-33-01000M	NEW-E	04-20-015
208-690-170	NEW-E	04-07-182	220-32-05100C	NEW-E	04-19-084	220-33-01000M	REP-E	04-20-040
208-690-170	NEW-P	04-11-110	220-32-05100C	REP-E	04-20-014	220-33-01000M	REP-E	04-20-040
208-690-170	NEW	04-15-005	220-32-05100D	NEW-E	04-20-014	220-33-01000N	NEW-E	04-20-040
208-690-180	NEW-E	04-07-182	220-32-05100D	REP-E	04-20-063	220-33-01000N	REP-E	04-20-064
208-690-180	NEW-P	04-11-110	220-32-05100E	NEW-E	04-20-063	220-33-01000P	NEW-E	04-20-064
208-690-180	NEW	04-15-005	220-32-05100P	NEW-E	04-03-075	220-33-01000Q	REP-E	04-04-071
212-17-060	AMD-E	04-11-061	220-32-05100P	REP-E	04-03-075	220-33-01000R	NEW-E	04-04-071
212-17-480	NEW-E	04-11-061	220-32-05100P	REP-E	04-04-053	220-33-01000R	REP-E	04-04-071
212-17-485	NEW-E	04-11-061	220-32-05100Q	NEW-E	04-04-053	220-33-01000S	NEW-E	04-06-002
212-17-490	NEW-E	04-11-061	220-32-05100Q	REP-E	04-04-053	220-33-01000S	REP-E	04-06-002
212-17-495	NEW-E	04-11-061	220-32-05100Q	REP-E	04-07-027	220-33-01000S	REP-E	04-06-059
212-17-500	NEW-E	04-11-061	220-32-05100R	NEW-E	04-07-027	220-33-01000T	NEW-E	04-06-059
212-17-505	NEW-E	04-11-061	220-32-05100R	REP-E	04-07-027	220-33-01000T	REP-E	04-07-008
212-17-510	NEW-E	04-11-061	220-32-05100S	NEW-E	04-10-064	220-33-01000U	NEW-E	04-07-008
212-17-515	NEW-E	04-11-061	220-32-05100S	REP-E	04-10-064	220-33-01000U	REP-E	04-07-028
212-17-520	NEW-E	04-11-061	220-32-05100T	NEW-E	04-11-022	220-33-01000V	NEW-E	04-07-028
212-17-525	NEW-E	04-11-061	220-32-05100T	REP-E	04-11-022	220-33-01000V	REP-E	04-07-050
212-17-530	NEW-E	04-11-061	220-32-05100T	REP-E	04-11-074	220-33-01000W	NEW-E	04-07-050
212-17-535	NEW-E	04-11-061	220-32-05100U	NEW-E	04-11-074	220-33-01000W	REP-E	04-07-078
212-17-540	NEW-E	04-11-061	220-32-05100U	REP-E	04-11-074	220-33-01000X	NEW-E	04-07-078
212-80	PREP	04-17-131	220-32-05100U	REP-E	04-12-021	220-33-01000X	REP-E	04-07-118
220-12-020	AMD	04-07-009	220-32-05100V	NEW-E	04-12-021	220-33-01000Y	NEW-E	04-07-118
220-16-270	AMD	04-07-009	220-32-05100V	REP-E	04-12-021	220-33-01000Y	REP-E	04-07-169
220-16-470	AMD-X	04-12-073	220-32-05100W	NEW-E	04-13-065	220-33-01000Z	NEW-E	04-07-169
220-16-470	AMD	04-16-126	220-32-05100W	REP-E	04-13-117	220-33-01000Z	REP-E	04-08-011
220-16-47000B	NEW-E	04-10-034	220-32-05100X	NEW-E	04-13-117	220-33-03000U	NEW-E	04-09-018
						220-33-03000U	REP-E	04-09-018

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
220-33-04000U	REP-E	04-07-117	220-48-032	AMD-P	04-13-005	220-52-04600K	NEW-E	04-07-013
220-33-04000V	NEW-E	04-07-117	220-48-032	AMD	04-17-098	220-52-04600K	REP-E	04-07-042
220-33-04000V	REP-E	04-07-117	220-48-03200C	NEW-E	04-05-056	220-52-04600L	NEW-E	04-07-042
220-33-070	NEW-W	04-10-074	220-48-03200C	REP-E	04-13-055	220-52-04600L	REP-E	04-13-024
220-36-023	AMD-X	04-11-109	220-48-03200D	NEW-E	04-13-055	220-52-04600M	NEW-E	04-08-038
220-36-023	AMD	04-16-013	220-48-03200E	NEW-E	04-14-007	220-52-04600M	REP-E	04-08-038
220-40-027	AMD-X	04-11-109	220-48-062	AMD-P	04-13-005	220-52-04600N	NEW-E	04-13-024
220-40-027	AMD	04-16-013	220-48-062	AMD	04-17-098	220-52-04600N	REP-E	04-13-024
220-40-02700E	NEW-E	04-19-059	220-48-06200C	NEW-E	04-05-056	220-52-04600P	NEW-E	04-13-060
220-40-02700E	REP-E	04-19-059	220-48-06200C	REP-E	04-13-055	220-52-04600P	REP-E	04-13-060
220-40-02700E	REP-E	04-20-016	220-48-06200D	NEW-E	04-13-055	220-52-04600Q	NEW-E	04-19-082
220-40-02700F	NEW-E	04-20-016	220-49-020	AMD-P	04-13-005	220-52-05100A	NEW-E	04-16-048
220-40-02700F	REP-E	04-20-016	220-49-020	AMD	04-17-098	220-52-05100A	REP-E	04-16-073
220-44-05000A	NEW-E	04-03-010C	220-49-02000P	NEW-E	04-05-056	220-52-05100B	NEW-E	04-16-073
220-44-05000A	REP-E	04-12-012	220-49-02000P	REP-E	04-13-055	220-52-05100B	REP-E	04-16-089
220-44-05000B	NEW-E	04-12-012	220-49-02000Q	NEW-E	04-13-055	220-52-05100C	NEW-E	04-16-089
220-44-05000Z	REP-E	04-03-010C	220-49-023	AMD-P	04-13-163	220-52-05100C	REP-E	04-17-004
220-47-301	AMD-X	04-12-129	220-49-023	AMD	04-17-089	220-52-05100D	NEW-E	04-17-004
220-47-301	AMD	04-16-125	220-49-056	AMD-P	04-13-005	220-52-05100D	REP-E	04-17-014
220-47-302	AMD-X	04-12-129	220-49-056	AMD	04-17-098	220-52-05100E	NEW-E	04-17-014
220-47-302	AMD	04-16-125	220-49-05600C	NEW-E	04-05-056	220-52-05100E	REP-E	04-17-055
220-47-303	AMD-X	04-12-129	220-49-05600C	REP-E	04-13-055	220-52-05100F	NEW-E	04-17-055
220-47-303	AMD	04-16-125	220-49-05600D	NEW-E	04-13-055	220-52-05100F	REP-E	04-17-095
220-47-307	AMD-X	04-12-129	220-52-03000U	NEW-E	04-11-051	220-52-05100G	NEW-E	04-17-095
220-47-307	AMD	04-16-125	220-52-03000U	REP-E	04-11-051	220-52-05100G	REP-E	04-18-131
220-47-311	AMD-X	04-12-129	220-52-03000V	NEW-E	04-14-004	220-52-05100H	NEW-E	04-18-131
220-47-311	AMD	04-16-125	220-52-03000V	REP-E	04-14-004	220-52-05100H	REP-E	04-19-096
220-47-325	AMD-X	04-12-129	220-52-03000W	NEW-E	04-16-031	220-52-05100I	NEW-E	04-19-096
220-47-325	AMD	04-16-125	220-52-03000W	REP-E	04-16-031	220-52-05100P	NEW-E	04-09-007
220-47-401	AMD-X	04-12-129	220-52-03000W	REP-E	04-16-127	220-52-05100P	REP-E	04-10-025
220-47-401	AMD	04-16-125	220-52-03000W	REP-E	04-17-055	220-52-05100Q	NEW-E	04-10-025
220-47-411	AMD-X	04-12-129	220-52-03000X	NEW-E	04-16-127	220-52-05100Q	REP-E	04-11-044
220-47-411	AMD	04-16-125	220-52-03000X	REP-E	04-17-055	220-52-05100R	NEW-E	04-11-044
220-47-428	AMD-X	04-12-129	220-52-03000Y	NEW-E	04-18-052	220-52-05100R	REP-E	04-13-007
220-47-428	AMD	04-16-125	220-52-03000Y	REP-E	04-18-052	220-52-05100S	NEW-E	04-13-007
220-47-430	REP-X	04-12-129	220-52-04000A	NEW-E	04-13-024	220-52-05100S	REP-E	04-13-027
220-47-430	REP	04-16-125	220-52-04000A	REP-E	04-13-024	220-52-05100T	NEW-E	04-13-027
220-47-601	NEW-E	04-16-030	220-52-04000B	NEW-E	04-13-060	220-52-05100T	REP-E	04-13-082
220-47-601	REP-E	04-16-049	220-52-04000B	REP-E	04-13-060	220-52-05100U	NEW-E	04-13-082
220-47-602	NEW-E	04-16-049	220-52-04000C	NEW-E	04-19-082	220-52-05100U	REP-E	04-14-058
220-47-602	REP-E	04-16-072	220-52-04000C	REP-E	04-20-034	220-52-05100V	NEW-E	04-14-058
220-47-603	NEW-E	04-16-072	220-52-04000D	NEW-E	04-20-034	220-52-05100V	REP-E	04-15-024
220-47-603	REP-E	04-17-028	220-52-04000U	REP-E	04-05-007	220-52-05100W	NEW-E	04-15-024
220-47-604	NEW-E	04-17-028	220-52-04000V	NEW-E	04-05-007	220-52-05100W	REP-E	04-15-087
220-47-604	REP-E	04-18-008	220-52-04000V	REP-E	04-05-014	220-52-05100X	NEW-E	04-15-087
220-47-605	NEW-E	04-18-008	220-52-04000W	NEW-E	04-05-014	220-52-05100X	REP-E	04-15-132
220-47-605	REP-E	04-18-084	220-52-04000W	REP-E	04-06-003	220-52-05100Y	NEW-E	04-15-132
220-47-606	NEW-E	04-18-084	220-52-04000X	NEW-E	04-06-003	220-52-05100Y	REP-E	04-16-022
220-47-606	REP-E	04-19-066	220-52-04000X	REP-E	04-07-013	220-52-05100Z	NEW-E	04-16-022
220-47-607	NEW-E	04-19-066	220-52-04000Y	NEW-E	04-07-013	220-52-05100Z	REP-E	04-16-048
220-47-607	REP-E	04-20-011	220-52-04000Y	REP-E	04-07-019	220-52-07100D	NEW-E	04-03-031
220-47-608	NEW-E	04-20-011	220-52-04000Z	NEW-E	04-07-019	220-52-07100D	REP-E	04-05-008
220-47-608	REP-E	04-20-011	220-52-04600D	REP-E	04-03-049	220-52-07100E	NEW-E	04-05-008
220-48-01500T	NEW-E	04-07-029	220-52-04600F	REP-E	04-05-007	220-52-07100E	REP-E	04-05-045
220-48-01500T	REP-E	04-14-047	220-52-04600G	NEW-E	04-03-049	220-52-07100F	NEW-E	04-05-045
220-48-01500U	NEW-E	04-14-047	220-52-04600G	REP-E	04-06-042	220-52-07100F	REP-E	04-06-041
220-48-029	AMD-P	04-13-005	220-52-04600H	NEW-E	04-05-007	220-52-07100G	NEW-E	04-06-041
220-48-029	AMD	04-17-098	220-52-04600H	REP-E	04-06-013	220-52-07100H	NEW-E	04-14-093
220-48-02900D	NEW-E	04-05-056	220-52-04600I	NEW-E	04-06-013	220-52-07100H	REP-E	04-16-012
220-48-02900D	REP-E	04-13-055	220-52-04600I	REP-E	04-07-013	220-52-07100I	NEW-E	04-16-012
220-48-02900E	NEW-E	04-13-055	220-52-04600J	NEW-E	04-06-042	220-52-07100I	REP-E	04-17-071
220-48-02900F	NEW-E	04-14-007	220-52-04600J	REP-E	04-08-038	220-52-07100J	NEW-E	04-17-071

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
220-52-07100J	REP-E	04-20-007	220-56-25500P	NEW-E	04-13-026	220-56-33000K	REP-E	04-18-072
220-52-07100K	NEW-E	04-20-007	220-56-25500P	REP-E	04-14-024	220-56-33000L	NEW-E	04-13-066
220-52-07100K	REP-E	04-20-047	220-56-25500Q	NEW-E	04-14-024	220-56-33000L	REP-E	04-13-066
220-52-073	AMD-P	04-13-033	220-56-25500Q	REP-E	04-16-004	220-56-33000M	NEW-E	04-18-072
220-52-073	AMD	04-17-096	220-56-25500R	NEW-E	04-16-004	220-56-33000M	REP-E	04-19-065
220-52-07300J	REP-E	04-03-010B	220-56-25500R	REP-E	04-16-004	220-56-33000N	NEW-E	04-19-065
220-52-07300K	NEW-E	04-03-010B	220-56-267	AMD-P	04-13-005	220-56-335	AMD	04-07-009
220-52-07300K	REP-E	04-03-074	220-56-267	AMD	04-17-098	220-56-350	AMD	04-07-009
220-52-07300L	NEW-E	04-03-074	220-56-26700B	NEW-E	04-05-057	220-56-350	AMD-P	04-19-117
220-52-07300L	REP-E	04-06-012	220-56-26700B	REP-E	04-13-056	220-56-35000Q	NEW-E	04-03-010A
220-52-07300M	NEW-E	04-20-006	220-56-26700C	NEW-E	04-13-056	220-56-35000Q	REP-E	04-06-035
220-55-061	NEW-P	04-05-068	220-56-270	AMD-P	04-13-005	220-56-35000R	NEW-E	04-06-035
220-55-061	NEW	04-08-063	220-56-270	AMD	04-17-098	220-56-35000R	REP-E	04-07-043
220-55-115	AMD-P	04-13-061	220-56-27000R	REP-E	04-07-116	220-56-35000S	NEW-E	04-07-043
220-55-115	AMD	04-17-097	220-56-27000R	REP-E	04-07-123	220-56-35000S	REP-E	04-09-006
220-56-100	AMD-W	04-05-060	220-56-27000S	NEW-E	04-05-057	220-56-35000T	NEW-E	04-09-006
220-56-100	AMD	04-07-009	220-56-27000S	REP-E	04-13-056	220-56-36000A	NEW-E	04-10-070
220-56-100	AMD-X	04-11-119	220-56-27000T	NEW-E	04-07-116	220-56-36000A	REP-E	04-10-070
220-56-10000C	NEW-E	04-10-034	220-56-27000T	REP-E	04-07-116	220-56-36000W	NEW-E	04-03-048
220-56-115	AMD	04-07-009	220-56-27000T	REP-E	04-07-123	220-56-36000W	REP-E	04-03-048
220-56-115	AMD-P	04-19-117	220-56-27000U	NEW-E	04-07-123	220-56-36000X	NEW-E	04-05-100
220-56-118	NEW	04-07-009	220-56-27000U	REP-E	04-07-123	220-56-36000X	REP-E	04-05-100
220-56-118	AMD-P	04-19-117	220-56-27000V	NEW-E	04-13-056	220-56-36000Y	NEW-E	04-07-097
220-56-123	AMD-X	04-11-119	220-56-282	AMD	04-07-009	220-56-36000Y	REP-E	04-07-097
220-56-128	AMD-X	04-11-119	220-56-282	AMD-P	04-19-117	220-56-36000Z	NEW-E	04-09-058
220-56-128	AMD-P	04-13-005	220-56-310	AMD	04-07-009	220-56-36000Z	REP-E	04-09-058
220-56-128	AMD	04-17-098	220-56-310	AMD-P	04-13-023	220-56-370	REP	04-07-009
220-56-128	AMD-P	04-19-117	220-56-310	AMD	04-17-088	220-56-380	AMD	04-07-009
220-56-12800H	NEW-E	04-10-034	220-56-310	AMD-P	04-19-117	220-56-380	AMD-P	04-19-117
220-56-129	AMD-P	04-19-117	220-56-31000V	NEW-E	04-18-041	220-56-38000G	NEW-E	04-03-010A
220-56-130	AMD-P	04-19-117	220-56-315	AMD	04-07-009	220-56-390	AMD-P	04-13-005
220-56-150	AMD	04-07-009	220-56-315	AMD-P	04-19-117	220-56-390	AMD	04-17-098
220-56-156	AMD-P	04-19-064	220-56-320	AMD-P	04-19-117	220-56-39000B	NEW-E	04-05-057
220-56-175	AMD	04-10-033	220-56-325	AMD	04-07-009	220-56-39000B	REP-E	04-13-056
220-56-180	AMD-X	04-11-119	220-56-325	AMD-P	04-19-117	220-56-39000C	NEW-E	04-13-056
220-56-18000C	NEW-E	04-10-034	220-56-32500K	NEW-E	04-09-020	220-56-410	AMD-P	04-13-005
220-56-195	AMD-X	04-11-119	220-56-32500K	REP-E	04-09-052	220-56-410	AMD	04-17-098
220-56-19500M	NEW-E	04-10-034	220-56-32500L	NEW-E	04-09-052	220-56-41000A	NEW-E	04-05-057
220-56-215	AMD	04-07-009	220-56-32500L	REP-E	04-09-102	220-56-41000A	REP-E	04-13-056
220-56-232	NEW-W	04-10-077	220-56-32500M	NEW-E	04-09-102	220-56-41000B	NEW-E	04-13-056
220-56-235	AMD	04-07-009	220-56-32500M	REP-E	04-10-028	220-69-210	AMD-P	04-13-193
220-56-235	AMD-W	04-10-073	220-56-32500M	NEW-E	04-10-028	220-69-210	AMD	04-17-096
220-56-235	AMD-P	04-13-005	220-56-32500N	REP-E	04-11-014	220-69-215	AMD-P	04-13-193
220-56-235	AMD	04-17-098	220-56-32500P	NEW-E	04-11-014	220-69-215	AMD	04-17-096
220-56-23500S	NEW-E	04-05-057	220-56-32500P	REP-E	04-11-077	220-69-220	AMD-P	04-13-193
220-56-23500S	REP-E	04-13-056	220-56-32500Q	NEW-E	04-11-077	220-69-220	AMD	04-17-096
220-56-23500T	NEW-E	04-07-006	220-56-32500Q	REP-E	04-12-036	220-69-23402	AMD-P	04-13-193
220-56-23500T	REP-E	04-07-006	220-56-32500R	NEW-E	04-12-036	220-69-23402	AMD	04-17-096
220-56-23500U	NEW-E	04-13-056	220-56-32500R	REP-E	04-12-061	220-69-236	AMD-P	04-13-193
220-56-250	AMD	04-07-009	220-56-32500S	NEW-E	04-12-061	220-69-236	AMD	04-17-096
220-56-250	AMD-W	04-10-073	220-56-32500S	REP-E	04-13-034	220-69-236	AMD-P	04-19-117
220-56-25000F	NEW-E	04-07-005	220-56-32500T	NEW-E	04-13-034	220-69-240	AMD-P	04-13-033
220-56-25000G	NEW-E	04-10-042	220-56-32500T	REP-E	04-13-093	220-69-240	AMD-P	04-13-193
220-56-25000G	REP-E	04-10-042	220-56-32500U	NEW-E	04-13-093	220-69-240	AMD	04-17-096
220-56-25500K	NEW-E	04-10-027	220-56-32500U	REP-E	04-15-023	220-69-241	AMD	04-05-028
220-56-25500K	REP-E	04-10-043	220-56-32500V	NEW-E	04-15-023	220-69-241	AMD-P	04-13-193
220-56-25500L	NEW-E	04-10-043	220-56-326	AMD-P	04-19-117	220-69-241	AMD	04-17-096
220-56-25500L	REP-E	04-12-002	220-56-330	AMD	04-07-009	220-69-242	AMD-P	04-13-193
220-56-25500M	NEW-E	04-12-002	220-56-330	AMD-P	04-19-117	220-69-242	AMD	04-17-096
220-56-25500M	REP-E	04-12-032	220-56-33000J	NEW-E	04-13-004	220-69-243	AMD-P	04-13-193
220-56-25500N	NEW-E	04-12-032	220-56-33000J	REP-E	04-13-028	220-69-243	AMD	04-17-096
220-56-25500N	REP-E	04-13-026	220-56-33000K	NEW-E	04-13-008	220-69-250	AMD-P	04-13-193

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220-69-250	AMD	04-17-096	220-120-100	REP	04-18-051	230-40-823	AMD	04-06-058
220-69-254	AMD-P	04-13-193	220-125-010	AMD	04-05-026	230-40-825	AMD-P	04-11-089
220-69-254	AMD	04-17-096	220-130-04000A	NEW-E	04-16-047	230-40-825	AMD-P	04-19-021
220-69-260	AMD-P	04-13-193	222-08-010	AMD	04-05-122	230-40-825	AMD	04-19-070
220-69-260	AMD	04-17-096	222-08-020	AMD	04-05-122	230-40-825	AMD	04-19-137
220-69-262	REP-P	04-13-193	222-08-020	DECOD	04-05-122	232-12-004	AMD-P	04-05-099
220-69-262	REP	04-17-096	222-08-030	AMD	04-05-122	232-12-004	AMD	04-11-036
220-69-264	AMD-P	04-13-193	222-08-030	DECOD	04-05-122	232-12-005	NEW-P	04-05-099
220-69-264	AMD	04-17-096	222-08-035	DECOD	04-05-122	232-12-005	NEW	04-11-036
220-69-26401	AMD-P	04-13-193	222-08-040	AMD	04-05-122	232-12-014	AMD-P	04-05-110
220-69-26401	AMD	04-17-096	222-08-050	NEW	04-05-122	232-12-014	AMD	04-11-036
220-69-26401A	NEW-E	04-19-097	222-08-060	NEW	04-05-122	232-12-019	AMD	04-07-009
220-69-270	AMD-P	04-13-193	222-08-070	NEW	04-05-122	232-12-021	AMD-E	04-17-060
220-69-270	AMD	04-17-096	222-08-080	NEW	04-05-122	232-12-047	AMD-P	04-05-106
220-69-274	AMD-P	04-13-193	222-08-080	NEW	04-05-122	232-12-047	AMD	04-11-036
220-69-274	AMD	04-17-096	222-08-090	NEW	04-05-122	232-12-047	AMD	04-11-036
220-69-280	AMD-P	04-13-193	222-08-100	NEW	04-05-122	232-12-054	AMD-P	04-05-106
220-69-280	AMD	04-17-096	222-08-120	NEW	04-05-122	232-12-054	AMD	04-11-036
220-69-28000A	NEW-E	04-19-097	222-08-130	NEW	04-05-122	232-12-064	AMD-P	04-05-099
220-69-300	AMD-P	04-13-193	222-08-140	RECOD	04-05-122	232-12-064	AMD	04-11-036
220-69-300	AMD	04-17-096	222-08-150	RECOD	04-05-122	232-12-06800B	NEW-E	04-19-058
220-72-01000B	NEW-E	04-08-037	222-08-160	RECOD	04-05-122	232-12-168	AMD	04-07-009
220-72-011	AMD-P	04-05-069	222-12-090	AMD	04-05-087	232-12-224	REP-P	04-13-038
220-72-011	AMD-W	04-18-074	222-16-010	AMD	04-05-087	232-12-224	REP-C	04-17-081
220-72-089	AMD-P	04-05-069	230-02-030	AMD-X	04-12-038	232-12-243	AMD-P	04-13-165
220-72-089	AMD-W	04-18-074	230-02-030	AMD	04-17-066	232-12-271	AMD-P	04-05-099
220-72-08900C	NEW-E	04-08-037	230-02-035	AMD-X	04-12-038	232-12-271	AMD	04-11-036
220-72-090	AMD-P	04-05-069	230-02-035	AMD	04-17-066	232-12-275	AMD-P	04-13-167
220-72-090	AMD-W	04-18-074	230-02-205	AMD-P	04-15-049	232-12-275	AMD	04-20-020
220-72-09000C	NEW-E	04-08-037	230-02-205	AMD	04-19-069	232-12-31500K	REP-E	04-08-065
220-88B-030	AMD	04-05-027	230-02-205	AMD-P	04-20-107	232-12-31500L	NEW-E	04-08-065
220-88B-040	AMD	04-05-027	230-04-124	AMD-W	04-05-059	232-12-31500L	REP-E	04-08-065
220-88C-030	AMD-P	04-07-186	230-04-192	REP-P	04-05-078	232-12-619	AMD	04-07-009
220-88C-030	AMD	04-10-035	230-04-192	REP	04-09-028	232-12-619	AMD-X	04-11-119
220-88C-03000	NEW-E	04-10-041	230-04-196	REP-P	04-05-078	232-12-619	AMD-P	04-13-094
220-88C-040	AMD-P	04-07-186	230-04-196	REP	04-09-028	232-12-619	AMD	04-19-012
220-88C-040	AMD	04-10-035	230-04-208	NEW-P	04-17-124	232-12-619	AMD-P	04-19-117
220-88C-04000	NEW-E	04-10-041	230-12-045	AMD-P	04-07-103	232-12-619V	NEW-E	04-10-034
220-100-110	AMD-X	04-09-046	230-12-045	AMD	04-11-091	232-12-828	AMD-P	04-05-106
220-100-110	AMD	04-14-006	230-12-330	AMD-P	04-11-090	232-12-828	AMD	04-11-036
220-110-035	PREP	04-04-008	230-12-340	AMD-P	04-11-090	232-16-270	REP-P	04-13-168
220-110-035	AMD-P	04-08-064	230-20-059	AMD	04-07-102	232-16-270	REP	04-17-061
220-110-035	AMD-C	04-17-013	230-30-033	AMD-P	04-09-088	232-16-610	NEW-P	04-13-168
220-120-010	REP-P	04-13-141	230-30-033	AMD	04-15-047	232-16-610	NEW	04-17-061
220-120-010	REP	04-18-051	230-30-033	AMD-P	04-19-093	232-16-740	AMD-P	04-13-168
220-120-020	REP-P	04-13-141	230-30-072	AMD-P	04-02-045	232-16-740	AMD	04-17-061
220-120-020	REP	04-18-051	230-30-072	AMD-W	04-15-108	232-28-248	AMD-P	04-05-115
220-120-020	REP	04-18-051	230-40-070	PREP	04-04-061	232-28-248	AMD	04-11-036
220-120-030	REP-P	04-13-141	230-40-070	AMD-P	04-07-147	232-28-26600A	NEW-E	04-19-020
220-120-030	REP	04-18-051	230-40-070	AMD-P	04-09-087	232-28-271	AMD	04-03-026
220-120-040	REP-P	04-13-141	230-40-070	AMD	04-11-092	232-28-272	AMD-P	04-05-109
220-120-040	REP	04-18-051	230-40-070	AMD	04-17-125	232-28-272	AMD	04-11-036
220-120-050	REP-P	04-13-141	230-40-120	AMD-C	04-04-036	232-28-272	AMD-P	04-13-165
220-120-050	REP	04-18-051	230-40-120	AMD	04-06-005	232-28-273	AMD-P	04-05-111
220-120-060	REP-P	04-13-141	230-40-120	AMD	04-07-051	232-28-273	AMD	04-11-036
220-120-060	REP	04-18-051	230-40-120	AMD-W	04-07-051	232-28-282	AMD-P	04-05-111
220-120-070	REP-P	04-13-141	230-40-120	AMD-P	04-15-048	232-28-282	AMD	04-11-036
220-120-070	REP	04-18-051	230-40-120	AMD	04-19-068	232-28-282	AMD	04-11-036
220-120-080	REP-P	04-13-141	230-40-554	AMD-P	04-19-095	232-28-285	NEW-P	04-13-170
220-120-080	REP	04-18-051	230-40-610	AMD-P	04-19-094	232-28-29100B	NEW-E	04-19-011
220-120-090	REP-P	04-13-141	230-40-610	AMD-P	04-20-106	232-28-333	AMD-P	04-05-113
220-120-090	REP	04-18-051	230-40-625	AMD-P	04-11-089	232-28-333	AMD-W	04-18-075
220-120-100	REP-P	04-13-141	230-40-625	AMD	04-19-070	232-28-335	AMD-P	04-05-114
			230-40-625	AMD	04-19-137	232-28-335	AMD	04-11-036

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232-28-337	AMD-P	04-05-116	232-28-61900H	NEW-E	04-16-069	232-28-61900T	NEW-E	04-14-008
232-28-337	AMD	04-11-036	232-28-61900H	REP-E	04-19-006	232-28-61900T	REP-E	04-14-091
232-28-33700B	NEW-E	04-19-025	232-28-61900I	NEW-E	04-04-060	232-28-61900T	NEW-E	04-20-046
232-28-341	AMD-P	04-05-112	232-28-61900I	NEW-E	04-11-050	232-28-61900U	NEW-E	04-09-047
232-28-341	AMD	04-11-036	232-28-61900I	REP-E	04-11-050	232-28-61900U	REP-E	04-14-059
232-28-341	AMD-P	04-13-169	232-28-61900I	NEW-E	04-16-041	232-28-61900U	NEW-E	04-20-082
232-28-351	AMD-P	04-05-107	232-28-61900I	REP-E	04-16-041	232-28-61900U	REP-E	04-20-082
232-28-351	AMD	04-11-036	232-28-61900J	NEW-E	04-05-015	232-28-61900V	NEW-E	04-09-019
232-28-352	AMD-P	04-05-108	232-28-61900J	REP-E	04-05-015	232-28-61900V	REP-E	04-09-019
232-28-352	AMD	04-11-036	232-28-61900J	NEW-E	04-11-076	232-28-61900V	NEW-E	04-14-049
232-28-427	REP-P	04-13-171	232-28-61900J	REP-E	04-11-076	232-28-61900W	NEW-E	04-09-023
232-28-427	REP	04-17-061	232-28-61900J	NEW-E	04-16-068	232-28-61900W	REP-E	04-09-023
232-28-428	NEW-P	04-13-171	232-28-61900K	NEW-E	04-05-033	232-28-61900W	REP-E	04-09-103
232-28-428	NEW	04-17-061	232-28-61900K	REP-E	04-05-033	232-28-61900W	NEW-E	04-14-057
232-28-515	AMD-P	04-13-166	232-28-61900K	REP-E	04-07-026	232-28-61900X	NEW-E	04-09-022
232-28-515	AMD	04-17-061	232-28-61900K	NEW-E	04-12-013	232-28-61900X	REP-E	04-09-022
232-28-619	AMD	04-07-009	232-28-61900K	REP-E	04-12-013	232-28-61900X	NEW-E	04-14-059
232-28-619	AMD-X	04-11-069	232-28-61900K	NEW-E	04-17-070	232-28-61900X	REP-E	04-15-022
232-28-619	AMD-X	04-11-119	232-28-61900K	REP-E	04-17-070	232-28-61900Y	NEW-E	04-09-048
232-28-619	AMD-P	04-13-094	232-28-61900L	NEW-E	04-05-048	232-28-61900Y	REP-E	04-11-072
232-28-619	AMD	04-16-046	232-28-61900L	REP-E	04-05-048	232-28-61900Y	REP-E	04-16-005
232-28-619	AMD	04-19-012	232-28-61900L	NEW-E	04-12-033	232-28-61900Z	NEW-E	04-09-049
232-28-619	AMD-P	04-19-117	232-28-61900L	REP-E	04-12-033	232-28-61900Z	REP-E	04-09-049
232-28-61900A	NEW-E	04-09-103	232-28-61900L	NEW-E	04-17-137	232-28-61900Z	REP-E	04-10-005
232-28-61900A	REP-E	04-09-103	232-28-61900L	REP-E	04-17-137	232-28-61900Z	NEW-E	04-14-091
232-28-61900A	REP-E	04-11-003	232-28-61900M	NEW-E	04-07-007	232-28-620	AMD-X	04-11-079
232-28-61900A	NEW-E	04-15-022	232-28-61900M	REP-E	04-07-007	232-28-620	AMD	04-16-006
232-28-61900B	NEW-E	04-10-005	232-28-61900M	NEW-E	04-12-060	232-28-62000P	NEW-E	04-10-034
232-28-61900B	REP-E	04-10-005	232-28-61900M	REP-E	04-14-049	232-28-62000P	REP-E	04-13-142
232-28-61900B	REP-E	04-10-036	232-28-61900M	NEW-E	04-19-006	232-28-62000Q	NEW-E	04-13-142
232-28-61900B	NEW-E	04-15-044	232-28-61900M	REP-E	04-19-118	232-28-62000Q	REP-E	04-15-110
232-28-61900B	REP-E	04-15-044	232-28-61900N	NEW-E	04-07-004	232-28-62000R	NEW-E	04-15-110
232-28-61900C	NEW-E	04-10-034	232-28-61900N	REP-E	04-07-004	232-28-62000R	REP-E	04-17-059
232-28-61900C	REP-E	04-13-069	232-28-61900N	NEW-E	04-13-035	232-28-62000S	NEW-E	04-17-059
232-28-61900C	NEW-E	04-15-146	232-28-61900N	REP-E	04-13-035	232-28-62000S	REP-E	04-18-021
232-28-61900C	REP-E	04-15-146	232-28-61900N	NEW-E	04-19-063	232-28-62000T	NEW-E	04-18-021
232-28-61900D	NEW-E	04-10-036	232-28-61900P	NEW-E	04-07-026	232-28-62000T	REP-E	04-18-021
232-28-61900D	REP-E	04-10-036	232-28-61900P	REP-E	04-07-026	232-28-62000T	REP-E	04-18-053
232-28-61900D	REP-E	04-11-002	232-28-61900P	REP-E	04-09-049	232-28-62000U	NEW-E	04-18-053
232-28-61900D	NEW-E	04-16-005	232-28-61900P	NEW-E	04-13-054	232-28-62000U	REP-E	04-18-053
232-28-61900D	REP-E	04-16-069	232-28-61900P	REP-E	04-13-054	232-28-62000U	REP-E	04-19-014
232-28-61900E	NEW-E	04-10-063	232-28-61900P	NEW-E	04-19-118	232-28-62000V	NEW-E	04-19-014
232-28-61900E	REP-E	04-12-060	232-28-61900P	REP-E	04-20-039	232-28-62000V	REP-E	04-19-014
232-28-61900E	NEW-E	04-16-011	232-28-61900Q	NEW-E	04-07-067	232-28-62000V	REP-E	04-19-035
232-28-61900E	REP-E	04-18-032	232-28-61900Q	REP-E	04-07-067	232-28-62000W	NEW-E	04-19-035
232-28-61900F	REP-E	04-07-004	232-28-61900Q	NEW-E	04-13-064	232-28-62000W	REP-E	04-19-035
232-28-61900F	NEW-E	04-11-002	232-28-61900Q	REP-E	04-13-164	232-28-621	AMD-X	04-11-079
232-28-61900F	REP-E	04-11-073	232-28-61900Q	NEW-E	04-20-039	232-28-621	AMD	04-16-006
232-28-61900F	NEW-E	04-16-021	232-28-61900R	NEW-E	04-08-005	232-28-62100N	NEW-E	04-10-034
232-28-61900F	REP-E	04-18-085	232-28-61900R	REP-E	04-08-005	232-28-62100N	REP-E	04-13-068
232-28-61900G	NEW-E	04-03-047	232-28-61900R	REP-E	04-08-013	232-28-62100P	NEW-E	04-13-068
232-28-61900G	REP-E	04-03-047	232-28-61900R	NEW-E	04-13-069	232-28-62100P	REP-E	04-17-005
232-28-61900G	REP-E	04-04-028	232-28-61900R	REP-E	04-16-021	232-28-62100Q	NEW-E	04-17-005
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232-28-61900G	NEW-E	04-16-023	232-28-61900S	NEW-E	04-08-013	236-12-290	AMD	04-18-064
232-28-61900G	REP-E	04-17-136	232-28-61900S	NEW-E	04-13-164	236-12-470	PREP	04-10-112
232-28-61900H	NEW-E	04-04-028	232-28-61900S	REP-E	04-14-008	236-12-470	AMD-P	04-19-057
232-28-61900H	REP-E	04-04-028	232-28-61900S	NEW-E	04-20-038	236-22-010	AMD-P	04-20-084
232-28-61900H	REP-E	04-05-032	232-28-61900S	REP-E	04-20-038	236-22-010	DECOD-P	04-20-084
232-28-61900H	NEW-E	04-11-021	232-28-61900T	NEW-E	04-08-049	236-22-020	AMD-P	04-20-084
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236-22-030	DECOD-P	04-20-084	236-51-700	NEW	04-07-104	246-215-100	REP-P	04-16-109
236-22-031	AMD-P	04-20-084	236-51-710	NEW	04-07-104	246-215-110	REP-P	04-16-109
236-22-031	DECOD-P	04-20-084	236-51-715	NEW	04-07-104	246-215-120	REP-P	04-16-109
236-22-032	DECOD-P	04-20-084	236-51-720	NEW	04-07-104	246-215-121	NEW-P	04-16-109
236-22-033	DECOD-P	04-20-084	236-51-725	NEW	04-07-104	246-215-130	REP-P	04-16-109
236-22-034	AMD-P	04-20-084	236-51-730	NEW	04-07-104	246-215-131	NEW-P	04-16-109
236-22-034	DECOD-P	04-20-084	236-51-735	NEW	04-07-104	246-215-140	REP-P	04-16-109
236-22-035	DECOD-P	04-20-084	236-51-740	NEW	04-07-104	246-215-141	NEW-P	04-16-109
236-22-036	AMD-P	04-20-084	236-51-745	NEW	04-07-104	246-215-150	REP-P	04-16-109
236-22-036	DECOD-P	04-20-084	242-02-210	AMD-P	04-18-111	246-215-151	NEW-P	04-16-109
236-22-037	AMD-P	04-20-084	242-02-230	AMD-P	04-18-111	246-215-160	REP-P	04-16-109
236-22-037	DECOD-P	04-20-084	242-02-240	AMD-P	04-18-111	246-215-170	REP-P	04-16-109
236-22-038	AMD-P	04-20-084	242-02-250	AMD-P	04-18-111	246-215-180	REP-P	04-16-109
236-22-038	DECOD-P	04-20-084	242-02-270	AMD-P	04-18-111	246-215-181	NEW-P	04-16-109
236-22-040	DECOD-P	04-20-084	242-02-280	AMD-P	04-18-111	246-215-190	REP-P	04-16-109
236-22-050	AMD-P	04-20-084	242-02-310	AMD-P	04-18-111	246-215-191	NEW-P	04-16-109
236-22-050	DECOD-P	04-20-084	242-02-320	AMD-P	04-18-111	246-215-200	AMD-P	04-16-109
236-22-060	AMD-P	04-20-084	242-02-340	AMD-P	04-18-111	246-215-210	AMD-P	04-16-109
236-22-060	DECOD-P	04-20-084	242-02-52001	AMD-P	04-18-111	246-215-220	AMD-P	04-16-109
236-22-070	AMD-P	04-20-084	242-02-893	AMD-P	04-18-111	246-215-230	REP-P	04-16-109
236-22-070	DECOD-P	04-20-084	246-01	PREP	04-06-043	246-215-240	AMD-P	04-16-109
236-22-080	AMD-P	04-20-084	246-08	PREP	04-06-043	246-215-250	REP-P	04-16-109
236-22-080	DECOD-P	04-20-084	246-50-001	AMD-W	04-02-066	246-215-251	NEW-P	04-16-109
236-22-100	AMD-P	04-20-084	246-50-005	NEW-W	04-02-066	246-215-260	AMD-P	04-16-109
236-22-100	DECOD-P	04-20-084	246-50-010	AMD-W	04-02-066	246-215-270	REP-P	04-16-109
236-22-200	AMD-P	04-20-084	246-50-020	AMD-W	04-02-066	246-215-280	AMD-P	04-16-109
236-22-200	DECOD-P	04-20-084	246-50-030	AMD-W	04-02-066	246-215-290	AMD-P	04-16-109
236-22-210	AMD-P	04-20-084	246-50-035	NEW-W	04-02-066	246-215-300	AMD-P	04-16-109
236-22-210	DECOD-P	04-20-084	246-50-040	REP-W	04-02-066	246-215-311	NEW-P	04-16-109
236-51-001	NEW	04-07-104	246-50-990	AMD-W	04-02-066	246-217-010	PREP-W	04-06-020
236-51-005	NEW	04-07-104	246-100-166	PREP	04-15-148	246-217-010	AMD-P	04-09-056
236-51-006	NEW	04-07-104	246-101-015	PREP	04-12-119	246-217-010	AMD-C	04-11-097
236-51-010	NEW	04-07-104	246-101-015	AMD-P	04-20-067	246-217-010	AMD	04-16-100
236-51-100	NEW	04-07-104	246-101-101	PREP	04-12-119	246-217-015	PREP-W	04-06-020
236-51-110	NEW	04-07-104	246-101-101	AMD-E	04-16-099	246-220-010	AMD-P	04-19-159
236-51-115	NEW	04-07-104	246-101-101	AMD-P	04-20-067	246-221-010	AMD-P	04-19-159
236-51-120	NEW	04-07-104	246-101-201	PREP	04-12-119	246-232-020	AMD	04-04-055
236-51-200	NEW	04-07-104	246-101-201	AMD-E	04-16-099	246-232-040	AMD	04-04-055
236-51-205	NEW	04-07-104	246-101-201	AMD-P	04-20-067	246-232-050	AMD	04-04-055
236-51-210	NEW	04-07-104	246-101-301	PREP	04-12-119	246-232-060	AMD	04-04-055
236-51-215	NEW	04-07-104	246-101-301	AMD-E	04-16-099	246-233-001	AMD	04-04-055
236-51-220	NEW	04-07-104	246-101-301	AMD-P	04-20-067	246-233-005	NEW	04-04-055
236-51-225	NEW	04-07-104	246-215-001	AMD-P	04-16-109	246-233-015	NEW	04-04-055
236-51-300	NEW	04-07-104	246-215-005	NEW-P	04-16-109	246-233-020	AMD	04-04-055
236-51-302	NEW	04-07-104	246-215-010	REP-P	04-16-109	246-233-025	NEW	04-04-055
236-51-305	NEW	04-07-104	246-215-011	NEW-P	04-16-109	246-233-030	NEW	04-04-055
236-51-306	NEW	04-07-104	246-215-020	REP-P	04-16-109	246-233-035	NEW	04-04-055
236-51-310	NEW	04-07-104	246-215-021	NEW-P	04-16-109	246-233-040	NEW	04-04-055
236-51-320	NEW	04-07-104	246-215-030	REP-P	04-16-109	246-235-093	AMD	04-04-055
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236-51-405	NEW	04-07-104	246-215-040	REP-P	04-16-109	246-235-097	AMD	04-04-055
236-51-410	NEW	04-07-104	246-215-041	NEW-P	04-16-109	246-239	PREP	04-18-092
236-51-500	NEW	04-07-104	246-215-050	REP-P	04-16-109	246-239-080	AMD	04-04-055
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236-51-505	NEW	04-07-104	246-215-060	REP-P	04-16-109	246-247-010	AMD	04-18-094
236-51-510	NEW	04-07-104	246-215-061	NEW-P	04-16-109	246-247-040	AMD-P	04-07-180
236-51-515	NEW	04-07-104	246-215-070	REP-P	04-16-109	246-247-040	AMD	04-18-094
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236-51-610	NEW	04-07-104	246-215-081	NEW-P	04-16-109	246-247-075	AMD-W	04-02-067
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246-247-080	AMD-P	04-07-180	246-260-091	NEW	04-18-096	246-282-990	AMD-P	04-11-098
246-247-080	AMD	04-18-094	246-260-100	REP-P	04-08-099	246-282-990	AMD	04-15-154
246-247-085	AMD-P	04-07-180	246-260-100	REP	04-18-096	246-290	PREP	04-06-044
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246-247-110	AMD-W	04-02-067	246-260-101	NEW	04-18-096	246-290-025	AMD	04-04-056
246-247-110	AMD-P	04-07-180	246-260-110	REP-P	04-08-099	246-290-130	AMD	04-04-056
246-247-110	AMD	04-18-094	246-260-110	REP	04-18-096	246-290-300	AMD	04-04-056
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246-247-120	AMD-P	04-07-180	246-260-111	NEW	04-18-096	246-290-320	AMD	04-04-056
246-247-120	AMD	04-18-094	246-260-120	REP-P	04-08-099	246-290-480	AMD	04-04-056
246-247-130	AMD-W	04-02-067	246-260-120	REP	04-18-096	246-290-601	AMD	04-04-056
246-247-130	AMD-P	04-07-180	246-260-121	NEW-P	04-08-099	246-290-630	AMD	04-04-056
246-247-130	AMD	04-18-094	246-260-121	NEW	04-18-096	246-290-660	AMD	04-04-056
246-254-053	AMD-P	04-07-181	246-260-130	REP-P	04-08-099	246-290-664	AMD	04-04-056
246-254-053	AMD	04-12-125	246-260-130	REP	04-18-096	246-290-666	AMD	04-04-056
246-254-070	AMD-P	04-07-175	246-260-131	NEW-P	04-08-099	246-290-72010	AMD	04-04-056
246-254-070	AMD	04-12-124	246-260-131	NEW	04-18-096	246-290-72012	AMD	04-04-056
246-254-080	AMD-P	04-07-175	246-260-140	REP-P	04-08-099	246-290-990	AMD-P	04-06-046
246-254-080	AMD	04-12-124	246-260-140	REP	04-18-096	246-290-990	AMD-C	04-10-013
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246-254-090	AMD-P	04-07-175	246-260-141	NEW	04-18-096	246-292	PREP	04-13-051
246-254-090	AMD	04-12-124	246-260-150	REP-P	04-08-099	246-292-160	AMD-P	04-06-046
246-254-100	AMD-P	04-07-175	246-260-150	REP	04-18-096	246-292-160	AMD-C	04-10-013
246-254-100	AMD	04-12-124	246-260-151	NEW-P	04-08-099	246-292-160	AMD	04-12-123
246-254-120	AMD-P	04-07-175	246-260-151	NEW	04-18-096	246-294	PREP	04-15-147
246-254-120	AMD	04-12-124	246-260-160	REP-P	04-08-099	246-294-001	AMD	04-06-047
246-260	AMD-C	04-12-118	246-260-160	REP	04-18-096	246-294-010	AMD	04-06-047
246-260-001	AMD-P	04-08-099	246-260-170	REP-P	04-08-099	246-294-020	AMD	04-06-047
246-260-001	AMD	04-18-096	246-260-170	REP	04-18-096	246-294-030	AMD	04-06-047
246-260-010	AMD-P	04-08-099	246-260-171	NEW-P	04-08-099	246-294-040	AMD	04-06-047
246-260-010	AMD	04-18-096	246-260-171	NEW	04-18-096	246-294-050	AMD	04-06-047
246-260-020	REP-P	04-08-099	246-260-181	NEW-P	04-08-099	246-294-060	AMD	04-06-047
246-260-020	REP	04-18-096	246-260-181	NEW	04-18-096	246-294-070	AMD	04-06-047
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246-260-021	NEW	04-18-096	246-260-191	NEW	04-18-096	246-294-090	AMD	04-06-047
246-260-030	REP-P	04-08-099	246-260-200	REP-P	04-08-099	246-310-010	AMD-X	04-10-014
246-260-030	REP	04-18-096	246-260-200	REP	04-18-096	246-310-010	PREP	04-15-150
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246-260-031	NEW	04-18-096	246-260-201	NEW	04-18-096	246-310-132	REP-P	04-11-099
246-260-040	REP-P	04-08-099	246-260-210	REP-P	04-08-099	246-310-210	PREP	04-15-150
246-260-040	REP	04-18-096	246-260-210	REP	04-18-096	246-310-220	PREP	04-15-150
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246-260-041	NEW	04-18-096	246-260-211	NEW	04-18-096	246-310-240	PREP	04-15-150
246-260-050	REP-P	04-08-099	246-260-220	REP-P	04-08-099	246-310-261	AMD-P	04-11-099
246-260-050	REP	04-18-096	246-260-220	REP	04-18-096	246-310-262	AMD-P	04-11-099
246-260-051	NEW-P	04-08-099	246-260-221	NEW-P	04-08-099	246-310-263	NEW-P	04-11-099
246-260-051	NEW	04-18-096	246-260-221	NEW	04-18-096	246-310-280	PREP	04-15-150
246-260-060	REP-P	04-08-099	246-260-230	REP-P	04-08-099	246-310-990	AMD-P	04-11-099
246-260-060	REP	04-18-096	246-260-230	REP	04-18-096	246-320-010	AMD	04-11-057
246-260-061	NEW-P	04-08-099	246-260-240	REP-P	04-08-099	246-320-370	NEW	04-11-057
246-260-061	NEW	04-18-096	246-260-240	REP	04-18-096	246-320-990	AMD-P	04-13-161
246-260-070	REP-P	04-08-099	246-260-250	REP-P	04-08-099	246-320-990	AMD	04-19-141
246-260-070	REP	04-18-096	246-260-250	REP	04-18-096	246-322-990	AMD-P	04-13-161
246-260-071	NEW-P	04-08-099	246-260-260	REP-P	04-08-099	246-322-990	AMD	04-19-141
246-260-071	NEW	04-18-096	246-260-260	REP	04-18-096	246-323-990	AMD-P	04-14-066
246-260-080	REP-P	04-08-099	246-260-260	REP	04-18-096	246-323-990	AMD	04-19-140
246-260-080	REP	04-18-096	246-260-999	NEW-P	04-08-099	246-324-990	AMD-P	04-13-161
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246-260-081	NEW	04-18-096	246-260-99901	NEW	04-18-096	246-325-990	AMD-P	04-13-161
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246-335-990	PREP	04-09-054	246-828-095	AMD	04-02-068	246-847-190	PREP	04-11-095
246-335-990	AMD-P	04-13-160	246-828-100	AMD	04-02-068	246-851-160	REP-P	04-15-153
246-335-990	AMD	04-19-142	246-828-105	AMD	04-02-068	246-851-170	AMD-P	04-15-153
246-360-001	AMD-P	04-12-117	246-828-220	AMD	04-02-068	246-851-570	NEW	04-05-004
246-360-010	AMD-P	04-12-117	246-828-270	AMD	04-02-068	246-851-580	NEW-P	04-06-045
246-360-020	AMD-P	04-12-117	246-828-290	AMD	04-02-068	246-851-580	NEW	04-12-127
246-360-030	AMD-P	04-12-117	246-828-320	AMD	04-02-068	246-851-590	NEW-P	04-06-045
246-360-035	NEW-P	04-12-117	246-828-330	AMD	04-02-068	246-851-590	NEW	04-12-127
246-360-040	AMD-P	04-12-117	246-828-350	AMD	04-02-068	246-851-600	NEW	04-05-004
246-360-050	AMD-P	04-12-117	246-828-500	AMD	04-02-068	246-851-610	NEW-P	04-06-045
246-360-070	AMD-P	04-12-117	246-828-500	PREP	04-13-050	246-851-610	NEW	04-12-127
246-360-080	AMD-P	04-12-117	246-828-510	PREP	04-13-050	246-873-090	PREP-W	04-07-010
246-360-090	AMD-P	04-12-117	246-828-530	PREP	04-13-050	246-887-160	AMD-X	04-03-105
246-360-100	AMD-P	04-12-117	246-828-550	AMD	04-02-068	246-887-160	AMD	04-13-162
246-360-110	AMD-P	04-12-117	246-828-550	PREP	04-13-050	246-888-010	AMD-P	04-08-097
246-360-120	AMD-P	04-12-117	246-828-990	AMD	04-02-068	246-888-010	AMD	04-18-095
246-360-130	AMD-P	04-12-117	246-834-990	AMD-P	04-15-152	246-888-020	AMD-P	04-08-097
246-360-140	AMD-P	04-12-117	246-840-010	AMD-E	04-05-043	246-888-020	AMD	04-18-095
246-360-150	AMD-P	04-12-117	246-840-010	AMD-P	04-09-057	246-888-030	AMD-P	04-08-097
246-360-160	AMD-P	04-12-117	246-840-010	AMD	04-13-053	246-888-030	AMD	04-18-095
246-360-180	AMD-P	04-12-117	246-840-700	AMD-E	04-06-009	246-888-040	RECOD-P	04-08-097
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246-360-230	NEW-P	04-12-117	246-840-840	AMD-E	04-05-043	246-888-045	RECOD	04-18-095
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246-360-990	AMD-P	04-13-161	246-840-840	AMD	04-13-053	246-888-050	RECOD-P	04-08-097
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246-808-190	PREP	04-02-064	246-840-860	AMD-E	04-05-043	246-888-060	RECOD-P	04-08-097
246-808-535	PREP	04-02-064	246-840-860	AMD-P	04-09-057	246-888-060	DECOD	04-18-095
246-809	PREP	04-17-052	246-840-860	AMD	04-13-053	246-888-060	RECOD	04-18-095
246-809	PREP	04-17-053	246-840-870	AMD-E	04-05-043	246-888-070	AMD-P	04-08-097
246-809-610	AMD	04-06-010	246-840-870	AMD-P	04-09-057	246-888-070	DECOD-P	04-08-097
246-809-620	AMD	04-06-010	246-840-870	AMD	04-13-053	246-888-070	RECOD-P	04-08-097
246-809-630	AMD	04-06-010	246-840-880	AMD-E	04-05-043	246-888-070	AMD	04-18-095
246-809-700	NEW	04-06-011	246-840-880	AMD-P	04-09-057	246-888-070	DECOD	04-18-095
246-809-710	NEW	04-06-011	246-840-880	AMD	04-13-053	246-888-070	RECOD	04-18-095
246-809-720	NEW	04-06-011	246-840-890	AMD-E	04-05-043	246-888-080	DECOD-P	04-08-097
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246-815-020	AMD-P	04-12-122	246-840-890	AMD	04-13-053	246-888-080	DECOD	04-18-095
246-815-020	AMD	04-20-049	246-840-900	REP-E	04-05-043	246-888-080	RECOD	04-18-095
246-815-050	AMD-P	04-12-122	246-840-900	AMD-P	04-09-057	246-888-090	DECOD-P	04-08-097
246-815-050	AMD	04-20-049	246-840-900	AMD	04-13-053	246-888-090	RECOD-P	04-08-097
246-815-100	AMD-P	04-12-122	246-840-905	NEW-P	04-09-057	246-888-090	DECOD	04-18-095
246-815-100	AMD	04-20-049	246-840-905	NEW	04-13-053	246-888-090	RECOD	04-18-095
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246-815-110	AMD	04-20-049	246-840-910	AMD-P	04-10-078	246-888-100	RECOD-P	04-08-097
246-815-115	AMD-P	04-12-122	246-840-910	AMD	04-14-065	246-888-100	DECOD	04-18-095
246-815-115	AMD	04-20-049	246-840-930	AMD-E	04-06-009	246-888-100	RECOD	04-18-095
246-815-990	AMD-P	04-18-093	246-840-930	AMD-P	04-10-078	246-888-110	DECOD-P	04-08-097
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246-915-140	AMD	04-13-052	246-930-040	PREP-W	04-10-012	251-06-020	AMD-P	04-11-115
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246-915-182	NEW	04-08-102	246-930-310	PREP-W	04-10-012	251-08-007	AMD-P	04-11-115
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246-915-220	AMD	04-08-100	246-930-330	PREP	04-13-159	251-08-070	AMD-P	04-11-115
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246-915-230	AMD	04-08-100	246-976-010	AMD-X	04-18-097	251-08-100	AMD-E	04-16-054
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246-915-270	AMD	04-08-100	250-65	PREP	04-08-059	251-09-080	AMD	04-15-020
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246-915-280	AMD	04-08-100	250-65	AMD-E	04-16-078	251-09-090	AMD	04-15-020
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246-918-120	AMD	04-11-100	250-65-062	NEW-E	04-16-078	251-09-094	AMD	04-15-020
246-919-110	AMD	04-04-067	250-65-063	NEW-E	04-16-078	251-09-100	AMD-P	04-11-115
246-919-320	AMD	04-04-067	250-65-064	NEW-E	04-16-078	251-09-100	AMD	04-15-020
246-919-330	AMD-W	04-04-078	250-65-070	NEW-P	04-16-077	251-10-025	AMD-E	04-16-054
246-919-360	AMD	04-04-067	250-65-080	NEW-P	04-16-077	251-10-025	AMD-P	04-16-114
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246-924-060	PREP	04-17-130	250-65-110	NEW-P	04-16-077	251-19-070	AMD-P	04-11-115
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246-924-095	PREP	04-17-130	251-01-160	AMD	04-15-020	251-22-060	AMD-E	04-16-054
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246-924-353	PREP	04-20-048	251-01-310	AMD	04-15-020	251-22-200	AMD-P	04-16-114
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246-924-355	PREP	04-20-048	251-01-382	AMD	04-15-020	251-22-240	AMD-P	04-11-115
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251-30-010	DECOD	04-11-045	257-05-134	NEW-P	04-17-138	260-48-900	AMD-P	04-04-048
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251-30-020	DECOD-P	04-07-188	257-05-180	NEW-P	04-17-138	260-48-910	AMD	04-07-077
251-30-020	RECOD-P	04-07-188	257-05-200	NEW-P	04-17-138	260-49-010	NEW-E	04-11-056
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251-30-030	DECOD-P	04-07-188	260-08-600	REP	04-05-089	260-49-020	NEW-E	04-19-030
251-30-030	RECOD-P	04-07-188	260-08-610	REP	04-05-089	260-49-030	NEW-E	04-11-056
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251-30-030	DECOD	04-11-045	260-08-630	AMD	04-05-089	260-49-030	NEW-E	04-19-030
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251-30-040	REP-P	04-07-188	260-14-040	AMD-P	04-18-098	260-49-050	NEW-E	04-19-030
251-30-040	REP	04-11-045	260-14-040	AMD-E	04-19-030	260-49-060	NEW-E	04-11-056
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251-30-050	REP	04-11-045	260-14-050	AMD-P	04-16-035	260-49-060	NEW-E	04-19-030
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251-30-060	REP	04-11-045	260-24-510	AMD-P	04-14-101	260-49-080	NEW-E	04-19-030
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263- 12-106	NEW	04-16-009	284- 17-250	PREP	04-15-155	286- 42-090	NEW-P	04-20-097
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284- 03-010	AMD-P	04-11-107	284- 17-320	PREP	04-15-155	288- 02-020	NEW	04-19-032
284- 03-010	AMD	04-15-157	284- 17B-005	NEW-P	04-15-156	288- 02-030	NEW-X	04-14-019
284- 03-015	NEW-P	04-11-107	284- 17B-010	NEW-P	04-15-156	288- 02-030	NEW	04-19-032
284- 03-015	NEW	04-15-157	284- 17B-015	NEW-P	04-15-156	292- 10-040	AMD-X	04-12-005
284- 03-020	AMD-P	04-11-107	284- 17B-020	NEW-P	04-15-156	292-110-060	AMD-P	04-12-077
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284- 03-025	NEW	04-15-157	284- 17B-035	NEW-P	04-15-156	296- 05-007	AMD-P	04-04-014
284- 03-030	AMD-P	04-11-107	284- 17B-040	NEW-P	04-15-156	296- 05-007	AMD	04-10-032
284- 03-030	AMD	04-15-157	284- 17B-045	NEW-P	04-15-156	296- 05-008	NEW-P	04-04-014
284- 03-035	NEW-P	04-11-107	284- 17B-050	NEW-P	04-15-156	296- 05-008	NEW	04-10-032
284- 03-035	NEW	04-15-157	284- 17B-055	NEW-P	04-15-156	296- 14-400	AMD-E	04-13-063
284- 03-040	AMD-P	04-11-107	284- 17B-060	NEW-P	04-15-156	296- 14-400	PREP	04-13-131
284- 03-040	AMD	04-15-157	284- 17B-065	NEW-P	04-15-156	296- 14-400	AMD-P	04-17-093
284- 03-045	NEW-P	04-11-107	284- 17B-070	NEW-P	04-15-156	296- 14-4121	NEW-P	04-14-082
284- 03-045	NEW	04-15-157	284- 17B-075	NEW-P	04-15-156	296- 14-4121	NEW	04-20-024
284- 03-050	AMD-P	04-11-107	284- 17B-080	NEW-P	04-15-156	296- 14-4122	NEW-P	04-14-082
284- 03-050	AMD	04-15-157	284- 24A	PREP	04-11-108	296- 14-4122	NEW	04-20-024
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284- 03-055	NEW	04-15-157	284- 24A-010	AMD-P	04-17-127	296- 14-4123	NEW	04-20-024
284- 03-060	AMD-P	04-11-107	284- 24A-033	NEW-P	04-17-127	296- 14-4124	NEW-P	04-14-082
284- 03-060	AMD	04-15-157	284- 24A-045	AMD-P	04-17-127	296- 14-4124	NEW	04-20-024
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284- 03-065	NEW	04-15-157	284- 24A-055	AMD-P	04-17-127	296- 14-4125	NEW	04-20-024
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284- 03-070	AMD	04-15-157	284- 43	PREP	04-17-126	296- 14-4126	NEW	04-20-024
284- 03-075	NEW-P	04-11-107	284- 53-005	AMD-P	04-17-128	296- 14-4127	NEW-P	04-14-082
284- 03-075	NEW	04-15-157	284- 53-010	AMD-P	04-17-128	296- 14-4127	NEW	04-20-024
284- 03-080	REP-P	04-11-107	284- 74-400	NEW	04-04-070	296- 14-4128	NEW-P	04-14-082
284- 03-080	REP	04-15-157	284- 74-410	NEW	04-04-070	296- 14-4128	NEW	04-20-024
284- 03-090	REP-P	04-11-107	284- 74-420	NEW	04-04-070	296- 14-4129	NEW-P	04-14-082
284- 03-090	REP	04-15-157	284- 74-430	NEW	04-04-070	296- 14-4129	NEW	04-20-024
284- 03-100	AMD-P	04-11-107	284- 74-440	NEW	04-04-070	296- 16	PREP	04-15-103
284- 03-100	AMD	04-15-157	284- 74-450	NEW	04-04-070	296- 16-010	REP-P	04-19-106
284- 03-105	NEW-P	04-11-107	284- 74-460	NEW	04-04-070	296- 16-100	NEW-P	04-19-106
284- 03-105	NEW	04-15-157	286- 04-010	AMD-P	04-20-097	296- 16-110	NEW-P	04-19-106
284- 03-110	REP-P	04-11-107	286- 04-090	AMD-P	04-20-097	296- 16-115	NEW-P	04-19-106
284- 03-110	REP	04-15-157	286- 13-010	AMD-P	04-20-097	296- 16-120	NEW-P	04-19-106
284- 03-120	REP-P	04-11-107	286- 13-040	AMD-P	04-20-098	296- 16-130	NEW-P	04-19-106
284- 03-120	REP	04-15-157	286- 26-020	AMD-P	04-20-098	296- 16-140	NEW-P	04-19-106
284- 03-130	REP-P	04-11-107	286- 26-080	AMD-P	04-20-098	296- 16-150	NEW-P	04-19-106
284- 03-130	REP	04-15-157	286- 26-083	NEW-P	04-20-098	296- 16-160	NEW-P	04-19-106
284- 03-140	REP-P	04-11-107	286- 26-085	NEW-P	04-20-098	296- 16-170	NEW-P	04-19-106
284- 03-140	REP	04-15-157	286- 26-090	AMD-P	04-20-098	296- 17	PREP	04-04-098
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284- 03-990	REP	04-15-157	286- 26-100	AMD-P	04-20-098	296- 17	PREP	04-09-098
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284- 03-99001	REP	04-15-157	286- 42-010	NEW-P	04-20-097	296- 17-31002	AMD-P	04-13-128
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284- 17-220	PREP	04-15-155	286- 42-050	NEW-P	04-20-097	296- 17-310041	NEW-P	04-14-081
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296-17-310045	NEW-P	04-14-081	296-20-01501	PREP	04-13-131	296-23-381	NEW	04-04-029
296-17-310046	NEW-P	04-14-081	296-20-01501	AMD-P	04-17-093	296-23-382	NEW	04-04-029
296-17-310047	NEW-P	04-14-081	296-20-01502	NEW-E	04-13-063	296-23-387	NEW	04-04-029
296-17-31009	AMD-P	04-13-128	296-20-01502	PREP	04-13-131	296-23-392	NEW	04-04-029
296-17-31009	AMD	04-18-025	296-20-01502	NEW-P	04-17-093	296-24	PREP	04-05-074
296-17-31013	AMD-P	04-07-122	296-20-02704	AMD-P	04-03-082	296-24	PREP	04-06-078
296-17-31013	AMD	04-13-017	296-20-02704	AMD	04-08-040	296-24	PREP	04-07-154
296-17-31013	AMD-P	04-13-128	296-20-02705	AMD-P	04-03-082	296-24	PREP	04-07-157
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296-17-31014	AMD-P	04-13-128	296-20-03012	AMD-P	04-03-082	296-24-012	AMD	04-07-161
296-17-31014	AMD	04-18-025	296-20-03012	AMD	04-08-040	296-24-110	REP-P	04-03-102
296-17-31024	AMD-P	04-13-128	296-20-06101	AMD-E	04-13-063	296-24-110	REP	04-15-105
296-17-31024	AMD	04-18-025	296-20-06101	PREP	04-13-131	296-24-11001	REP-P	04-03-102
296-17-31025	AMD-P	04-13-128	296-20-06101	AMD-P	04-17-093	296-24-11001	REP	04-15-105
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296-17-31030	NEW-P	04-14-081	296-20-135	AMD	04-09-100	296-24-11003	REP	04-15-105
296-17-31030	NEW	04-20-023	296-20-200	AMD	04-04-029	296-24-11005	REP-P	04-03-102
296-17-31031	NEW-P	04-14-081	296-20-2010	NEW	04-04-029	296-24-11005	REP	04-15-105
296-17-31032	NEW-P	04-14-081	296-20-2015	NEW	04-04-029	296-24-11007	REP-P	04-03-102
296-17-31033	NEW-P	04-14-081	296-20-2020	NEW-W	04-10-072	296-24-11007	REP	04-15-105
296-17-517	AMD-P	04-14-081	296-20-2025	NEW	04-04-029	296-24-11009	REP-P	04-03-102
296-17-517	AMD	04-20-023	296-20-2030	NEW	04-04-029	296-24-11009	REP	04-15-105
296-17-52002	AMD-P	04-14-081	296-20-210	REP	04-04-029	296-24-11011	REP-P	04-03-102
296-17-52002	AMD	04-20-023	296-23-220	AMD-P	04-05-075	296-24-11011	REP	04-15-105
296-17-52102	AMD-P	04-14-081	296-23-220	AMD	04-09-100	296-24-11013	REP-P	04-03-102
296-17-52102	AMD	04-20-023	296-23-230	AMD-P	04-05-075	296-24-11013	REP	04-15-105
296-17-52150	AMD-P	04-14-081	296-23-230	AMD	04-09-100	296-24-11015	REP-P	04-03-102
296-17-52150	AMD	04-20-023	296-23-240	AMD-E	04-13-063	296-24-11015	REP	04-15-105
296-17-527	AMD-P	04-13-128	296-23-240	PREP	04-13-131	296-24-11017	REP-P	04-03-102
296-17-527	AMD	04-18-025	296-23-240	AMD-P	04-17-093	296-24-11017	REP	04-15-105
296-17-644	AMD-W	04-06-060	296-23-241	NEW-E	04-13-063	296-24-119	REP-P	04-03-102
296-17-64999	AMD-P	04-13-128	296-23-241	PREP	04-13-131	296-24-119	REP	04-15-105
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296-17-72202	AMD	04-18-025	296-23-26501	REP	04-04-029	296-24-13501	REP	04-18-080
296-17-855	AMD-P	04-19-033	296-23-26502	REP	04-04-029	296-24-140	REP-X	04-12-069
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296-17-875	AMD-P	04-19-033	296-23-26505	REP	04-04-029	296-24-14001	REP	04-18-080
296-17-880	AMD-P	04-19-033	296-23-26506	REP	04-04-029	296-24-14003	REP-X	04-12-069
296-17-885	AMD-P	04-19-033	296-23-267	REP	04-04-029	296-24-14003	REP	04-18-080
296-17-890	AMD-P	04-19-033	296-23-270	REP	04-04-029	296-24-14005	REP-X	04-12-069
296-17-895	AMD-P	04-07-122	296-23-302	NEW	04-04-029	296-24-14005	REP	04-18-080
296-17-895	AMD	04-13-017	296-23-307	NEW	04-04-029	296-24-14007	REP-X	04-12-069
296-17-895	AMD-P	04-19-033	296-23-312	NEW	04-04-029	296-24-14007	REP	04-18-080
296-17-89502	AMD-P	04-19-055	296-23-317	NEW	04-04-029	296-24-14009	REP-X	04-12-069
296-17-90492	AMD-P	04-19-033	296-23-322	NEW	04-04-029	296-24-14009	REP	04-18-080
296-17-920	AMD-P	04-19-055	296-23-327	NEW	04-04-029	296-24-14011	REP-X	04-12-069
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296-19A-210	AMD	04-08-045	296-23-337	NEW	04-04-029	296-24-150	REP-P	04-03-085
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296-20-01002	AMD	04-08-040	296-23-357	NEW	04-04-029	296-24-15003	REP-P	04-03-085
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296-24-15007	REP	04-14-028	296-24-19003	REP	04-14-028	296-24-20501	REP	04-14-028
296-24-15009	REP-P	04-03-085	296-24-19005	REP-P	04-03-085	296-24-20503	REP-P	04-03-085
296-24-15009	REP	04-14-028	296-24-19005	REP	04-14-028	296-24-20503	REP	04-14-028
296-24-165	REP-P	04-03-085	296-24-19007	REP-P	04-03-085	296-24-20505	REP-P	04-03-085
296-24-165	REP	04-14-028	296-24-19007	REP	04-14-028	296-24-20505	REP	04-14-028
296-24-16501	REP-P	04-03-085	296-24-19009	REP-P	04-03-085	296-24-20507	REP-P	04-03-085
296-24-16501	REP	04-14-028	296-24-19009	REP	04-14-028	296-24-20507	REP	04-14-028
296-24-16503	REP-P	04-03-085	296-24-19011	REP-P	04-03-085	296-24-20509	REP-P	04-03-085
296-24-16503	REP	04-14-028	296-24-19011	REP	04-14-028	296-24-20509	REP	04-14-028
296-24-16505	REP-P	04-03-085	296-24-19013	REP-P	04-03-085	296-24-20511	REP-P	04-03-085
296-24-16505	REP	04-14-028	296-24-19013	REP	04-14-028	296-24-20511	REP	04-14-028
296-24-16507	REP-P	04-03-085	296-24-19015	REP-P	04-03-085	296-24-20513	REP-P	04-03-085
296-24-16507	REP	04-14-028	296-24-19015	REP	04-14-028	296-24-20513	REP	04-14-028
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296-24-16509	REP	04-14-028	296-24-195	REP	04-14-028	296-24-20515	REP	04-14-028
296-24-16511	REP-P	04-03-085	296-24-19501	REP-P	04-03-085	296-24-20517	REP-P	04-03-085
296-24-16511	REP	04-14-028	296-24-19501	REP	04-14-028	296-24-20517	REP	04-14-028
296-24-16513	REP-P	04-03-085	296-24-19503	REP-P	04-03-085	296-24-20519	REP-P	04-03-085
296-24-16513	REP	04-14-028	296-24-19503	REP	04-14-028	296-24-20519	REP	04-14-028
296-24-16515	REP-P	04-03-085	296-24-19505	REP-P	04-03-085	296-24-20521	REP-P	04-03-085
296-24-16515	REP	04-14-028	296-24-19505	REP	04-14-028	296-24-20521	REP	04-14-028
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296-24-16517	REP	04-14-028	296-24-19507	REP	04-14-028	296-24-20523	REP	04-14-028
296-24-16519	REP-P	04-03-085	296-24-19509	REP-P	04-03-085	296-24-20525	REP-P	04-03-085
296-24-16519	REP	04-14-028	296-24-19509	REP	04-14-028	296-24-20525	REP	04-14-028
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296-24-16521	REP	04-14-028	296-24-19511	REP	04-14-028	296-24-20527	REP	04-14-028
296-24-16523	REP-P	04-03-085	296-24-19513	REP-P	04-03-085	296-24-20529	REP-P	04-03-085
296-24-16523	REP	04-14-028	296-24-19513	REP	04-14-028	296-24-20529	REP	04-14-028
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296-24-16527	REP	04-14-028	296-24-19517	REP	04-14-028	296-24-20533	REP	04-14-028
296-24-16529	REP-P	04-03-085	296-24-197	REP-P	04-03-085	296-24-20699	REP-P	04-03-085
296-24-16529	REP	04-14-028	296-24-197	REP	04-14-028	296-24-20699	REP	04-14-028
296-24-16531	REP-P	04-03-085	296-24-200	REP-P	04-03-085	296-24-20700	REP-P	04-03-085
296-24-16531	REP	04-14-028	296-24-200	REP	04-14-028	296-24-20700	REP	04-14-028
296-24-16533	REP-P	04-03-085	296-24-20001	REP-P	04-03-085	296-24-20710	REP-P	04-03-085
296-24-16533	REP	04-14-028	296-24-20001	REP	04-14-028	296-24-20710	REP	04-14-028
296-24-16535	REP-P	04-03-085	296-24-20003	REP-P	04-03-085	296-24-20720	REP-P	04-03-085
296-24-16535	REP	04-14-028	296-24-20003	REP	04-14-028	296-24-20720	REP	04-14-028
296-24-16537	REP-P	04-03-085	296-24-20005	REP-P	04-03-085	296-24-20730	REP-P	04-03-085
296-24-16537	REP	04-14-028	296-24-20005	REP	04-14-028	296-24-20730	REP	04-14-028
296-24-16539	REP-P	04-03-085	296-24-20007	REP-P	04-03-085	296-24-21701	REP-P	04-12-071
296-24-16539	REP	04-14-028	296-24-20007	REP	04-14-028	296-24-21701	REP	04-20-079
296-24-180	REP-P	04-03-085	296-24-20009	REP-P	04-03-085	296-24-21703	REP-P	04-12-071
296-24-180	REP	04-14-028	296-24-20009	REP	04-14-028	296-24-21703	REP	04-20-079
296-24-18001	REP-P	04-03-085	296-24-20011	REP-P	04-03-085	296-24-21705	REP-P	04-12-071
296-24-18001	REP	04-14-028	296-24-20011	REP	04-14-028	296-24-21705	REP	04-20-079
296-24-18003	REP-P	04-03-085	296-24-20013	REP-P	04-03-085	296-24-21707	REP-P	04-12-071
296-24-18003	REP	04-14-028	296-24-20013	REP	04-14-028	296-24-21707	REP	04-20-079
296-24-18005	REP-P	04-03-085	296-24-20015	REP-P	04-03-085	296-24-21709	REP-P	04-12-071
296-24-18005	REP	04-14-028	296-24-20015	REP	04-14-028	296-24-21709	REP	04-20-079
296-24-18007	REP-P	04-03-085	296-24-20017	REP-P	04-03-085	296-24-21711	REP-P	04-12-071
296-24-18007	REP	04-14-028	296-24-20017	REP	04-14-028	296-24-21711	REP	04-20-079
296-24-18009	REP-P	04-03-085	296-24-20019	REP-P	04-03-085	296-24-21713	REP-P	04-12-071
296-24-18009	REP	04-14-028	296-24-20019	REP	04-14-028	296-24-21713	REP	04-20-079
296-24-190	REP-P	04-03-085	296-24-20021	REP-P	04-03-085	296-24-230	REP-P	04-08-039
296-24-190	REP	04-14-028	296-24-20021	REP	04-14-028	296-24-230	REP	04-19-051
296-24-19001	REP-P	04-03-085	296-24-205	REP-P	04-03-085	296-24-23001	REP-P	04-08-039

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296-24-23003	REP-P	04-08-039	296-24-86015	REP-P	04-14-027	296-46B-900	PREP	04-14-088
296-24-23003	REP	04-19-051	296-24-86020	REP-P	04-14-027	296-46B-900	AMD-E	04-16-076
296-24-23005	REP-P	04-08-039	296-24-861	REP-P	04-14-027	296-46B-900	AMD-P	04-17-094
296-24-23005	REP	04-19-051	296-24-86105	REP-P	04-14-027	296-46B-905	AMD-P	04-08-088
296-24-23007	REP-P	04-08-039	296-24-86110	REP-P	04-14-027	296-46B-905	AMD	04-12-049
296-24-23007	REP	04-19-051	296-24-86115	REP-P	04-14-027	296-46B-905	PREP	04-14-088
296-24-23009	REP-P	04-08-039	296-24-86120	REP-P	04-14-027	296-46B-905	AMD-P	04-17-094
296-24-23009	REP	04-19-051	296-24-86125	REP-P	04-14-027	296-46B-910	AMD-P	04-08-088
296-24-23011	REP-P	04-08-039	296-24-86130	REP-P	04-14-027	296-46B-910	AMD	04-12-049
296-24-23011	REP	04-19-051	296-24-88020	AMD-P	04-03-085	296-46B-911	AMD-P	04-08-088
296-24-23013	REP-P	04-08-039	296-24-88020	AMD	04-14-028	296-46B-911	AMD	04-12-049
296-24-23013	REP	04-19-051	296-24-90003	AMD-P	04-03-085	296-46B-915	AMD-P	04-08-088
296-24-23015	REP-P	04-08-039	296-24-90003	AMD	04-14-028	296-46B-915	AMD	04-12-049
296-24-23015	REP	04-19-051	296-24-95603	AMD	04-07-161	296-46B-915	PREP	04-14-088
296-24-23017	REP-P	04-08-039	296-24-975	AMD-P	04-03-102	296-46B-915	AMD-P	04-17-094
296-24-23017	REP	04-19-051	296-24-975	AMD	04-15-105	296-46B-920	AMD-P	04-08-088
296-24-23019	REP-P	04-08-039	296-24-980	AMD-X	04-12-069	296-46B-920	AMD	04-12-049
296-24-23019	REP	04-19-051	296-24-980	AMD	04-18-080	296-46B-925	AMD-P	04-08-088
296-24-23021	REP-P	04-08-039	296-30-081	PREP	04-04-099	296-46B-925	AMD	04-12-049
296-24-23021	REP	04-19-051	296-30-081	AMD-P	04-08-091	296-46B-925	PREP	04-14-088
296-24-23023	REP-P	04-08-039	296-30-081	AMD	04-14-069	296-46B-925	AMD-P	04-17-094
296-24-23023	REP	04-19-051	296-30-090	AMD-P	04-17-093	296-46B-930	AMD-P	04-08-088
296-24-23025	REP-P	04-08-039	296-30-090	AMD-E	04-18-112	296-46B-930	AMD	04-12-049
296-24-23025	REP	04-19-051	296-31-070	AMD-P	04-08-091	296-46B-935	AMD-P	04-08-088
296-24-23027	REP-P	04-08-039	296-31-070	AMD	04-14-069	296-46B-935	AMD	04-12-049
296-24-23027	REP	04-19-051	296-37-510	AMD-X	04-11-065	296-46B-940	AMD-P	04-08-088
296-24-23029	REP-P	04-08-039	296-37-510	AMD	04-18-078	296-46B-940	AMD	04-12-049
296-24-23029	REP	04-19-051	296-37-515	AMD-X	04-11-065	296-46B-945	AMD-P	04-08-088
296-24-23031	REP-P	04-08-039	296-37-515	AMD	04-18-078	296-46B-945	AMD	04-12-049
296-24-23031	REP	04-19-051	296-37-570	AMD-X	04-11-065	296-46B-950	AMD-P	04-08-088
296-24-23033	REP-P	04-08-039	296-37-570	AMD	04-18-078	296-46B-950	AMD	04-12-049
296-24-23033	REP	04-19-051	296-37-575	AMD	04-10-026	296-46B-970	AMD-P	04-08-088
296-24-23035	REP-P	04-08-039	296-37-595	NEW-X	04-11-065	296-46B-970	AMD	04-12-049
296-24-23035	REP	04-19-051	296-37-595	NEW	04-18-078	296-46B-970	PREP	04-14-088
296-24-23037	REP-P	04-08-039	296-45-125	AMD	04-07-160	296-46B-970	AMD-E	04-16-076
296-24-23037	REP	04-19-051	296-45-175	AMD-P	04-03-102	296-46B-970	AMD-P	04-17-094
296-24-233	AMD-P	04-12-071	296-45-175	AMD	04-15-105	296-46B-990	AMD-P	04-08-088
296-24-233	AMD	04-20-079	296-46B	PREP	04-20-077	296-46B-990	AMD	04-12-049
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296-24-33009	AMD-X	04-12-069	296-46B-010	AMD	04-12-049	296-46B-995	AMD	04-12-049
296-24-33009	AMD	04-18-080	296-46B-020	AMD-P	04-08-088	296-46B-999	AMD-P	04-08-088
296-24-37013	AMD-X	04-12-069	296-46B-020	AMD	04-12-049	296-46B-999	AMD	04-12-049
296-24-37013	AMD	04-18-080	296-46B-030	AMD-P	04-08-088	296-54-51150	AMD-X	04-20-080
296-24-47511	AMD-P	04-08-039	296-46B-030	AMD	04-12-049	296-54-573	AMD-P	04-03-085
296-24-47511	AMD	04-19-051	296-46B-110	AMD-P	04-08-088	296-54-573	AMD	04-14-028
296-24-56527	AMD	04-07-161	296-46B-110	AMD	04-12-049	296-54-57310	AMD-P	04-03-102
296-24-58513	AMD-X	04-20-080	296-46B-210	AMD-P	04-08-088	296-54-57310	AMD	04-15-105
296-24-58515	AMD-X	04-20-080	296-46B-210	AMD	04-12-049	296-56	PREP	04-07-154
296-24-58517	AMD-X	04-20-080	296-46B-250	AMD-P	04-08-088	296-56-60001	AMD-X	04-20-080
296-24-61703	AMD	04-07-161	296-46B-250	AMD	04-12-049	296-56-60005	AMD-X	04-20-080
296-24-63399	AMD	04-07-161	296-46B-300	AMD-P	04-08-088	296-56-60053	AMD-X	04-20-080
296-24-67509	PREP	04-07-155	296-46B-300	AMD	04-12-049	296-56-60057	AMD-X	04-20-080
296-24-67515	AMD-X	04-20-080	296-46B-314	AMD-P	04-08-088	296-56-60107	AMD-X	04-20-080
296-24-67517	AMD-X	04-20-080	296-46B-314	AMD	04-12-049	296-56-60110	AMD-X	04-20-080
296-24-69003	AMD-P	04-03-085	296-46B-334	AMD-P	04-08-088	296-56-60115	AMD-X	04-05-072
296-24-69003	AMD	04-14-028	296-46B-334	AMD	04-12-049	296-56-60115	AMD	04-11-066
296-24-71515	AMD-X	04-20-080	296-46B-410	AMD-P	04-08-088	296-56-60235	AMD-X	04-20-080
296-24-71519	AMD-X	04-20-080	296-46B-410	AMD	04-12-049	296-56-60243	AMD-X	04-05-072
296-24-75011	AMD	04-07-161	296-46B-430	AMD-P	04-08-088	296-56-60243	AMD	04-11-066
296-24-860	REP-P	04-14-027	296-46B-430	AMD	04-12-049	296-59-130	AMD-P	04-03-085
296-24-86005	REP-P	04-14-027	296-46B-900	AMD-P	04-08-088	296-59-130	AMD	04-14-028

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296-62	PREP	04-07-155	296-62-07208	REP-P	04-15-107	296-62-07413	AMD-X	04-20-080
296-62	PREP	04-07-156	296-62-07209	REP-P	04-15-107	296-62-07427	AMD	04-10-026
296-62	PREP	04-09-097	296-62-07210	REP-P	04-15-107	296-62-07460	AMD	04-10-026
296-62-052	REP	04-10-026	296-62-07212	REP-P	04-15-107	296-62-07460	AMD-X	04-20-080
296-62-05201	REP	04-10-026	296-62-07213	REP-P	04-15-107	296-62-07470	AMD	04-10-026
296-62-05203	REP	04-10-026	296-62-07214	REP-P	04-15-107	296-62-075	REP-P	04-15-107
296-62-05205	REP	04-10-026	296-62-07217	REP-P	04-15-107	296-62-07501	REP-P	04-15-107
296-62-05207	REP	04-10-026	296-62-07218	REP-P	04-15-107	296-62-07503	REP-P	04-15-107
296-62-05209	REP	04-10-026	296-62-07219	REP-P	04-15-107	296-62-07505	REP-P	04-15-107
296-62-05213	REP	04-10-026	296-62-07222	REP-P	04-15-107	296-62-07507	REP-P	04-15-107
296-62-05215	REP	04-10-026	296-62-07223	REP-P	04-15-107	296-62-07509	REP-P	04-15-107
296-62-05217	REP	04-10-026	296-62-07224	REP-P	04-15-107	296-62-07510	REP-P	04-15-107
296-62-05219	REP	04-10-026	296-62-07225	REP-P	04-15-107	296-62-07511	REP-P	04-15-107
296-62-05221	REP	04-10-026	296-62-07230	REP-P	04-15-107	296-62-07513	REP-P	04-15-107
296-62-05223	REP	04-10-026	296-62-07231	REP-P	04-15-107	296-62-07515	REP-P	04-15-107
296-62-05305	AMD-P	04-07-159	296-62-07233	REP-P	04-15-107	296-62-07521	AMD	04-10-026
296-62-05305	AMD	04-14-026	296-62-07234	REP-P	04-15-107	296-62-07521	AMD-X	04-20-080
296-62-071	REP-P	04-15-107	296-62-07235	REP-P	04-15-107	296-62-07523	AMD-P	04-15-106
296-62-07101	REP-P	04-15-107	296-62-07236	REP-P	04-15-107	296-62-07540	AMD	04-10-026
296-62-07102	REP-P	04-15-107	296-62-07238	REP-P	04-15-107	296-62-07540	AMD-X	04-20-080
296-62-07103	REP-P	04-15-107	296-62-07239	REP-P	04-15-107	296-62-07615	AMD-X	04-20-080
296-62-07105	REP-P	04-15-107	296-62-07240	REP-P	04-15-107	296-62-07631	AMD	04-10-026
296-62-07107	REP-P	04-15-107	296-62-07242	REP-P	04-15-107	296-62-07722	AMD-X	04-20-080
296-62-07109	REP-P	04-15-107	296-62-07243	REP-P	04-15-107	296-62-07727	AMD	04-10-026
296-62-07111	REP-P	04-15-107	296-62-07245	REP-P	04-15-107	296-62-08001	REP-P	04-15-107
296-62-07113	REP-P	04-15-107	296-62-07246	REP-P	04-15-107	296-62-08050	REP-P	04-15-107
296-62-07115	REP-P	04-15-107	296-62-07247	REP-P	04-15-107	296-62-09015	REP-P	04-15-107
296-62-07117	REP-P	04-15-107	296-62-07248	REP-P	04-15-107	296-62-09017	REP-P	04-15-107
296-62-07130	REP-P	04-15-107	296-62-07251	REP-P	04-15-107	296-62-09019	REP-P	04-15-107
296-62-07131	REP-P	04-15-107	296-62-07253	REP-P	04-15-107	296-62-09021	REP-P	04-15-107
296-62-07132	REP-P	04-15-107	296-62-07255	REP-P	04-15-107	296-62-09023	REP-P	04-15-107
296-62-07133	REP-P	04-15-107	296-62-07257	REP-P	04-15-107	296-62-09024	REP-P	04-15-107
296-62-07150	REP-P	04-15-107	296-62-07260	REP-P	04-15-107	296-62-09025	REP-P	04-15-107
296-62-07151	REP-P	04-15-107	296-62-07261	REP-P	04-15-107	296-62-09026	REP-P	04-15-107
296-62-07152	REP-P	04-15-107	296-62-07263	REP-P	04-15-107	296-62-09027	REP-P	04-15-107
296-62-07153	REP-P	04-15-107	296-62-07265	REP-P	04-15-107	296-62-09029	REP-P	04-15-107
296-62-07154	REP-P	04-15-107	296-62-07267	REP-P	04-15-107	296-62-09031	REP-P	04-15-107
296-62-07155	REP-P	04-15-107	296-62-07269	REP-P	04-15-107	296-62-09033	REP-P	04-15-107
296-62-07156	REP-P	04-15-107	296-62-07271	REP-P	04-15-107	296-62-09035	REP-P	04-15-107
296-62-07160	REP-P	04-15-107	296-62-07273	REP-P	04-15-107	296-62-09037	REP-P	04-15-107
296-62-07161	REP-P	04-15-107	296-62-07275	REP-P	04-15-107	296-62-09039	REP-P	04-15-107
296-62-07162	REP-P	04-15-107	296-62-07277	REP-P	04-15-107	296-62-09041	AMD	04-10-026
296-62-07170	REP-P	04-15-107	296-62-07279	REP-P	04-15-107	296-62-09041	REP-P	04-15-107
296-62-07171	REP-P	04-15-107	296-62-07281	REP-P	04-15-107	296-62-09043	REP-P	04-15-107
296-62-07172	REP-P	04-15-107	296-62-07283	REP-P	04-15-107	296-62-09045	REP-P	04-15-107
296-62-07175	REP-P	04-15-107	296-62-07285	REP-P	04-15-107	296-62-09047	REP-P	04-15-107
296-62-07176	REP-P	04-15-107	296-62-07287	REP-P	04-15-107	296-62-09049	REP-P	04-15-107
296-62-07177	REP-P	04-15-107	296-62-07289	REP-P	04-15-107	296-62-09051	REP-P	04-15-107
296-62-07178	REP-P	04-15-107	296-62-07291	REP-P	04-15-107	296-62-09053	REP-P	04-15-107
296-62-07179	REP-P	04-15-107	296-62-07293	REP-P	04-15-107	296-62-09055	REP-P	04-15-107
296-62-07182	REP-P	04-15-107	296-62-07295	REP-P	04-15-107	296-62-141	AMD	04-03-081
296-62-07184	REP-P	04-15-107	296-62-07306	AMD-X	04-20-080	296-62-141	REP-P	04-15-107
296-62-07186	REP-P	04-15-107	296-62-07314	AMD	04-10-026	296-62-14100	REP-P	04-15-107
296-62-07188	REP-P	04-15-107	296-62-07329	AMD	04-10-026	296-62-14105	REP-P	04-15-107
296-62-07190	REP-P	04-15-107	296-62-07329	AMD-X	04-20-080	296-62-14110	REP-P	04-15-107
296-62-07192	REP-P	04-15-107	296-62-07336	AMD	04-10-026	296-62-14115	REP-P	04-15-107
296-62-07194	REP-P	04-15-107	296-62-07336	AMD-X	04-20-080	296-62-14120	REP-P	04-15-107
296-62-07201	REP-P	04-15-107	296-62-07342	AMD	04-10-026	296-62-14125	REP-P	04-15-107
296-62-07202	REP-P	04-15-107	296-62-07342	AMD-X	04-20-080	296-62-14130	REP-P	04-15-107
296-62-07203	REP-P	04-15-107	296-62-07347	REP-P	04-18-077	296-62-14135	REP-P	04-15-107
296-62-07205	REP-P	04-15-107	296-62-07367	AMD-X	04-20-080	296-62-14140	REP-P	04-15-107

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296-62-14150	REP-P	04-15-107	296-62-3060	REP-P	04-15-107	296-78-590	AMD	04-14-028
296-62-14155	REP-P	04-15-107	296-62-3060	AMD-X	04-20-080	296-78-605	AMD-P	04-03-085
296-62-14170	REP-P	04-15-107	296-62-30605	REP-P	04-15-107	296-78-605	AMD	04-14-028
296-62-14171	REP-P	04-15-107	296-62-30610	REP-P	04-15-107	296-78-615	AMD-P	04-03-085
296-62-14172	REP-P	04-15-107	296-62-30615	REP-P	04-15-107	296-78-615	AMD	04-14-028
296-62-14173	REP-P	04-15-107	296-62-3070	REP-P	04-15-107	296-78-650	AMD-P	04-03-085
296-62-14174	REP-P	04-15-107	296-62-30705	REP-P	04-15-107	296-78-650	AMD	04-14-028
296-62-14175	REP-P	04-15-107	296-62-30710	REP-P	04-15-107	296-78-660	AMD-P	04-03-085
296-62-14176	REP-P	04-15-107	296-62-30715	REP-P	04-15-107	296-78-660	AMD	04-14-028
296-62-14533	AMD	04-10-026	296-62-3080	REP-P	04-15-107	296-78-665	AMD-P	04-03-085
296-62-14533	AMD-X	04-20-080	296-62-3090	REP-P	04-15-107	296-78-665	AMD	04-14-028
296-62-20011	AMD-X	04-20-080	296-62-30905	REP-P	04-15-107	296-78-665	AMD-X	04-20-080
296-62-20019	AMD-X	04-20-080	296-62-30910	REP-P	04-15-107	296-78-690	AMD-P	04-03-085
296-62-20023	AMD	04-10-026	296-62-30915	REP-P	04-15-107	296-78-690	AMD	04-14-028
296-62-300	AMD	04-02-053	296-62-30920	REP-P	04-15-107	296-78-70503	AMD-P	04-03-085
296-62-300	REP-P	04-15-107	296-62-30925	REP-P	04-15-107	296-78-70503	AMD	04-14-028
296-62-30001	REP-P	04-15-107	296-62-30930	REP-P	04-15-107	296-78-710	PREP	04-06-078
296-62-30003	REP-P	04-15-107	296-62-30935	REP-P	04-15-107	296-78-710	PREP-W	04-18-044
296-62-3010	REP-P	04-15-107	296-62-30940	REP-P	04-15-107	296-78-71001	AMD-X	04-12-069
296-62-30105	REP-P	04-15-107	296-62-3100	REP-P	04-15-107	296-78-71001	AMD	04-18-080
296-62-30110	REP-P	04-15-107	296-62-31005	REP-P	04-15-107	296-78-71007	AMD-P	04-03-085
296-62-30115	REP-P	04-15-107	296-62-31110	REP-P	04-15-107	296-78-71007	AMD	04-14-028
296-62-30120	REP-P	04-15-107	296-62-3120	REP-P	04-15-107	296-78-71015	AMD-X	04-20-080
296-62-30125	REP-P	04-15-107	296-62-3130	REP-P	04-15-107	296-78-71017	AMD-P	04-03-085
296-62-30130	REP-P	04-15-107	296-62-31305	REP-P	04-15-107	296-78-71017	AMD	04-14-028
296-62-30135	REP-P	04-15-107	296-62-31310	REP-P	04-15-107	296-78-71019	AMD-X	04-20-080
296-62-30140	REP-P	04-15-107	296-62-31315	REP-P	04-15-107	296-78-71505	AMD-P	04-03-085
296-62-30145	REP-P	04-15-107	296-62-31320	REP-P	04-15-107	296-78-71505	AMD	04-14-028
296-62-3020	REP-P	04-15-107	296-62-31325	REP-P	04-15-107	296-78-84005	AMD-X	04-20-080
296-62-30205	REP-P	04-15-107	296-62-31330	REP-P	04-15-107	296-79-030	AMD-P	04-03-085
296-62-30210	REP-P	04-15-107	296-62-31335	REP-P	04-15-107	296-79-030	AMD	04-14-028
296-62-30215	REP-P	04-15-107	296-62-3138	REP-P	04-15-107	296-79-220	AMD-P	04-03-102
296-62-30220	REP-P	04-15-107	296-62-3140	REP-P	04-15-107	296-79-220	AMD	04-15-105
296-62-30225	REP-P	04-15-107	296-62-31405	REP-P	04-15-107	296-79-29007	AMD-X	04-20-080
296-62-30230	REP-P	04-15-107	296-62-31410	REP-P	04-15-107	296-96-00500	AMD-P	04-08-087
296-62-30235	REP-P	04-15-107	296-62-31415	REP-P	04-15-107	296-96-00500	AMD	04-12-047
296-62-3030	REP-P	04-15-107	296-62-31420	REP-P	04-15-107	296-96-00600	AMD-P	04-08-087
296-62-30305	REP-P	04-15-107	296-62-31425	REP-P	04-15-107	296-96-00600	AMD	04-12-047
296-62-30310	REP-P	04-15-107	296-62-31430	REP-P	04-15-107	296-96-00650	AMD-P	04-08-087
296-62-30315	REP-P	04-15-107	296-62-31435	REP-P	04-15-107	296-96-00650	AMD	04-12-047
296-62-3040	REP-P	04-15-107	296-62-31440	REP-P	04-15-107	296-96-00700	AMD-P	04-08-087
296-62-30405	REP-P	04-15-107	296-62-31445	REP-P	04-15-107	296-96-00700	AMD	04-12-047
296-62-30410	REP-P	04-15-107	296-62-31450	REP-P	04-15-107	296-96-00800	AMD-P	04-08-087
296-62-30415	REP-P	04-15-107	296-62-31455	REP-P	04-15-107	296-96-00800	AMD	04-12-047
296-62-30420	REP-P	04-15-107	296-62-31460	REP-P	04-15-107	296-96-00805	NEW-P	04-08-087
296-62-30425	REP-P	04-15-107	296-62-31465	REP-P	04-15-107	296-96-00805	NEW	04-12-047
296-62-30430	REP-P	04-15-107	296-62-31470	REP-P	04-15-107	296-96-00900	NEW-P	04-08-087
296-62-30435	REP-P	04-15-107	296-62-3152	REP-P	04-15-107	296-96-00900	NEW	04-12-047
296-62-30440	REP-P	04-15-107	296-62-3160	REP-P	04-15-107	296-96-00902	NEW-P	04-08-087
296-62-30445	REP-P	04-15-107	296-62-3170	REP-P	04-15-107	296-96-00902	NEW	04-12-047
296-62-30450	REP-P	04-15-107	296-62-3180	REP-P	04-15-107	296-96-00903	NEW-P	04-08-087
296-62-30455	REP-P	04-15-107	296-62-3190	REP-P	04-15-107	296-96-00903	NEW	04-12-047
296-62-30460	REP-P	04-15-107	296-62-3195	REP-P	04-15-107	296-96-00904	NEW-P	04-08-087
296-62-30465	REP-P	04-15-107	296-62-3195	AMD-X	04-20-080	296-96-00904	NEW	04-12-047
296-62-3050	REP-P	04-15-107	296-62-40001	AMD-X	04-20-080	296-96-00906	NEW-P	04-08-087
296-62-30505	REP-P	04-15-107	296-62-40007	AMD-X	04-20-080	296-96-00906	NEW	04-12-047
296-62-30510	REP-P	04-15-107	296-62-40019	AMD	04-10-026	296-96-00910	NEW-P	04-08-087
296-62-30515	REP-P	04-15-107	296-65	PREP	04-05-073	296-96-00910	NEW	04-12-047
296-62-30520	REP-P	04-15-107	296-78-540	AMD	04-07-160	296-96-00912	NEW-P	04-08-087
296-62-30525	REP-P	04-15-107	296-78-56511	AMD-P	04-03-085	296-96-00912	NEW	04-12-047
296-62-30530	REP-P	04-15-107	296-78-56511	AMD	04-14-028	296-96-00914	NEW-P	04-08-087

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-96-00914	NEW	04-12-047	296-96-02285	NEW	04-12-047	296-96-07024	NEW	04-12-047
296-96-00916	NEW-P	04-08-087	296-96-02290	NEW-P	04-08-087	296-96-07080	AMD-P	04-08-087
296-96-00916	NEW	04-12-047	296-96-02290	NEW	04-12-047	296-96-07080	AMD	04-12-047
296-96-00918	NEW-P	04-08-087	296-96-02310	AMD-P	04-08-087	296-96-07100	AMD-P	04-08-087
296-96-00918	NEW	04-12-047	296-96-02310	AMD	04-12-047	296-96-07100	AMD	04-12-047
296-96-00920	NEW-P	04-08-087	296-96-02315	AMD-P	04-08-087	296-96-07170	AMD-P	04-08-087
296-96-00920	NEW	04-12-047	296-96-02315	AMD	04-12-047	296-96-07170	AMD	04-12-047
296-96-00922	NEW-P	04-08-087	296-96-02317	NEW-P	04-08-087	296-96-07180	AMD-P	04-08-087
296-96-00922	NEW	04-12-047	296-96-02317	NEW	04-12-047	296-96-07180	AMD	04-12-047
296-96-00924	NEW-P	04-08-087	296-96-02318	NEW-P	04-08-087	296-96-07190	AMD-P	04-08-087
296-96-00924	NEW	04-12-047	296-96-02318	NEW	04-12-047	296-96-07190	AMD	04-12-047
296-96-00926	NEW-P	04-08-087	296-96-02320	AMD-P	04-08-087	296-96-07200	AMD-P	04-08-087
296-96-00926	NEW	04-12-047	296-96-02320	AMD	04-12-047	296-96-07200	AMD	04-12-047
296-96-00930	NEW-P	04-08-087	296-96-02325	AMD-P	04-08-087	296-96-07215	NEW-P	04-08-087
296-96-00930	NEW	04-12-047	296-96-02325	AMD	04-12-047	296-96-07215	NEW	04-12-047
296-96-01000	AMD-P	04-08-087	296-96-02330	AMD-P	04-08-087	296-96-07230	AMD-P	04-08-087
296-96-01000	AMD	04-12-047	296-96-02330	AMD	04-12-047	296-96-07230	AMD	04-12-047
296-96-01005	AMD-P	04-08-087	296-96-02340	AMD-P	04-08-087	296-96-07250	AMD-P	04-08-087
296-96-01005	AMD	04-12-047	296-96-02340	AMD	04-12-047	296-96-07250	AMD	04-12-047
296-96-01006	NEW-P	04-08-087	296-96-02350	AMD-P	04-08-087	296-96-08010	AMD-P	04-08-087
296-96-01006	NEW	04-12-047	296-96-02350	AMD	04-12-047	296-96-08010	AMD	04-12-047
296-96-01007	NEW-P	04-08-087	296-96-02355	AMD-P	04-11-063	296-96-08020	AMD-P	04-08-087
296-96-01007	NEW	04-12-047	296-96-02355	AMD	04-15-104	296-96-08020	AMD	04-12-047
296-96-01009	NEW-P	04-08-087	296-96-02360	AMD-P	04-08-087	296-96-08022	NEW-P	04-08-087
296-96-01009	NEW	04-12-047	296-96-02360	AMD	04-12-047	296-96-08022	NEW	04-12-047
296-96-01010	AMD-P	04-08-087	296-96-02361	NEW-P	04-08-087	296-96-08024	NEW-P	04-08-087
296-96-01010	AMD	04-12-047	296-96-02361	NEW	04-12-047	296-96-08024	NEW	04-12-047
296-96-01027	AMD-P	04-08-087	296-96-02362	NEW-P	04-08-087	296-96-08030	AMD-P	04-08-087
296-96-01027	AMD	04-12-047	296-96-02362	NEW	04-12-047	296-96-08030	AMD	04-12-047
296-96-01035	AMD-P	04-08-087	296-96-02363	NEW-P	04-08-087	296-96-08050	AMD-P	04-08-087
296-96-01035	AMD	04-12-047	296-96-02363	NEW	04-12-047	296-96-08050	AMD	04-12-047
296-96-01070	AMD-P	04-08-087	296-96-02364	NEW-P	04-08-087	296-96-08060	AMD-P	04-08-087
296-96-01070	AMD	04-12-047	296-96-02364	NEW	04-12-047	296-96-08060	AMD	04-12-047
296-96-01075	NEW-P	04-08-087	296-96-02365	REP-P	04-08-087	296-96-08090	AMD-P	04-08-087
296-96-01075	NEW	04-12-047	296-96-02365	REP	04-12-047	296-96-08090	AMD	04-12-047
296-96-01080	REP-P	04-08-087	296-96-02366	NEW-P	04-08-087	296-96-08100	AMD-P	04-08-087
296-96-01080	REP	04-12-047	296-96-02366	NEW	04-12-047	296-96-08100	AMD	04-12-047
296-96-02230	NEW-P	04-08-087	296-96-02367	NEW-P	04-08-087	296-96-08110	AMD-P	04-08-087
296-96-02230	NEW	04-12-047	296-96-02367	NEW	04-12-047	296-96-08110	AMD	04-12-047
296-96-02232	NEW-P	04-08-087	296-96-02370	NEW-P	04-08-087	296-96-08140	AMD-P	04-08-087
296-96-02232	NEW	04-12-047	296-96-02370	NEW	04-12-047	296-96-08140	AMD	04-12-047
296-96-02235	NEW-P	04-08-087	296-96-02371	NEW-P	04-08-087	296-96-08150	AMD-P	04-08-087
296-96-02235	NEW	04-12-047	296-96-02371	NEW	04-12-047	296-96-08150	AMD	04-12-047
296-96-02240	AMD-P	04-08-087	296-96-05010	AMD-P	04-08-087	296-96-08160	AMD-P	04-08-087
296-96-02240	AMD	04-12-047	296-96-05010	AMD	04-12-047	296-96-08160	AMD	04-12-047
296-96-02275	AMD-P	04-08-087	296-96-05030	AMD-P	04-08-087	296-96-08170	AMD-P	04-08-087
296-96-02275	AMD	04-12-047	296-96-05030	AMD	04-12-047	296-96-08170	AMD	04-12-047
296-96-02276	NEW-P	04-08-087	296-96-05070	AMD-P	04-08-087	296-96-08175	AMD-P	04-08-087
296-96-02276	NEW	04-12-047	296-96-05070	AMD	04-12-047	296-96-08175	AMD	04-12-047
296-96-02277	AMD-P	04-08-087	296-96-05160	AMD-P	04-08-087	296-96-08180	AMD-P	04-08-087
296-96-02277	AMD	04-12-047	296-96-05160	AMD	04-12-047	296-96-08180	AMD	04-12-047
296-96-02278	AMD-P	04-08-087	296-96-05170	AMD-P	04-08-087	296-96-08190	AMD-P	04-08-087
296-96-02278	AMD	04-12-047	296-96-05170	AMD	04-12-047	296-96-08190	AMD	04-12-047
296-96-02280	AMD-P	04-08-087	296-96-05230	AMD-P	04-08-087	296-96-08200	AMD-P	04-08-087
296-96-02280	AMD	04-12-047	296-96-05230	AMD	04-12-047	296-96-08200	AMD	04-12-047
296-96-02281	AMD-P	04-08-087	296-96-05290	AMD-P	04-08-087	296-96-08215	NEW-P	04-08-087
296-96-02281	AMD	04-12-047	296-96-05290	AMD	04-12-047	296-96-08215	NEW	04-12-047
296-96-02282	NEW-P	04-08-087	296-96-07010	AMD-P	04-08-087	296-96-08220	AMD-P	04-08-087
296-96-02282	NEW	04-12-047	296-96-07010	AMD	04-12-047	296-96-08220	AMD	04-12-047
296-96-02283	NEW-P	04-08-087	296-96-07021	NEW-P	04-08-087	296-96-08230	AMD-P	04-08-087
296-96-02283	NEW	04-12-047	296-96-07021	NEW	04-12-047	296-96-08230	AMD	04-12-047
296-96-02285	NEW-P	04-08-087	296-96-07024	NEW-P	04-08-087	296-96-08250	AMD-P	04-08-087

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-96-08250	AMD	04-12-047	296-96-14070	AMD	04-12-047	296-150C-1345	REP-P	04-20-078
296-96-09002	AMD-P	04-08-087	296-96-14080	AMD-P	04-08-087	296-150C-1510	AMD-P	04-20-078
296-96-09002	AMD	04-12-047	296-96-14080	AMD	04-12-047	296-150C-1520	AMD-P	04-20-078
296-96-09003	NEW-P	04-08-087	296-96-16040	AMD-P	04-08-087	296-150C-3000	AMD-P	04-08-092
296-96-09003	NEW	04-12-047	296-96-16040	AMD	04-12-047	296-150C-3000	AMD	04-12-048
296-96-09004	NEW-P	04-08-087	296-96-16150	AMD-P	04-08-087	296-150C-3000	AMD-P	04-20-078
296-96-09004	NEW	04-12-047	296-96-16150	AMD	04-12-047	296-150F	PREP	04-13-132
296-96-10002	NEW-P	04-08-087	296-96-23100	AMD-P	04-08-087	296-150F-0605	AMD-P	04-20-078
296-96-10002	NEW	04-12-047	296-96-23100	AMD	04-12-047	296-150F-0615	REP-P	04-20-078
296-96-11000	REP-P	04-08-087	296-96-23101	AMD-P	04-08-087	296-150F-3000	AMD-P	04-08-092
296-96-11000	REP	04-12-047	296-96-23101	AMD	04-12-047	296-150F-3000	AMD	04-12-048
296-96-11001	AMD-P	04-08-087	296-96-23117	NEW-P	04-08-087	296-150F-3000	AMD-P	04-20-078
296-96-11001	AMD	04-12-047	296-96-23117	NEW	04-12-047	296-150M	PREP	04-13-132
296-96-11016	AMD-P	04-08-087	296-96-23118	NEW-P	04-08-087	296-150M-0120	AMD-P	04-20-078
296-96-11016	AMD	04-12-047	296-96-23118	NEW	04-12-047	296-150M-0260	AMD-P	04-20-078
296-96-11019	AMD-P	04-08-087	296-96-23119	NEW-P	04-08-087	296-150M-0302	AMD-P	04-20-078
296-96-11019	AMD	04-12-047	296-96-23119	NEW	04-12-047	296-150M-0310	AMD-P	04-20-078
296-96-11022	AMD-P	04-08-087	296-96-23151	AMD-P	04-08-087	296-150M-0614	AMD-P	04-20-078
296-96-11022	AMD	04-12-047	296-96-23151	AMD	04-12-047	296-150M-3000	AMD-P	04-08-092
296-96-11045	AMD-P	04-08-087	296-96-23240	AMD-P	04-08-087	296-150M-3000	AMD	04-12-048
296-96-11045	AMD	04-12-047	296-96-23240	AMD	04-12-047	296-150P	PREP	04-13-132
296-96-11057	AMD-P	04-08-087	296-96-23270	AMD-P	04-08-087	296-150P-3000	AMD-P	04-08-092
296-96-11057	AMD	04-12-047	296-96-23270	AMD	04-12-047	296-150P-3000	AMD	04-12-048
296-96-11078	AMD-P	04-08-087	296-96-23287	AMD-P	04-08-087	296-150R	PREP	04-13-132
296-96-11078	AMD	04-12-047	296-96-23287	AMD	04-12-047	296-150R-3000	AMD-P	04-08-092
296-96-11080	NEW-P	04-08-087	296-96-23303	NEW-P	04-11-063	296-150R-3000	AMD	04-12-048
296-96-11080	NEW	04-12-047	296-96-23303	NEW	04-15-104	296-150T	PREP	04-13-132
296-96-13135	NEW-P	04-08-087	296-96-23610	AMD-P	04-08-087	296-150T-3000	AMD-P	04-08-092
296-96-13135	NEW	04-12-047	296-96-23610	AMD	04-12-047	296-150T-3000	AMD	04-12-048
296-96-13139	NEW-P	04-08-087	296-104	PREP	04-08-114	296-150T-3000	AMD-P	04-20-078
296-96-13139	NEW	04-12-047	296-104-010	AMD-P	04-17-100	296-150V	PREP	04-13-132
296-96-13143	NEW-P	04-08-087	296-104-050	AMD-P	04-17-100	296-150V-0205	NEW-P	04-20-078
296-96-13143	NEW	04-12-047	296-104-100	AMD-P	04-17-100	296-150V-1180	AMD-P	04-20-078
296-96-13145	NEW-P	04-08-087	296-104-102	AMD-P	04-17-100	296-150V-3000	AMD-P	04-08-092
296-96-13145	NEW	04-12-047	296-104-140	AMD-P	04-17-100	296-150V-3000	AMD	04-12-048
296-96-13147	NEW-P	04-08-087	296-104-200	AMD-P	04-17-100	296-150V-3000	AMD-P	04-20-078
296-96-13147	NEW	04-12-047	296-104-300	AMD-P	04-17-100	296-155	PREP	04-03-084
296-96-13149	NEW-P	04-08-087	296-104-301	NEW-P	04-17-100	296-155	PREP	04-05-074
296-96-13149	NEW	04-12-047	296-104-302	NEW-P	04-17-100	296-155	PREP	04-11-062
296-96-13151	NEW-P	04-08-087	296-104-303	NEW-P	04-17-100	296-155-120	AMD	04-07-160
296-96-13151	NEW	04-12-047	296-104-405	AMD-P	04-17-100	296-155-160	AMD-X	04-20-080
296-96-13153	NEW-P	04-08-087	296-104-502	AMD-P	04-17-100	296-155-165	AMD-P	04-14-083
296-96-13153	NEW	04-12-047	296-104-520	AMD-P	04-17-100	296-155-17317	AMD-X	04-20-080
296-96-13155	NEW-P	04-08-087	296-104-700	AMD-P	04-08-115	296-155-17331	AMD	04-10-026
296-96-13155	NEW	04-12-047	296-104-700	AMD	04-13-044	296-155-174	AMD	04-10-026
296-96-13157	NEW-P	04-08-087	296-104-700	AMD-P	04-17-100	296-155-174	AMD-X	04-20-080
296-96-13157	NEW	04-12-047	296-104-701	AMD-P	04-17-100	296-155-17613	AMD-X	04-20-080
296-96-13159	NEW-P	04-08-087	296-115-050	AMD-P	04-03-085	296-155-17625	AMD-X	04-20-080
296-96-13159	NEW	04-12-047	296-115-050	AMD	04-14-028	296-155-17652	AMD-X	04-20-080
296-96-13161	NEW-P	04-08-087	296-127	PREP	04-06-063	296-155-200	AMD-P	04-14-083
296-96-13161	NEW	04-12-047	296-127-011	AMD-X	04-03-083	296-155-20301	AMD-X	04-20-080
296-96-13167	NEW-P	04-08-087	296-127-011	AMD	04-10-083	296-155-220	AMD-X	04-20-080
296-96-13167	NEW	04-12-047	296-127-01377	AMD-P	04-12-068	296-155-300	REP-X	04-12-069
296-96-13169	NEW-P	04-08-087	296-127-01377	AMD	04-16-094	296-155-300	AMD-P	04-14-083
296-96-13169	NEW	04-12-047	296-150C	PREP	04-13-132	296-155-300	REP	04-18-080
296-96-13171	NEW-P	04-08-087	296-150C-0020	AMD-P	04-20-078	296-155-305	AMD-P	04-14-083
296-96-13171	NEW	04-12-047	296-150C-0800	AMD-P	04-20-078	296-155-310	AMD-P	04-14-083
296-96-14045	AMD-P	04-08-087	296-150C-0910	AMD-P	04-20-078	296-155-315	AMD-P	04-14-083
296-96-14045	AMD	04-12-047	296-150C-1080	AMD-P	04-20-078	296-155-367	AMD-X	04-20-080
296-96-14060	AMD-P	04-08-087	296-150C-1150	AMD-P	04-20-078	296-155-429	AMD-P	04-03-102
296-96-14060	AMD	04-12-047	296-150C-1175	AMD-P	04-20-078	296-155-429	AMD	04-15-105
296-96-14070	AMD-P	04-08-087	296-150C-1180	AMD-P	04-20-078	296-155-481	REP-P	04-14-027

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Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-155-482	REP-P	04-14-027	296-302-015	REP	04-14-028	296-302-06517	REP	04-14-028
296-155-483	REP-P	04-14-027	296-302-020	REP-P	04-03-085	296-302-06519	REP-P	04-03-085
296-155-484	REP-P	04-14-027	296-302-020	REP	04-14-028	296-302-06519	REP	04-14-028
296-155-485	REP-P	04-14-027	296-302-025	REP-P	04-03-085	296-302-06521	REP-P	04-03-085
296-155-487	AMD-P	04-03-085	296-302-025	REP	04-14-028	296-302-06521	REP	04-14-028
296-155-487	REP-P	04-14-027	296-302-02501	REP-P	04-03-085	296-302-06523	REP-P	04-03-085
296-155-487	AMD	04-14-028	296-302-02501	REP	04-14-028	296-302-06523	REP	04-14-028
296-155-488	AMD-P	04-03-085	296-302-02503	REP-P	04-03-085	296-302-06525	REP-P	04-03-085
296-155-488	REP-P	04-14-027	296-302-02503	REP	04-14-028	296-302-06525	REP	04-14-028
296-155-488	AMD	04-14-028	296-302-02505	REP-P	04-03-085	296-302-06527	REP-P	04-03-085
296-155-489	REP-P	04-14-027	296-302-02505	REP	04-14-028	296-302-06527	REP	04-14-028
296-155-490	REP-P	04-14-027	296-302-02507	REP-P	04-03-085	296-302-06529	REP-P	04-03-085
296-155-493	REP-P	04-14-027	296-302-02507	REP	04-14-028	296-302-06529	REP	04-14-028
296-155-494	REP-P	04-14-027	296-302-02509	REP-P	04-03-085	296-302-06531	REP-P	04-03-085
296-155-496	REP-P	04-14-027	296-302-02509	REP	04-14-028	296-302-06531	REP	04-14-028
296-155-497	REP-P	04-14-027	296-302-02511	REP-P	04-03-085	296-303-030	AMD-P	04-03-085
296-155-498	REP-P	04-14-027	296-302-02511	REP	04-14-028	296-303-030	AMD	04-14-028
296-155-525	AMD-P	04-03-085	296-302-02513	REP-P	04-03-085	296-304-02003	AMD-X	04-20-080
296-155-525	AMD	04-14-028	296-302-02513	REP	04-14-028	296-304-03001	AMD-X	04-20-080
296-155-525	AMD-X	04-20-080	296-302-02515	REP-P	04-03-085	296-304-03005	AMD-X	04-20-080
296-155-575	REP	04-09-099	296-302-02515	REP	04-14-028	296-304-03007	AMD-X	04-20-080
296-155-576	REP	04-09-099	296-302-02517	REP-P	04-03-085	296-304-04001	AMD-X	04-20-080
296-155-610	AMD-E	04-10-107	296-302-02517	REP	04-14-028	296-304-09007	AMD-X	04-20-080
296-155-610	AMD-P	04-14-083	296-302-02519	REP-P	04-03-085	296-305-01515	AMD	04-07-160
296-155-610	AMD-E	04-19-013	296-302-02519	REP	04-14-028	296-305-02501	AMD	04-10-026
296-155-615	AMD-P	04-14-083	296-302-03001	REP-P	04-03-085	296-305-02501	AMD-X	04-20-080
296-155-617	PREP	04-07-154	296-302-03001	REP	04-14-028	296-305-04001	AMD-X	04-20-080
296-155-617	REP-P	04-12-071	296-302-03003	REP-P	04-03-085	296-305-04501	PREP	04-08-090
296-155-617	REP	04-20-079	296-302-03003	REP	04-14-028	296-305-04501	PREP	04-11-062
296-155-61701	REP-P	04-12-071	296-302-035	REP-P	04-03-085	296-305-05503	AMD-X	04-20-080
296-155-61701	REP	04-20-079	296-302-035	REP	04-14-028	296-305-06519	AMD-P	04-03-085
296-155-61703	REP-P	04-12-071	296-302-040	REP-P	04-03-085	296-305-06519	AMD	04-14-028
296-155-61703	REP	04-20-079	296-302-040	REP	04-14-028	296-307	PREP	04-09-097
296-155-61705	REP-P	04-12-071	296-302-045	REP-P	04-03-085	296-307-018	AMD-P	04-15-107
296-155-61705	REP	04-20-079	296-302-045	REP	04-14-028	296-307-039	AMD	04-07-160
296-155-61707	REP-P	04-12-071	296-302-050	REP-P	04-03-085	296-307-039	AMD-P	04-15-107
296-155-61707	REP	04-20-079	296-302-050	REP	04-14-028	296-307-03905	AMD	04-07-160
296-155-61709	REP-P	04-12-071	296-302-05501	REP-P	04-03-085	296-307-03910	REP	04-07-160
296-155-61709	REP	04-20-079	296-302-05501	REP	04-14-028	296-307-03915	REP	04-07-160
296-155-61711	REP-P	04-12-071	296-302-05503	REP-P	04-03-085	296-307-03920	AMD-P	04-15-107
296-155-61711	REP	04-20-079	296-302-05503	REP	04-14-028	296-307-03925	REP	04-07-160
296-155-61713	REP-P	04-12-071	296-302-060	REP-P	04-03-085	296-307-061	AMD-P	04-15-107
296-155-61713	REP	04-20-079	296-302-060	REP	04-14-028	296-307-07013	AMD-P	04-15-107
296-155-655	AMD-P	04-14-083	296-302-065	REP-P	04-03-085	296-307-11015	AMD-P	04-15-107
296-155-655	AMD-X	04-20-080	296-302-065	REP	04-14-028	296-307-13045	AMD-P	04-15-107
296-155-682	AMD-P	04-03-085	296-302-06501	REP-P	04-03-085	296-307-14505	AMD-X	04-07-162
296-155-682	AMD	04-14-028	296-302-06501	REP	04-14-028	296-307-14505	AMD	04-13-129
296-155-730	AMD-X	04-20-080	296-302-06503	REP-P	04-03-085	296-307-14510	AMD-X	04-07-162
296-200A-900	AMD-P	04-08-092	296-302-06503	REP	04-14-028	296-307-14510	AMD	04-13-129
296-200A-900	AMD	04-12-048	296-302-06505	REP-P	04-03-085	296-307-16340	AMD-P	04-15-107
296-301-020	AMD-P	04-03-085	296-302-06505	REP	04-14-028	296-307-45010	AMD-P	04-15-107
296-301-020	PREP	04-06-078	296-302-06507	REP-P	04-03-085	296-307-45035	AMD-P	04-15-107
296-301-020	AMD-X	04-12-069	296-302-06507	REP	04-14-028	296-307-45045	AMD-P	04-15-107
296-301-020	AMD	04-14-028	296-302-06509	REP-P	04-03-085	296-307-452	REP-P	04-15-107
296-301-020	PREP-W	04-18-044	296-302-06509	REP	04-14-028	296-307-45210	REP-P	04-15-107
296-301-020	AMD	04-18-080	296-302-06511	REP-P	04-03-085	296-307-45220	REP-P	04-15-107
296-301-170	AMD-P	04-03-085	296-302-06511	REP	04-14-028	296-307-45230	REP-P	04-15-107
296-301-170	AMD	04-14-028	296-302-06513	REP-P	04-03-085	296-307-45240	REP-P	04-15-107
296-301-220	AMD-X	04-20-080	296-302-06513	REP	04-14-028	296-307-45400	REP-P	04-15-107
296-302-010	REP-P	04-03-085	296-302-06515	REP-P	04-03-085	296-307-45410	REP-P	04-15-107
296-302-010	REP	04-14-028	296-302-06515	REP	04-14-028	296-307-45420	REP-P	04-15-107
296-302-015	REP-P	04-03-085	296-302-06517	REP-P	04-03-085	296-307-45430	REP-P	04-15-107

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296-307-45440	REP-P	04-15-107	296-307-628	NEW-P	04-15-107	296-307-688	NEW-P	04-15-107
296-307-45450	REP-P	04-15-107	296-307-630	NEW-P	04-15-107	296-307-68805	NEW-P	04-15-107
296-307-45600	REP-P	04-15-107	296-307-632	NEW-P	04-15-107	296-307-68810	NEW-P	04-15-107
296-307-45610	REP-P	04-15-107	296-307-63205	NEW-P	04-15-107	296-307-690	NEW-P	04-15-107
296-307-45620	REP-P	04-15-107	296-307-63210	NEW-P	04-15-107	296-307-69005	NEW-P	04-15-107
296-307-45800	REP-P	04-15-107	296-307-63215	NEW-P	04-15-107	296-307-69010	NEW-P	04-15-107
296-307-46000	REP-P	04-15-107	296-307-63220	NEW-P	04-15-107	296-307-69015	NEW-P	04-15-107
296-307-50025	AMD-P	04-15-107	296-307-63225	NEW-P	04-15-107	296-307-692	NEW-P	04-15-107
296-307-50029	AMD-P	04-15-107	296-307-63230	NEW-P	04-15-107	296-307-69205	NEW-P	04-15-107
296-307-550	AMD-P	04-15-107	296-307-63235	NEW-P	04-15-107	296-307-69210	NEW-P	04-15-107
296-307-55015	AMD-P	04-15-107	296-307-63240	NEW-P	04-15-107	296-307-694	NEW-P	04-15-107
296-307-55030	AMD-P	04-15-107	296-307-634	NEW-P	04-15-107	296-307-69405	NEW-P	04-15-107
296-307-55035	AMD-P	04-15-107	296-307-63405	NEW-P	04-15-107	296-307-69410	NEW-P	04-15-107
296-307-55060	AMD-P	04-15-107	296-307-63410	NEW-P	04-15-107	296-307-69415	NEW-P	04-15-107
296-307-560	AMD-P	04-15-107	296-307-63415	NEW-P	04-15-107	296-307-69420	NEW-P	04-15-107
296-307-56025	AMD-P	04-15-107	296-307-636	NEW-P	04-15-107	296-307-69425	NEW-P	04-15-107
296-307-56050	AMD-P	04-15-107	296-307-63605	NEW-P	04-15-107	296-307-69430	NEW-P	04-15-107
296-307-594	NEW-P	04-15-107	296-307-63610	NEW-P	04-15-107	296-307-69435	NEW-P	04-15-107
296-307-596	NEW-P	04-15-107	296-307-63615	NEW-P	04-15-107	296-307-69440	NEW-P	04-15-107
296-307-59605	NEW-P	04-15-107	296-307-63620	NEW-P	04-15-107	296-307-696	NEW-P	04-15-107
296-307-598	NEW-P	04-15-107	296-307-63625	NEW-P	04-15-107	296-307-69605	NEW-P	04-15-107
296-307-59805	NEW-P	04-15-107	296-307-63630	NEW-P	04-15-107	296-307-69610	NEW-P	04-15-107
296-307-59810	NEW-P	04-15-107	296-307-63635	NEW-P	04-15-107	296-307-69615	NEW-P	04-15-107
296-307-600	NEW-P	04-15-107	296-307-638	NEW-P	04-15-107	296-307-69620	NEW-P	04-15-107
296-307-60005	NEW-P	04-15-107	296-307-63805	NEW-P	04-15-107	296-307-69625	NEW-P	04-15-107
296-307-60010	NEW-P	04-15-107	296-307-63810	NEW-P	04-15-107	296-307-69630	NEW-P	04-15-107
296-307-602	NEW-P	04-15-107	296-307-63815	NEW-P	04-15-107	296-307-698	NEW-P	04-15-107
296-307-60205	NEW-P	04-15-107	296-307-63820	NEW-P	04-15-107	296-307-69805	NEW-P	04-15-107
296-307-604	NEW-P	04-15-107	296-307-63825	NEW-P	04-15-107	296-307-69810	NEW-P	04-15-107
296-307-60405	NEW-P	04-15-107	296-307-640	NEW-P	04-15-107	296-307-69815	NEW-P	04-15-107
296-307-606	NEW-P	04-15-107	296-307-642	NEW-P	04-15-107	296-307-69820	NEW-P	04-15-107
296-307-60605	NEW-P	04-15-107	296-307-644	NEW-P	04-15-107	296-307-69825	NEW-P	04-15-107
296-307-608	NEW-P	04-15-107	296-307-64402	NEW-P	04-15-107	296-307-69830	NEW-P	04-15-107
296-307-60805	NEW-P	04-15-107	296-307-64404	NEW-P	04-15-107	296-307-700	NEW-P	04-15-107
296-307-610	NEW-P	04-15-107	296-307-64406	NEW-P	04-15-107	296-307-70005	NEW-P	04-15-107
296-307-61005	NEW-P	04-15-107	296-307-646	NEW-P	04-15-107	296-307-702	NEW-P	04-15-107
296-307-61010	NEW-P	04-15-107	296-307-64602	NEW-P	04-15-107	296-307-704	NEW-P	04-15-107
296-307-61015	NEW-P	04-15-107	296-307-64604	NEW-P	04-15-107	296-307-70410	NEW-P	04-15-107
296-307-612	NEW-P	04-15-107	296-307-648	NEW-P	04-15-107	296-307-70415	NEW-P	04-15-107
296-307-61205	NEW-P	04-15-107	296-307-64802	NEW-P	04-15-107	296-307-70420	NEW-P	04-15-107
296-307-61210	NEW-P	04-15-107	296-307-64804	NEW-P	04-15-107	296-307-70425	NEW-P	04-15-107
296-307-614	NEW-P	04-15-107	296-307-650	NEW-P	04-15-107	296-307-70430	NEW-P	04-15-107
296-307-61405	NEW-P	04-15-107	296-307-65002	NEW-P	04-15-107	296-307-70435	NEW-P	04-15-107
296-307-616	NEW-P	04-15-107	296-307-65004	NEW-P	04-15-107	296-307-70440	NEW-P	04-15-107
296-307-61605	NEW-P	04-15-107	296-307-65006	NEW-P	04-15-107	296-307-70445	NEW-P	04-15-107
296-307-61610	NEW-P	04-15-107	296-307-65008	NEW-P	04-15-107	296-307-70450	NEW-P	04-15-107
296-307-61615	NEW-P	04-15-107	296-307-65010	NEW-P	04-15-107	296-307-70455	NEW-P	04-15-107
296-307-618	NEW-P	04-15-107	296-307-65012	NEW-P	04-15-107	296-307-70460	NEW-P	04-15-107
296-307-61805	NEW-P	04-15-107	296-307-65014	NEW-P	04-15-107	296-307-70465	NEW-P	04-15-107
296-307-620	NEW-P	04-15-107	296-307-65016	NEW-P	04-15-107	296-307-70470	NEW-P	04-15-107
296-307-62005	NEW-P	04-15-107	296-307-65018	NEW-P	04-15-107	296-307-70475	NEW-P	04-15-107
296-307-62010	NEW-P	04-15-107	296-307-65020	NEW-P	04-15-107	296-307-70480	NEW-P	04-15-107
296-307-62015	NEW-P	04-15-107	296-307-65022	NEW-P	04-15-107	296-400A	PREP	04-16-093
296-307-62020	NEW-P	04-15-107	296-307-65024	NEW-P	04-15-107	296-400A-005	AMD-P	04-08-089
296-307-622	NEW-P	04-15-107	296-307-652	NEW-P	04-15-107	296-400A-005	AMD	04-12-046
296-307-624	NEW-P	04-15-107	296-307-65202	NEW-P	04-15-107	296-400A-020	AMD-P	04-08-089
296-307-626	NEW-P	04-15-107	296-307-65204	NEW-P	04-15-107	296-400A-020	AMD	04-12-046
296-307-62605	NEW-P	04-15-107	296-307-654	NEW-P	04-15-107	296-400A-021	AMD-P	04-08-089
296-307-62610	NEW-P	04-15-107	296-307-65402	NEW-P	04-15-107	296-400A-021	AMD	04-12-046
296-307-62615	NEW-P	04-15-107	296-307-65404	NEW-P	04-15-107	296-400A-023	NEW-P	04-08-089
296-307-62620	NEW-P	04-15-107	296-307-656	NEW-P	04-15-107	296-400A-023	NEW	04-12-046
296-307-62625	NEW-P	04-15-107	296-307-686	NEW-P	04-15-107	296-400A-026	AMD-P	04-08-089

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296-400A-026	AMD	04-12-046	296-802-300	NEW	04-10-026	296-803-60010	NEW-P	04-03-102
296-400A-028	NEW-P	04-08-089	296-802-30005	NEW	04-10-026	296-803-60010	NEW	04-15-105
296-400A-028	NEW	04-12-046	296-802-400	NEW	04-10-026	296-803-60015	NEW-P	04-03-102
296-400A-029	NEW-P	04-08-089	296-802-40005	NEW	04-10-026	296-803-60015	NEW	04-15-105
296-400A-029	NEW	04-12-046	296-802-40010	NEW	04-10-026	296-803-700	NEW-P	04-03-102
296-400A-030	AMD-P	04-08-089	296-802-40015	NEW	04-10-026	296-803-700	NEW	04-15-105
296-400A-030	AMD	04-12-046	296-802-500	NEW	04-10-026	296-803-70005	NEW-P	04-03-102
296-400A-031	AMD-P	04-08-089	296-802-50005	NEW	04-10-026	296-803-70005	NEW	04-15-105
296-400A-031	AMD	04-12-046	296-802-50010	NEW	04-10-026	296-803-70010	NEW-P	04-03-102
296-400A-035	AMD-P	04-08-089	296-802-600	NEW	04-10-026	296-803-70010	NEW	04-15-105
296-400A-035	AMD	04-12-046	296-802-60005	NEW	04-10-026	296-803-70015	NEW-P	04-03-102
296-400A-045	AMD-P	04-08-089	296-802-900	NEW	04-10-026	296-803-70015	NEW	04-15-105
296-400A-045	AMD	04-12-046	296-803-100	NEW-P	04-03-102	296-803-800	NEW-P	04-03-102
296-400A-120	AMD-P	04-08-089	296-803-100	NEW	04-15-105	296-803-800	NEW	04-15-105
296-400A-120	AMD	04-12-046	296-803-200	NEW-P	04-03-102	296-806-100	NEW-P	04-03-085
296-400A-121	AMD-P	04-08-089	296-803-200	NEW	04-15-105	296-806-100	NEW	04-14-028
296-400A-121	AMD	04-12-046	296-803-20005	NEW-P	04-03-102	296-806-200	NEW-P	04-03-085
296-400A-122	AMD-P	04-08-089	296-803-20005	NEW	04-15-105	296-806-200	NEW	04-14-028
296-400A-122	AMD	04-12-046	296-803-300	NEW-P	04-03-102	296-806-20002	NEW-P	04-03-085
296-400A-130	AMD-P	04-08-089	296-803-300	NEW	04-15-105	296-806-20002	NEW	04-14-028
296-400A-130	AMD	04-12-046	296-803-30005	NEW-P	04-03-102	296-806-20004	NEW-P	04-03-085
296-400A-135	NEW-P	04-08-089	296-803-30005	NEW	04-15-105	296-806-20004	NEW	04-14-028
296-400A-135	NEW	04-12-046	296-803-400	NEW-P	04-03-102	296-806-20006	NEW-P	04-03-085
296-400A-140	AMD-P	04-08-089	296-803-400	NEW	04-15-105	296-806-20006	NEW	04-14-028
296-400A-140	AMD	04-12-046	296-803-40005	NEW-P	04-03-102	296-806-20008	NEW-P	04-03-085
296-400A-150	NEW-P	04-08-089	296-803-40005	NEW	04-15-105	296-806-20008	NEW	04-14-028
296-400A-150	NEW	04-12-046	296-803-40010	NEW-P	04-03-102	296-806-20010	NEW-P	04-03-085
296-400A-155	NEW-P	04-08-089	296-803-40010	NEW	04-15-105	296-806-20010	NEW	04-14-028
296-400A-155	NEW	04-12-046	296-803-40015	NEW-P	04-03-102	296-806-20012	NEW-P	04-03-085
296-400A-300	AMD-P	04-08-089	296-803-40015	NEW	04-15-105	296-806-20012	NEW	04-14-028
296-400A-300	AMD	04-12-046	296-803-40020	NEW-P	04-03-102	296-806-20014	NEW-P	04-03-085
296-400A-400	AMD-P	04-08-089	296-803-40020	NEW	04-15-105	296-806-20014	NEW	04-14-028
296-400A-400	AMD	04-12-046	296-803-500	NEW-P	04-03-102	296-806-20016	NEW-P	04-03-085
296-400A-425	AMD-P	04-08-089	296-803-500	NEW	04-15-105	296-806-20016	NEW	04-14-028
296-400A-425	AMD	04-12-046	296-803-50005	NEW-P	04-03-102	296-806-20018	NEW-P	04-03-085
296-800	PREP	04-07-157	296-803-50005	NEW	04-15-105	296-806-20018	NEW	04-14-028
296-800-11045	PREP	04-06-078	296-803-50010	NEW-P	04-03-102	296-806-20020	NEW-P	04-03-085
296-800-11045	AMD-X	04-12-069	296-803-50010	NEW	04-15-105	296-806-20020	NEW	04-14-028
296-800-11045	PREP-W	04-18-044	296-803-50015	NEW-P	04-03-102	296-806-20022	NEW-P	04-03-085
296-800-11045	AMD	04-18-080	296-803-50015	NEW	04-15-105	296-806-20022	NEW	04-14-028
296-800-150	AMD	04-07-160	296-803-50020	NEW-P	04-03-102	296-806-20024	NEW-P	04-03-085
296-800-15005	AMD	04-07-160	296-803-50020	NEW	04-15-105	296-806-20024	NEW	04-14-028
296-800-15010	REP	04-07-160	296-803-50025	NEW-P	04-03-102	296-806-20026	NEW-P	04-03-085
296-800-15015	REP	04-07-160	296-803-50025	NEW	04-15-105	296-806-20026	NEW	04-14-028
296-800-15025	REP	04-07-160	296-803-50030	NEW-P	04-03-102	296-806-20028	NEW-P	04-03-085
296-800-160	AMD-X	04-20-080	296-803-50030	NEW	04-15-105	296-806-20028	NEW	04-14-028
296-800-17005	AMD	04-10-026	296-803-50035	NEW-P	04-03-102	296-806-20030	NEW-P	04-03-085
296-800-180	AMD	04-10-026	296-803-50035	NEW	04-15-105	296-806-20030	NEW	04-14-028
296-800-310	AMD-W	04-11-058	296-803-50040	NEW-P	04-03-102	296-806-20032	NEW-P	04-03-085
296-800-31010	AMD-W	04-11-058	296-803-50040	NEW	04-15-105	296-806-20032	NEW	04-14-028
296-800-31020	AMD-W	04-11-058	296-803-50045	NEW-P	04-03-102	296-806-20034	NEW-P	04-03-085
296-800-31070	AMD-W	04-11-058	296-803-50045	NEW	04-15-105	296-806-20034	NEW	04-14-028
296-800-35052	PREP	04-06-078	296-803-50050	NEW-P	04-03-102	296-806-20036	NEW-P	04-03-085
296-800-35052	AMD-X	04-12-069	296-803-50050	NEW	04-15-105	296-806-20036	NEW	04-14-028
296-800-35052	PREP-W	04-18-044	296-803-50055	NEW-P	04-03-102	296-806-20038	NEW-P	04-03-085
296-800-35052	AMD	04-18-080	296-803-50055	NEW	04-15-105	296-806-20038	NEW	04-14-028
296-800-370	AMD-W	04-11-058	296-803-50060	NEW-P	04-03-102	296-806-20040	NEW-P	04-03-085
296-802-100	NEW	04-10-026	296-803-50060	NEW	04-15-105	296-806-20040	NEW	04-14-028
296-802-200	NEW	04-10-026	296-803-600	NEW-P	04-03-102	296-806-20042	NEW-P	04-03-085
296-802-20005	NEW	04-10-026	296-803-600	NEW	04-15-105	296-806-20042	NEW	04-14-028
296-802-20010	NEW	04-10-026	296-803-60005	NEW-P	04-03-102	296-806-20044	NEW-P	04-03-085
296-802-20015	NEW	04-10-026	296-803-60005	NEW	04-15-105	296-806-20044	NEW	04-14-028

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-806-45542	NEW-P	04-03-085	296-806-48018	NEW-P	04-03-085	296-806-48080	NEW-P	04-03-085
296-806-45542	NEW	04-14-028	296-806-48018	NEW	04-14-028	296-806-48080	NEW	04-14-028
296-806-460	NEW-P	04-03-085	296-806-48020	NEW-P	04-03-085	296-806-48082	NEW-P	04-03-085
296-806-460	NEW	04-14-028	296-806-48020	NEW	04-14-028	296-806-48082	NEW	04-14-028
296-806-46002	NEW-P	04-03-085	296-806-48022	NEW-P	04-03-085	296-806-48084	NEW-P	04-03-085
296-806-46002	NEW	04-14-028	296-806-48022	NEW	04-14-028	296-806-48084	NEW	04-14-028
296-806-46004	NEW-P	04-03-085	296-806-48024	NEW-P	04-03-085	296-806-48086	NEW-P	04-03-085
296-806-46004	NEW	04-14-028	296-806-48024	NEW	04-14-028	296-806-48086	NEW	04-14-028
296-806-46006	NEW-P	04-03-085	296-806-48026	NEW-P	04-03-085	296-806-48088	NEW-P	04-03-085
296-806-46006	NEW	04-14-028	296-806-48026	NEW	04-14-028	296-806-48088	NEW	04-14-028
296-806-465	NEW-P	04-03-085	296-806-48028	NEW-P	04-03-085	296-806-485	NEW-P	04-03-085
296-806-465	NEW	04-14-028	296-806-48028	NEW	04-14-028	296-806-485	NEW	04-14-028
296-806-46502	NEW-P	04-03-085	296-806-48030	NEW-P	04-03-085	296-806-48502	NEW-P	04-03-085
296-806-46502	NEW	04-14-028	296-806-48030	NEW	04-14-028	296-806-48502	NEW	04-14-028
296-806-46504	NEW-P	04-03-085	296-806-48032	NEW-P	04-03-085	296-806-500	NEW-P	04-03-085
296-806-46504	NEW	04-14-028	296-806-48032	NEW	04-14-028	296-806-500	NEW	04-14-028
296-806-46506	NEW-P	04-03-085	296-806-48034	NEW-P	04-03-085	296-809-100	NEW	04-03-081
296-806-46506	NEW	04-14-028	296-806-48034	NEW	04-14-028	296-809-200	NEW	04-03-081
296-806-46508	NEW-P	04-03-085	296-806-48036	NEW-P	04-03-085	296-809-20002	NEW	04-03-081
296-806-46508	NEW	04-14-028	296-806-48036	NEW	04-14-028	296-809-20004	NEW	04-03-081
296-806-46510	NEW-P	04-03-085	296-806-48038	NEW-P	04-03-085	296-809-20006	NEW	04-03-081
296-806-46510	NEW	04-14-028	296-806-48038	NEW	04-14-028	296-809-300	NEW	04-03-081
296-806-46512	NEW-P	04-03-085	296-806-48040	NEW-P	04-03-085	296-809-30002	NEW	04-03-081
296-806-46512	NEW	04-14-028	296-806-48040	NEW	04-14-028	296-809-30004	NEW	04-03-081
296-806-46514	NEW-P	04-03-085	296-806-48042	NEW-P	04-03-085	296-809-400	NEW	04-03-081
296-806-46514	NEW	04-14-028	296-806-48042	NEW	04-14-028	296-809-40002	NEW	04-03-081
296-806-46516	NEW-P	04-03-085	296-806-48044	NEW-P	04-03-085	296-809-40004	NEW	04-03-081
296-806-46516	NEW	04-14-028	296-806-48044	NEW	04-14-028	296-809-500	NEW	04-03-081
296-806-470	NEW-P	04-03-085	296-806-48046	NEW-P	04-03-085	296-809-50002	NEW	04-03-081
296-806-470	NEW	04-14-028	296-806-48046	NEW	04-14-028	296-809-50004	NEW	04-03-081
296-806-47002	NEW-P	04-03-085	296-806-48048	NEW-P	04-03-085	296-809-50006	NEW	04-03-081
296-806-47002	NEW	04-14-028	296-806-48048	NEW	04-14-028	296-809-50008	NEW	04-03-081
296-806-47004	NEW-P	04-03-085	296-806-48050	NEW-P	04-03-085	296-809-50010	NEW	04-03-081
296-806-47004	NEW	04-14-028	296-806-48050	NEW	04-14-028	296-809-50012	NEW	04-03-081
296-806-475	NEW-P	04-03-085	296-806-48052	NEW-P	04-03-085	296-809-50014	NEW	04-03-081
296-806-475	NEW	04-14-028	296-806-48052	NEW	04-14-028	296-809-50016	NEW	04-03-081
296-806-47502	NEW-P	04-03-085	296-806-48054	NEW-P	04-03-085	296-809-50018	NEW	04-03-081
296-806-47502	NEW	04-14-028	296-806-48054	NEW	04-14-028	296-809-50020	NEW	04-03-081
296-806-47504	NEW-P	04-03-085	296-806-48056	NEW-P	04-03-085	296-809-50022	NEW	04-03-081
296-806-47504	NEW	04-14-028	296-806-48056	NEW	04-14-028	296-809-50024	NEW	04-03-081
296-806-47506	NEW-P	04-03-085	296-806-48058	NEW-P	04-03-085	296-809-600	NEW	04-03-081
296-806-47506	NEW	04-14-028	296-806-48058	NEW	04-14-028	296-809-60002	NEW	04-03-081
296-806-47508	NEW-P	04-03-085	296-806-48060	NEW-P	04-03-085	296-809-60004	NEW	04-03-081
296-806-47508	NEW	04-14-028	296-806-48060	NEW	04-14-028	296-809-700	NEW	04-03-081
296-806-480	NEW-P	04-03-085	296-806-48062	NEW-P	04-03-085	296-809-70002	NEW	04-03-081
296-806-480	NEW	04-14-028	296-806-48062	NEW	04-14-028	296-809-70004	NEW	04-03-081
296-806-48002	NEW-P	04-03-085	296-806-48064	NEW-P	04-03-085	296-809-800	NEW	04-03-081
296-806-48002	NEW	04-14-028	296-806-48064	NEW	04-14-028	296-816-100	NEW-P	04-07-159
296-806-48004	NEW-P	04-03-085	296-806-48066	NEW-P	04-03-085	296-816-100	NEW	04-14-026
296-806-48004	NEW	04-14-028	296-806-48066	NEW	04-14-028	296-816-200	NEW-P	04-07-159
296-806-48006	NEW-P	04-03-085	296-806-48068	NEW-P	04-03-085	296-816-200	NEW	04-14-026
296-806-48006	NEW	04-14-028	296-806-48068	NEW	04-14-028	296-816-20005	NEW-P	04-07-159
296-806-48008	NEW-P	04-03-085	296-806-48070	NEW-P	04-03-085	296-816-20005	NEW	04-14-026
296-806-48008	NEW	04-14-028	296-806-48070	NEW	04-14-028	296-816-20010	NEW-P	04-07-159
296-806-48010	NEW-P	04-03-085	296-806-48072	NEW-P	04-03-085	296-816-20010	NEW	04-14-026
296-806-48010	NEW	04-14-028	296-806-48072	NEW	04-14-028	296-816-20015	NEW-P	04-07-159
296-806-48012	NEW-P	04-03-085	296-806-48074	NEW-P	04-03-085	296-816-20015	NEW	04-14-026
296-806-48012	NEW	04-14-028	296-806-48074	NEW	04-14-028	296-816-20020	NEW-P	04-07-159
296-806-48014	NEW-P	04-03-085	296-806-48076	NEW-P	04-03-085	296-816-20020	NEW	04-14-026
296-806-48014	NEW	04-14-028	296-806-48076	NEW	04-14-028	296-816-300	NEW-P	04-07-159
296-806-48016	NEW-P	04-03-085	296-806-48078	NEW-P	04-03-085	296-816-300	NEW	04-14-026
296-806-48016	NEW	04-14-028	296-806-48078	NEW	04-14-028	296-823-100	AMD-X	04-07-158

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-823-100	AMD	04-12-070	296-829-30010	NEW	04-09-099	296-843-22010	NEW	04-02-053
296-823-11010	AMD-X	04-07-158	296-829-400	NEW	04-09-099	296-843-300	NEW	04-02-053
296-823-11010	AMD	04-12-070	296-829-40005	NEW	04-09-099	296-848-100	NEW-P	04-18-077
296-823-12010	AMD-X	04-07-158	296-829-40010	NEW	04-09-099	296-848-200	NEW-P	04-18-077
296-823-12010	AMD	04-12-070	296-829-40015	NEW	04-09-099	296-848-20010	NEW-P	04-18-077
296-823-13005	AMD-X	04-07-158	296-829-40020	NEW	04-09-099	296-848-20025	NEW-P	04-18-077
296-823-13005	AMD	04-12-070	296-829-500	NEW	04-09-099	296-848-20060	NEW-P	04-18-077
296-823-14005	AMD-X	04-07-158	296-835-11045	AMD-X	04-20-080	296-848-20070	NEW-P	04-18-077
296-823-14005	AMD	04-12-070	296-839-30005	AMD-X	04-20-080	296-848-20090	NEW-P	04-18-077
296-823-14015	AMD-X	04-07-158	296-839-500	AMD-X	04-20-080	296-848-300	NEW-P	04-18-077
296-823-14015	AMD	04-12-070	296-841	PREP	04-07-155	296-848-30005	NEW-P	04-18-077
296-823-14025	AMD-X	04-07-158	296-841	PREP	04-07-156	296-848-30010	NEW-P	04-18-077
296-823-14025	AMD	04-12-070	296-841-100	AMD-X	04-11-064	296-848-30030	NEW-P	04-18-077
296-823-14050	AMD-X	04-07-158	296-841-100	AMD	04-18-079	296-848-30080	NEW-P	04-18-077
296-823-14050	AMD	04-12-070	296-841-20005	AMD-X	04-11-064	296-848-400	NEW-P	04-18-077
296-823-14060	AMD-X	04-07-158	296-841-20005	AMD	04-18-079	296-848-40005	NEW-P	04-18-077
296-823-14060	AMD	04-12-070	296-841-20010	AMD-X	04-11-064	296-848-40020	NEW-P	04-18-077
296-823-14065	AMD-X	04-07-158	296-841-20010	AMD	04-18-079	296-848-40025	NEW-P	04-18-077
296-823-14065	AMD	04-12-070	296-841-20020	AMD-X	04-11-064	296-848-40030	NEW-P	04-18-077
296-823-15010	AMD-X	04-07-158	296-841-20020	AMD	04-18-079	296-848-40040	NEW-P	04-18-077
296-823-15010	AMD	04-12-070	296-841-20025	NEW-X	04-11-064	296-848-40045	NEW-P	04-18-077
296-823-15015	AMD-X	04-07-158	296-841-20025	NEW	04-18-079	296-848-500	NEW-P	04-18-077
296-823-15015	AMD	04-12-070	296-841-300	AMD-X	04-11-064	296-849-100	NEW-P	04-15-106
296-823-15020	AMD-X	04-07-158	296-841-300	AMD	04-18-079	296-849-110	NEW-P	04-15-106
296-823-15020	AMD	04-12-070	296-843-100	NEW	04-02-053	296-849-11010	NEW-P	04-15-106
296-823-160	AMD-X	04-07-158	296-843-110	NEW	04-02-053	296-849-11020	NEW-P	04-15-106
296-823-160	AMD	04-12-070	296-843-11005	NEW	04-02-053	296-849-11030	NEW-P	04-15-106
296-823-16005	AMD-X	04-07-158	296-843-11010	NEW	04-02-053	296-849-11040	NEW-P	04-15-106
296-823-16005	AMD	04-12-070	296-843-120	NEW	04-02-053	296-849-11050	NEW-P	04-15-106
296-823-16010	AMD-X	04-07-158	296-843-12005	NEW	04-02-053	296-849-11065	NEW-P	04-15-106
296-823-16010	AMD	04-12-070	296-843-130	NEW	04-02-053	296-849-11070	NEW-P	04-15-106
296-823-16015	AMD-X	04-07-158	296-843-13005	NEW	04-02-053	296-849-11090	NEW-P	04-15-106
296-823-16015	AMD	04-12-070	296-843-13010	NEW	04-02-053	296-849-120	NEW-P	04-15-106
296-823-16025	AMD-X	04-07-158	296-843-140	NEW	04-02-053	296-849-12010	NEW-P	04-15-106
296-823-16025	AMD	04-12-070	296-843-14005	NEW	04-02-053	296-849-12030	NEW-P	04-15-106
296-823-16030	AMD-X	04-07-158	296-843-150	NEW	04-02-053	296-849-12050	NEW-P	04-15-106
296-823-16030	AMD	04-12-070	296-843-15005	NEW	04-02-053	296-849-12080	NEW-P	04-15-106
296-823-17010	AMD-X	04-07-158	296-843-15010	NEW	04-02-053	296-849-130	NEW-P	04-15-106
296-823-17010	AMD	04-12-070	296-843-15015	NEW	04-02-053	296-849-13005	NEW-P	04-15-106
296-823-180	AMD-X	04-07-158	296-843-160	NEW	04-02-053	296-849-13020	NEW-P	04-15-106
296-823-180	AMD	04-12-070	296-843-16005	NEW	04-02-053	296-849-13045	NEW-P	04-15-106
296-823-18015	AMD-X	04-07-158	296-843-170	NEW	04-02-053	296-849-190	NEW-P	04-15-106
296-823-18015	AMD	04-12-070	296-843-17005	NEW	04-02-053	296-863-10005	NEW-P	04-08-039
296-823-18045	AMD-X	04-07-158	296-843-180	NEW	04-02-053	296-863-10005	NEW	04-19-051
296-823-18045	AMD	04-12-070	296-843-18005	NEW	04-02-053	296-863-200	NEW-P	04-08-039
296-823-18050	AMD-X	04-07-158	296-843-18010	NEW	04-02-053	296-863-200	NEW	04-19-051
296-823-18050	AMD	04-12-070	296-843-18015	NEW	04-02-053	296-863-20005	NEW-P	04-08-039
296-823-18055	AMD-X	04-07-158	296-843-18020	NEW	04-02-053	296-863-20005	NEW	04-19-051
296-823-18055	AMD	04-12-070	296-843-190	NEW	04-02-053	296-863-20010	NEW-P	04-08-039
296-823-200	AMD-X	04-07-158	296-843-19005	NEW	04-02-053	296-863-20010	NEW	04-19-051
296-823-200	AMD	04-12-070	296-843-200	NEW	04-02-053	296-863-20015	NEW-P	04-08-039
296-824-20005	AMD-X	04-20-080	296-843-20005	NEW	04-02-053	296-863-20015	NEW	04-19-051
296-824-40005	AMD-X	04-20-080	296-843-20010	NEW	04-02-053	296-863-20020	NEW-P	04-08-039
296-824-60005	AMD-X	04-20-080	296-843-20015	NEW	04-02-053	296-863-20020	NEW	04-19-051
296-824-70005	AMD-X	04-20-080	296-843-20020	NEW	04-02-053	296-863-20025	NEW-P	04-08-039
296-824-800	AMD-X	04-20-080	296-843-20025	NEW	04-02-053	296-863-20025	NEW	04-19-051
296-829-100	NEW	04-09-099	296-843-20030	NEW	04-02-053	296-863-20030	NEW-P	04-08-039
296-829-200	NEW	04-09-099	296-843-20035	NEW	04-02-053	296-863-20030	NEW	04-19-051
296-829-20005	NEW	04-09-099	296-843-210	NEW	04-02-053	296-863-20035	NEW-P	04-08-039
296-829-20010	NEW	04-09-099	296-843-21005	NEW	04-02-053	296-863-20035	NEW	04-19-051
296-829-300	NEW	04-09-099	296-843-220	NEW	04-02-053	296-863-20040	NEW-P	04-08-039
296-829-30005	NEW	04-09-099	296-843-22005	NEW	04-02-053	296-863-20040	NEW	04-19-051

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-863-300	NEW-P	04-08-039	296-864-200	NEW-P	04-12-071	296-874-20034	NEW-P	04-14-027
296-863-300	NEW	04-19-051	296-864-200	NEW	04-20-079	296-874-20036	NEW-P	04-14-027
296-863-30005	NEW-P	04-08-039	296-864-20005	NEW-P	04-12-071	296-874-20038	NEW-P	04-14-027
296-863-30005	NEW	04-19-051	296-864-20005	NEW	04-20-079	296-874-20040	NEW-P	04-14-027
296-863-30010	NEW-P	04-08-039	296-864-20010	NEW-P	04-12-071	296-874-20042	NEW-P	04-14-027
296-863-30010	NEW	04-19-051	296-864-20010	NEW	04-20-079	296-874-20044	NEW-P	04-14-027
296-863-30015	NEW-P	04-08-039	296-864-20015	NEW-P	04-12-071	296-874-20046	NEW-P	04-14-027
296-863-30015	NEW	04-19-051	296-864-20015	NEW	04-20-079	296-874-20048	NEW-P	04-14-027
296-863-30020	NEW-P	04-08-039	296-864-300	NEW-P	04-12-071	296-874-20050	NEW-P	04-14-027
296-863-30020	NEW	04-19-051	296-864-300	NEW	04-20-079	296-874-20052	NEW-P	04-14-027
296-863-30025	NEW-P	04-08-039	296-864-30005	NEW-P	04-12-071	296-874-20054	NEW-P	04-14-027
296-863-30025	NEW	04-19-051	296-864-30005	NEW	04-20-079	296-874-20056	NEW-P	04-14-027
296-863-30030	NEW-P	04-08-039	296-864-30010	NEW-P	04-12-071	296-874-20058	NEW-P	04-14-027
296-863-30030	NEW	04-19-051	296-864-30010	NEW	04-20-079	296-874-20060	NEW-P	04-14-027
296-863-30035	NEW-P	04-08-039	296-864-30015	NEW-P	04-12-071	296-874-20062	NEW-P	04-14-027
296-863-30035	NEW	04-19-051	296-864-30015	NEW	04-20-079	296-874-20064	NEW-P	04-14-027
296-863-30040	NEW-P	04-08-039	296-864-400	NEW-P	04-12-071	296-874-20066	NEW-P	04-14-027
296-863-30040	NEW	04-19-051	296-864-400	NEW	04-20-079	296-874-20068	NEW-P	04-14-027
296-863-400	NEW-P	04-08-039	296-864-40005	NEW-P	04-12-071	296-874-20070	NEW-P	04-14-027
296-863-400	NEW	04-19-051	296-864-40005	NEW	04-20-079	296-874-20072	NEW-P	04-14-027
296-863-40005	NEW-P	04-08-039	296-864-40010	NEW-P	04-12-071	296-874-20074	NEW-P	04-14-027
296-863-40005	NEW	04-19-051	296-864-40010	NEW	04-20-079	296-874-20076	NEW-P	04-14-027
296-863-40010	NEW-P	04-08-039	296-864-40015	NEW-P	04-12-071	296-874-300	NEW-P	04-14-027
296-863-40010	NEW	04-19-051	296-864-40015	NEW	04-20-079	296-874-30002	NEW-P	04-14-027
296-863-40015	NEW-P	04-08-039	296-864-40020	NEW-P	04-12-071	296-874-30004	NEW-P	04-14-027
296-863-40015	NEW	04-19-051	296-864-40020	NEW	04-20-079	296-874-30006	NEW-P	04-14-027
296-863-40020	NEW-P	04-08-039	296-864-500	NEW-P	04-12-071	296-874-30008	NEW-P	04-14-027
296-863-40020	NEW	04-19-051	296-864-500	NEW	04-20-079	296-874-30010	NEW-P	04-14-027
296-863-40025	NEW-P	04-08-039	296-864-50005	NEW-P	04-12-071	296-874-30012	NEW-P	04-14-027
296-863-40025	NEW	04-19-051	296-864-50005	NEW	04-20-079	296-874-30014	NEW-P	04-14-027
296-863-40030	NEW-P	04-08-039	296-864-50010	NEW-P	04-12-071	296-874-30016	NEW-P	04-14-027
296-863-40030	NEW	04-19-051	296-864-50010	NEW	04-20-079	296-874-30018	NEW-P	04-14-027
296-863-40035	NEW-P	04-08-039	296-864-50015	NEW-P	04-12-071	296-874-30020	NEW-P	04-14-027
296-863-40035	NEW	04-19-051	296-864-50015	NEW	04-20-079	296-874-30022	NEW-P	04-14-027
296-863-40040	NEW-P	04-08-039	296-864-50020	NEW-P	04-12-071	296-874-30024	NEW-P	04-14-027
296-863-40040	NEW	04-19-051	296-864-50020	NEW	04-20-079	296-874-30026	NEW-P	04-14-027
296-863-40045	NEW-P	04-08-039	296-864-600	NEW-P	04-12-071	296-874-30028	NEW-P	04-14-027
296-863-40045	NEW	04-19-051	296-864-600	NEW	04-20-079	296-874-30030	NEW-P	04-14-027
296-863-40050	NEW-P	04-08-039	296-864-60005	NEW-P	04-12-071	296-874-30032	NEW-P	04-14-027
296-863-40050	NEW	04-19-051	296-864-60005	NEW	04-20-079	296-874-30034	NEW-P	04-14-027
296-863-40055	NEW-P	04-08-039	296-864-60010	NEW-P	04-12-071	296-874-30036	NEW-P	04-14-027
296-863-40055	NEW	04-19-051	296-864-60010	NEW	04-20-079	296-874-30038	NEW-P	04-14-027
296-863-40060	NEW-P	04-08-039	296-864-700	NEW-P	04-12-071	296-874-30040	NEW-P	04-14-027
296-863-40060	NEW	04-19-051	296-864-700	NEW	04-20-079	296-874-30042	NEW-P	04-14-027
296-863-40065	NEW-P	04-08-039	296-874-100	NEW-P	04-14-027	296-874-30044	NEW-P	04-14-027
296-863-40065	NEW	04-19-051	296-874-200	NEW-P	04-14-027	296-874-30046	NEW-P	04-14-027
296-863-500	NEW-P	04-08-039	296-874-20002	NEW-P	04-14-027	296-874-400	NEW-P	04-14-027
296-863-500	NEW	04-19-051	296-874-20004	NEW-P	04-14-027	296-874-40002	NEW-P	04-14-027
296-863-50005	NEW-P	04-08-039	296-874-20006	NEW-P	04-14-027	296-874-40004	NEW-P	04-14-027
296-863-50005	NEW	04-19-051	296-874-20008	NEW-P	04-14-027	296-874-40006	NEW-P	04-14-027
296-863-600	NEW-P	04-08-039	296-874-20010	NEW-P	04-14-027	296-874-40008	NEW-P	04-14-027
296-863-600	NEW	04-19-051	296-874-20012	NEW-P	04-14-027	296-874-40010	NEW-P	04-14-027
296-863-60005	NEW-P	04-08-039	296-874-20014	NEW-P	04-14-027	296-874-40012	NEW-P	04-14-027
296-863-60005	NEW	04-19-051	296-874-20016	NEW-P	04-14-027	296-874-40014	NEW-P	04-14-027
296-863-60010	NEW-P	04-08-039	296-874-20018	NEW-P	04-14-027	296-874-40016	NEW-P	04-14-027
296-863-60010	NEW	04-19-051	296-874-20020	NEW-P	04-14-027	296-874-40018	NEW-P	04-14-027
296-863-60015	NEW-P	04-08-039	296-874-20022	NEW-P	04-14-027	296-874-40020	NEW-P	04-14-027
296-863-60015	NEW	04-19-051	296-874-20024	NEW-P	04-14-027	296-874-40022	NEW-P	04-14-027
296-863-700	NEW-P	04-08-039	296-874-20026	NEW-P	04-14-027	296-874-40024	NEW-P	04-14-027
296-863-700	NEW	04-19-051	296-874-20028	NEW-P	04-14-027	296-874-40026	NEW-P	04-14-027
296-864-100	NEW-P	04-12-071	296-874-20030	NEW-P	04-14-027	296-874-40028	NEW-P	04-14-027
296-864-100	NEW	04-20-079	296-874-20032	NEW-P	04-14-027	296-874-40030	NEW-P	04-14-027

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-874-40032	NEW-P	04-14-027	308-20-090	AMD	04-05-005	308-66-152	AMD	04-16-090
296-874-40034	NEW-P	04-14-027	308-20-101	NEW	04-05-005	308-66-155	AMD-P	04-12-079
296-874-40036	NEW-P	04-14-027	308-20-110	AMD	04-05-005	308-66-155	AMD	04-16-090
296-874-40038	NEW-P	04-14-027	308-20-550	AMD	04-05-005	308-66-157	AMD-P	04-12-079
296-874-40040	NEW-P	04-14-027	308-20-555	NEW	04-05-005	308-66-157	AMD	04-16-090
296-874-40042	NEW-P	04-14-027	308-29-045	AMD-P	04-14-070	308-66-160	AMD-P	04-12-079
296-874-500	NEW-P	04-14-027	308-29-045	AMD	04-18-043	308-66-160	AMD	04-16-090
308-08	PREP	04-15-040	308-56A	PREP	04-05-121	308-66-165	AMD-P	04-12-079
308-08-416	AMD-P	04-20-112	308-56A	PREP	04-20-086	308-66-165	AMD	04-16-090
308-08-515	NEW-P	04-20-112	308-56A-020	AMD-P	04-04-006	308-66-175	AMD-P	04-12-079
308-08-525	NEW-P	04-20-112	308-56A-020	AMD	04-08-080	308-66-175	AMD	04-16-090
308-11-030	AMD-P	04-14-075	308-56A-024	NEW-P	04-11-112	308-66-180	AMD-P	04-12-079
308-11-030	AMD	04-17-074	308-56A-030	AMD-P	04-03-120	308-66-180	AMD	04-16-090
308-13-150	PREP	04-06-030	308-56A-030	AMD	04-07-168	308-66-190	AMD-P	04-12-079
308-13-150	AMD-P	04-13-143	308-56A-040	AMD-P	04-03-120	308-66-190	AMD	04-16-090
308-13-150	AMD	04-17-026	308-56A-040	AMD	04-07-168	308-66-195	AMD-P	04-12-079
308-14-010	NEW-P	04-14-073	308-56A-075	AMD-X	04-09-033	308-66-195	AMD	04-16-090
308-14-010	NEW	04-17-072	308-56A-075	AMD	04-13-118	308-66-200	AMD-P	04-12-079
308-14-085	AMD-P	04-14-073	308-56A-140	AMD-P	04-04-006	308-66-200	AMD	04-16-090
308-14-085	AMD	04-17-072	308-56A-140	AMD	04-08-080	308-66-210	AMD-P	04-12-079
308-14-085	AMD-E	04-19-038	308-56A-150	AMD-P	04-04-022	308-66-210	AMD	04-16-090
308-14-085	AMD-P	04-19-160	308-56A-150	AMD	04-08-002	308-66-211	AMD-P	04-12-079
308-14-090	AMD-P	04-14-073	308-56A-250	PREP	04-08-006	308-66-211	AMD	04-16-090
308-14-090	AMD	04-17-072	308-56A-250	AMD-P	04-14-016	308-66-212	AMD-P	04-12-079
308-14-115	NEW-P	04-14-073	308-56A-250	AMD	04-19-017	308-66-212	AMD	04-16-090
308-14-115	NEW	04-17-072	308-56A-405	PREP	04-11-106	308-66-214	AMD-P	04-12-079
308-14-130	AMD-P	04-14-073	308-56A-410	PREP	04-11-106	308-66-214	AMD	04-16-090
308-14-130	AMD	04-17-072	308-56A-415	PREP	04-11-106	308-66-220	AMD-P	04-12-079
308-14-135	AMD-P	04-14-073	308-56A-420	PREP	04-11-106	308-66-220	AMD	04-16-090
308-14-135	AMD	04-17-072	308-56A-450	AMD-P	04-04-022	308-66-225	AMD-P	04-12-079
308-14-190	NEW-P	04-14-073	308-56A-450	AMD	04-08-002	308-66-225	AMD	04-16-090
308-14-190	NEW	04-17-072	308-56A-455	AMD-P	04-04-006	308-66-227	AMD-P	04-12-079
308-14-200	AMD-P	04-14-074	308-56A-455	AMD	04-08-080	308-66-227	AMD	04-16-090
308-14-200	AMD	04-17-073	308-56A-460	AMD-P	04-04-006	308-66-250	NEW-P	04-12-079
308-15	PREP	04-04-050	308-56A-460	AMD	04-08-080	308-66-250	NEW	04-16-090
308-15-010	AMD-P	04-19-071	308-56A-500	AMD-P	04-04-049	308-66-260	NEW-P	04-12-079
308-15-020	AMD-P	04-19-071	308-56A-500	AMD	04-08-081	308-66-260	NEW	04-16-090
308-15-030	AMD-P	04-19-071	308-56A-500	PREP	04-17-064	308-77-180	REP	04-09-012
308-15-040	AMD-P	04-19-071	308-56A-505	AMD-P	04-04-049	308-78-010	AMD	04-06-001
308-15-050	AMD-P	04-19-071	308-56A-505	AMD	04-08-081	308-78-045	AMD	04-06-001
308-15-053	NEW-P	04-19-071	308-56A-505	PREP	04-18-040	308-93	PREP	04-20-086
308-15-055	NEW-P	04-19-071	308-56A-525	PREP	04-08-058	308-93-030	PREP	04-07-054
308-15-057	NEW-P	04-19-071	308-56A-525	AMD-P	04-15-080	308-93-050	PREP	04-07-054
308-15-060	AMD-P	04-19-071	308-56A-525	AMD-W	04-16-070	308-94-105	AMD-X	04-20-088
308-15-070	AMD-P	04-19-071	308-56A-530	PREP	04-17-064	308-96A	PREP	04-03-002
308-15-075	AMD-P	04-19-071	308-56A-640	AMD	04-03-016	308-96A	PREP	04-03-003
308-15-080	AMD-P	04-19-071	308-61	PREP	04-20-086	308-96A	PREP	04-13-078
308-15-090	REP-P	04-19-071	308-61-135	PREP	04-12-010	308-96A	PREP	04-20-086
308-15-100	AMD-P	04-19-071	308-61-190	AMD-P	04-06-004	308-96A-005	PREP	04-03-002
308-15-101	AMD-P	04-19-071	308-61-190	AMD	04-12-063	308-96A-005	AMD-P	04-10-003
308-15-102	REP-P	04-19-071	308-63	PREP	04-11-104	308-96A-005	AMD	04-14-077
308-15-103	AMD-P	04-19-071	308-63-090	PREP	04-12-009	308-96A-021	AMD-P	04-03-121
308-15-140	AMD-P	04-19-071	308-65	PREP	04-11-105	308-96A-021	AMD	04-08-079
308-15-150	AMD-P	04-19-071	308-66-110	AMD-P	04-12-079	308-96A-026	AMD-P	04-04-022
308-17-150	AMD-P	04-07-032	308-66-110	AMD	04-16-090	308-96A-026	AMD	04-08-002
308-17-150	AMD	04-12-024	308-66-120	AMD-P	04-12-079	308-96A-048	NEW-P	04-19-092
308-18-150	AMD-P	04-07-031	308-66-120	AMD	04-16-090	308-96A-070	PREP	04-09-032
308-18-150	AMD	04-12-023	308-66-140	AMD-P	04-12-079	308-96A-070	AMD-E	04-09-044
308-20	PREP	04-16-116	308-66-140	AMD	04-16-090	308-96A-070	AMD-P	04-12-072
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308-20-040	AMD	04-05-005	308-66-145	AMD	04-16-090	308-96A-071	PREP	04-09-032
308-20-055	NEW	04-05-005	308-66-152	AMD-P	04-12-079	308-96A-071	AMD-E	04-09-044

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308-96A-071	AMD-P	04-12-072	308-108-120	NEW-P	04-19-149	308-390-200	REP-P	04-09-105
308-96A-071	AMD	04-18-023	308-108-130	NEW-P	04-19-149	308-390-200	REP	04-15-100
308-96A-072	AMD-P	04-03-121	308-108-140	NEW-P	04-19-149	308-390-201	AMD-P	04-09-105
308-96A-072	AMD	04-08-079	308-108-150	NEW-P	04-19-149	308-390-201	AMD-W	04-15-101
308-96A-074	AMD-P	04-03-121	308-108-160	NEW-P	04-19-149	308-390-201	AMD-P	04-16-053
308-96A-074	AMD	04-08-079	308-108-170	NEW-P	04-19-149	308-390-201	AMD	04-19-034
308-96A-076	PREP	04-09-029	308-108-180	NEW-P	04-19-149	308-390-203	AMD-P	04-09-105
308-96A-076	NEW-P	04-19-090	308-124A-025	AMD-P	04-03-039	308-390-203	AMD	04-15-100
308-96A-077	PREP	04-09-031	308-124A-025	AMD	04-08-012	308-390-204	AMD-P	04-09-105
308-96A-078	PREP	04-09-030	308-124A-110	AMD-P	04-03-039	308-390-204	AMD	04-15-100
308-96A-078	NEW-P	04-19-091	308-124A-110	AMD	04-07-153	308-390-300	AMD-P	04-09-105
308-96A-079	PREP	04-09-060	308-124A-440	AMD-P	04-03-039	308-390-300	AMD	04-15-100
308-96A-175	PREP	04-09-032	308-124A-440	AMD	04-08-012	308-390-302	AMD-P	04-09-105
308-96A-175	AMD-E	04-09-044	308-124C-030	AMD-P	04-03-037	308-390-302	AMD	04-15-100
308-96A-175	AMD-P	04-12-072	308-124C-030	AMD	04-07-151	308-390-401	AMD-P	04-09-105
308-96A-175	AMD	04-18-023	308-124D-030	AMD-P	04-03-038	308-390-401	AMD	04-15-100
308-96A-306	AMD-P	04-10-003	308-124D-030	AMD	04-07-152	308-390-500	AMD-P	04-09-105
308-96A-306	AMD	04-14-077	308-125-200	AMD	04-04-052	308-390-500	AMD	04-15-100
308-96A-307	PREP	04-09-059	308-127-140	AMD-P	04-05-098	308-390-502	AMD-P	04-09-105
308-96A-311	PREP	04-03-003	308-127-140	AMD	04-08-003	308-390-502	AMD	04-15-100
308-96A-311	AMD-P	04-10-003	308-127-160	AMD-P	04-05-098	308-390-503	AMD-P	04-09-105
308-96A-311	AMD	04-14-077	308-127-160	AMD	04-08-003	308-390-503	AMD	04-15-100
308-96A-312	AMD-P	04-10-003	308-127-160	AMD-P	04-09-095	308-390-503	AMD	04-15-100
308-96A-312	AMD	04-14-077	308-127-160	AMD	04-12-028	308-390-505	AMD-P	04-09-105
308-96A-313	AMD-P	04-10-003	308-127-160	AMD	04-16-117	308-390-505	AMD-W	04-15-101
308-96A-313	AMD	04-14-077	308-127-160	AMD	04-19-040	308-390-602	AMD-P	04-09-105
308-96A-314	AMD-P	04-10-003	308-127-225	AMD-P	04-05-098	308-390-602	AMD	04-15-100
308-96A-314	AMD	04-14-077	308-127-225	AMD	04-08-003	308-420-200	AMD-P	04-05-097
308-96A-316	AMD-P	04-10-003	308-129-110	AMD-P	04-09-096	308-420-200	AMD-W	04-08-004
308-96A-316	AMD	04-14-077	308-129-110	AMD	04-12-027	314-02	PREP	04-08-107
308-96A-550	AMD-P	04-03-121	308-129-110	AMD-P	04-16-118	314-02	PREP	04-08-108
308-96A-550	AMD	04-08-079	308-129-110	AMD	04-19-039	314-02-105	AMD-P	04-02-075
308-96A-560	AMD-P	04-03-121	308-330-197	AMD-P	04-15-124	314-02-105	AMD	04-07-020
308-96A-560	AMD	04-08-079	308-330-197	AMD	04-18-061	314-02-105	PREP	04-09-111
308-99-020	AMD-P	04-07-047	308-330-305	AMD-P	04-15-124	314-02-105	AMD-P	04-13-127
308-99-020	AMD-W	04-08-001	308-330-305	AMD	04-18-061	314-02-105	AMD	04-19-156
308-99-020	AMD-P	04-20-087	308-330-309	AMD-P	04-15-124	314-05-020	NEW-P	04-16-123
308-99-040	AMD-P	04-07-047	308-330-309	AMD	04-18-061	314-05-025	NEW-P	04-16-123
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308-99-060	AMD-P	04-20-087	308-330-423	AMD-P	04-15-124	314-11-020	AMD-X	04-08-112
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357-01-225	NEW-P	04-13-179	357-07-025	NEW-P	04-13-181	357-16-150	NEW-P	04-13-183
357-01-230	NEW-P	04-13-179	357-07-030	NEW-P	04-13-181	357-16-155	NEW-P	04-13-183
357-01-235	NEW-P	04-13-179	357-07-035	NEW-P	04-13-181	357-16-160	NEW-P	04-13-183
357-01-240	NEW-P	04-13-179	357-07-040	NEW-P	04-13-181	357-16-170	NEW-P	04-13-183
357-01-245	NEW-P	04-13-179	357-07-045	NEW-P	04-13-181	357-16-170	NEW-C	04-18-122
357-01-250	NEW-P	04-13-179	357-07-050	NEW-P	04-13-181	357-16-175	NEW-P	04-13-183
357-01-255	NEW-P	04-13-179	357-07-055	NEW-P	04-13-181	357-16-175	NEW-C	04-18-122
357-01-260	NEW-P	04-13-179	357-07-060	NEW-P	04-13-181	357-16-177	NEW-P	04-18-121
357-01-265	NEW-P	04-13-179	357-07-065	NEW-P	04-13-181	357-16-180	NEW-P	04-13-183
357-01-270	NEW-P	04-13-179	357-07-070	NEW-P	04-13-181	357-16-180	NEW-C	04-18-122
357-01-275	NEW-P	04-13-179	357-07-075	NEW-P	04-13-181	357-16-190	NEW-P	04-13-183
357-01-280	NEW-P	04-13-179	357-10-005	NEW-P	04-04-109	357-16-195	NEW-P	04-13-183
357-01-285	NEW-P	04-13-179	357-10-005	NEW	04-07-052	357-16-200	NEW-P	04-13-183
357-01-290	NEW-P	04-13-179	357-10-010	NEW-P	04-04-109	357-16-205	NEW-P	04-13-183
357-01-295	NEW-P	04-13-179	357-10-010	NEW	04-07-052	357-19-005	NEW-P	04-13-031
357-01-300	NEW-P	04-13-179	357-10-020	NEW-P	04-04-109	357-19-010	NEW-P	04-13-031
357-01-305	NEW-P	04-13-179	357-10-020	NEW	04-07-052	357-19-015	NEW-P	04-13-031
357-01-310	NEW-P	04-13-179	357-13-010	NEW-P	04-13-182	357-19-017	NEW-P	04-13-031
357-01-315	NEW-P	04-13-179	357-13-015	NEW-P	04-13-182	357-19-020	NEW-P	04-13-031
357-01-320	NEW-P	04-13-179	357-13-020	NEW-P	04-13-182	357-19-025	NEW-P	04-13-031
357-01-325	NEW-P	04-13-179	357-13-025	NEW-P	04-13-182	357-19-030	NEW-P	04-13-031
357-01-327	NEW-P	04-16-113	357-13-030	NEW-P	04-13-182	357-19-040	NEW-P	04-13-031
357-01-330	NEW-P	04-13-179	357-13-035	NEW-P	04-13-182	357-19-045	NEW-P	04-13-031
357-01-335	NEW-P	04-13-179	357-13-040	NEW-P	04-13-182	357-19-050	NEW-P	04-13-031
357-01-340	NEW-P	04-13-179	357-13-045	NEW-P	04-13-182	357-19-060	NEW-P	04-13-031
357-01-345	NEW-P	04-13-179	357-13-050	NEW-P	04-13-182	357-19-065	NEW-P	04-13-031
357-01-350	NEW-P	04-13-179	357-13-055	NEW-P	04-13-182	357-19-070	NEW-P	04-13-031
357-01-355	NEW-P	04-13-179	357-13-060	NEW-P	04-13-182	357-19-075	NEW-P	04-13-031
357-04-005	NEW-P	04-13-180	357-13-065	NEW-P	04-13-182	357-19-080	NEW-P	04-13-031
357-04-010	NEW-P	04-13-180	357-13-070	NEW-P	04-13-182	357-19-085	NEW-P	04-13-031
357-04-015	NEW-P	04-13-180	357-13-075	NEW-P	04-13-182	357-19-090	NEW-P	04-13-031
357-04-020	NEW-P	04-13-180	357-13-080	NEW-P	04-13-182	357-19-095	NEW-P	04-13-031
357-04-025	NEW-P	04-13-180	357-13-085	NEW-P	04-13-182	357-19-100	NEW-P	04-13-031
357-04-030	NEW-P	04-13-180	357-13-090	NEW-P	04-13-182	357-19-105	NEW-P	04-13-031
357-04-035	NEW-P	04-12-088	357-16-005	NEW-P	04-13-183	357-19-110	NEW-P	04-13-031
357-04-035	NEW	04-15-016	357-16-010	NEW-P	04-13-183	357-19-115	NEW-P	04-13-031
357-04-040	NEW-P	04-12-088	357-16-015	NEW-P	04-13-183	357-19-117	NEW-P	04-13-031
357-04-040	NEW	04-15-016	357-16-020	NEW-P	04-13-183	357-19-120	NEW-P	04-13-031
357-04-045	NEW-P	04-12-088	357-16-025	NEW-P	04-13-183	357-19-135	NEW-P	04-13-031

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357- 19-145	NEW-P	04-13-031	357- 19-448	NEW-P	04-16-113	357- 28-145	NEW-P	04-13-029
357- 19-155	NEW-P	04-13-031	357- 19-450	NEW-P	04-16-113	357- 28-150	NEW-P	04-13-029
357- 19-160	NEW-P	04-13-031	357- 19-455	NEW-P	04-13-031	357- 28-155	NEW-P	04-13-029
357- 19-165	NEW-P	04-13-031	357- 19-460	NEW-P	04-13-031	357- 28-160	NEW-P	04-13-029
357- 19-170	NEW-P	04-13-031	357- 19-465	NEW-P	04-13-031	357- 28-165	NEW-P	04-13-029
357- 19-175	NEW-P	04-13-031	357- 19-470	NEW-P	04-13-031	357- 28-175	NEW-P	04-13-029
357- 19-177	NEW-P	04-13-031	357- 19-475	NEW-P	04-13-031	357- 28-180	NEW-P	04-13-029
357- 19-180	NEW-P	04-13-031	357- 19-480	NEW-P	04-13-031	357- 28-185	NEW-P	04-13-029
357- 19-190	NEW-P	04-13-031	357- 19-505	NEW-P	04-13-031	357- 28-190	NEW-P	04-13-029
357- 19-193	NEW-P	04-13-184	357- 19-510	NEW-P	04-13-031	357- 28-195	NEW-P	04-13-029
357- 19-195	NEW-P	04-13-031	357- 19-515	NEW-P	04-13-031	357- 28-200	NEW-P	04-13-029
357- 19-200	NEW-P	04-13-031	357- 19-525	NEW-P	04-13-031	357- 28-205	NEW-P	04-13-029
357- 19-205	NEW-P	04-13-031	357- 19-530	NEW-P	04-13-031	357- 28-210	NEW-P	04-13-029
357- 19-215	NEW-P	04-13-031	357- 19-535	NEW-P	04-13-031	357- 28-220	NEW-P	04-13-029
357- 19-220	NEW-P	04-13-031	357- 22-010	NEW-P	04-13-185	357- 28-225	NEW-P	04-13-029
357- 19-225	NEW-P	04-13-031	357- 22-015	NEW-P	04-13-185	357- 28-230	NEW-P	04-13-029
357- 19-230	NEW-P	04-13-031	357- 22-020	NEW-P	04-13-185	357- 28-235	NEW-P	04-13-029
357- 19-235	NEW-P	04-13-031	357- 22-025	NEW-P	04-13-185	357- 28-240	NEW-P	04-13-029
357- 19-240	NEW-P	04-13-031	357- 22-030	NEW-P	04-13-185	357- 28-245	NEW-P	04-13-029
357- 19-245	NEW-P	04-13-031	357- 22-035	NEW-P	04-13-185	357- 28-250	NEW-P	04-13-029
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357- 19-255	NEW-P	04-13-031	357- 22-045	NEW-P	04-13-185	357- 28-255	NEW-P	04-13-029
357- 19-260	NEW-P	04-13-031	357- 25-005	NEW-P	04-13-186	357- 28-260	NEW-P	04-13-029
357- 19-265	NEW-P	04-13-031	357- 25-010	NEW-P	04-13-186	357- 28-265	NEW-P	04-13-029
357- 19-270	NEW-P	04-13-031	357- 25-015	NEW-P	04-13-186	357- 28-275	NEW-P	04-13-029
357- 19-280	NEW-P	04-13-031	357- 25-020	NEW-P	04-13-186	357- 28-280	NEW-P	04-13-029
357- 19-285	NEW-P	04-13-031	357- 25-030	NEW-P	04-13-186	357- 28-285	NEW-P	04-13-029
357- 19-290	NEW-P	04-13-031	357- 25-035	NEW-P	04-13-186	357- 28-295	NEW-P	04-13-029
357- 19-295	NEW-P	04-13-031	357- 25-040	NEW-P	04-13-186	357- 28-300	NEW-P	04-13-029
357- 19-297	NEW-P	04-13-031	357- 25-045	NEW-P	04-13-186	357- 28-310	NEW-P	04-13-029
357- 19-305	NEW-P	04-13-031	357- 25-050	NEW-P	04-13-186	357- 28-315	NEW-P	04-13-029
357- 19-310	NEW-P	04-13-031	357- 25-055	NEW-P	04-13-186	357- 28-325	NEW-P	04-13-029
357- 19-315	NEW-P	04-13-031	357- 26-005	NEW-P	04-13-187	357- 34-005	NEW-P	04-13-188
357- 19-320	NEW-P	04-13-031	357- 26-010	NEW-P	04-13-187	357- 34-010	NEW-P	04-13-188
357- 19-325	NEW-P	04-13-031	357- 26-015	NEW-P	04-13-187	357- 34-015	NEW-P	04-13-188
357- 19-330	NEW-P	04-13-031	357- 26-020	NEW-P	04-13-187	357- 34-020	NEW-P	04-13-188
357- 19-340	NEW-P	04-13-031	357- 26-025	NEW-P	04-13-187	357- 34-025	NEW-P	04-13-188
357- 19-345	NEW-P	04-13-031	357- 26-030	NEW-P	04-13-187	357- 34-030	NEW-P	04-13-188
357- 19-360	NEW-P	04-13-031	357- 26-035	NEW-P	04-13-187	357- 34-035	NEW-P	04-13-188
357- 19-365	NEW-P	04-13-031	357- 28-010	NEW-P	04-13-029	357- 34-045	NEW-P	04-13-188
357- 19-370	NEW-P	04-13-031	357- 28-015	NEW-P	04-13-029	357- 34-050	NEW-P	04-13-188
357- 19-373	NEW-P	04-13-031	357- 28-020	NEW-P	04-13-029	357- 34-055	NEW-P	04-12-087
357- 19-375	NEW-P	04-13-031	357- 28-025	NEW-P	04-13-029	357- 34-055	NEW	04-15-015
357- 19-377	NEW-P	04-13-031	357- 28-030	NEW-P	04-13-029	357- 34-060	NEW-P	04-13-188
357- 19-380	NEW-P	04-13-031	357- 28-035	NEW-P	04-13-029	357- 34-065	NEW-P	04-13-188
357- 19-385	NEW-P	04-13-031	357- 28-040	NEW-P	04-13-029	357- 34-070	NEW-P	04-12-087
357- 19-388	NEW-P	04-13-031	357- 28-045	NEW-P	04-13-029	357- 34-075	NEW	04-15-015
357- 19-388	NEW-P	04-13-031	357- 28-050	NEW-P	04-13-029	357- 34-075	NEW-P	04-12-087
357- 19-395	NEW-P	04-13-031	357- 28-055	NEW-P	04-13-029	357- 34-080	NEW	04-15-015
357- 19-400	NEW-P	04-13-031	357- 28-060	NEW-P	04-13-029	357- 34-080	NEW-P	04-12-087
357- 19-410	NEW-P	04-13-031	357- 28-065	NEW-P	04-13-029	357- 34-080	NEW-W	04-15-014
357- 19-410	NEW-P	04-13-031	357- 28-070	NEW-P	04-13-029	357- 34-085	NEW-P	04-12-087
357- 19-420	NEW-P	04-13-031	357- 28-075	NEW-P	04-13-029	357- 34-085	NEW	04-15-015
357- 19-425	NEW-P	04-13-031	357- 28-080	NEW-P	04-13-029	357- 34-090	NEW-P	04-13-188
357- 19-430	NEW-P	04-13-031	357- 28-085	NEW-P	04-13-029	357- 37-010	NEW-P	04-13-189
357- 19-435	NEW-P	04-16-113	357- 28-090	NEW-P	04-13-029	357- 37-015	NEW-P	04-13-189
357- 19-440	NEW-P	04-16-113	357- 28-095	NEW-P	04-13-029	357- 37-020	NEW-P	04-13-189
357- 19-441	NEW-P	04-16-113	357- 28-100	NEW-P	04-13-029	357- 37-025	NEW-P	04-13-189
357- 19-442	NEW-P	04-16-113	357- 28-110	NEW-P	04-13-029	357- 37-030	NEW-P	04-13-189
357- 19-442	NEW-P	04-16-113	357- 28-115	NEW-P	04-13-029	357- 37-035	NEW-P	04-13-189
357- 19-443	NEW-P	04-16-113	357- 28-120	NEW-P	04-13-029	357- 37-040	NEW-P	04-13-189
357- 19-444	NEW-P	04-16-113	357- 28-125	NEW-P	04-13-029			
357- 19-445	NEW-P	04-16-113	357- 28-130	NEW-P	04-13-029			
357- 19-446	NEW-P	04-16-113	357- 28-135	NEW-P	04-13-029			

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357-37-050	NEW-P	04-13-189	357-46-010	NEW-P	04-13-030	357-46-165	NEW	04-18-114
357-37-055	NEW-P	04-13-189	357-46-010	NEW	04-18-114	357-46-170	NEW-P	04-13-030
357-37-060	NEW-P	04-13-189	357-46-010	AMD-P	04-20-114	357-46-170	NEW	04-18-114
357-37-065	NEW-P	04-13-189	357-46-012	NEW-P	04-20-114	357-46-175	NEW-P	04-13-030
357-37-070	NEW-P	04-13-189	357-46-015	NEW-P	04-13-030	357-46-175	NEW	04-18-114
357-37-075	NEW-P	04-13-189	357-46-015	NEW	04-18-114	357-46-180	NEW-P	04-13-030
357-37-080	NEW-P	04-13-189	357-46-020	NEW-P	04-13-030	357-46-180	NEW	04-18-114
357-40-010	NEW-P	04-13-190	357-46-020	NEW	04-18-114	357-46-185	NEW-P	04-13-030
357-40-010	NEW	04-18-113	357-46-025	NEW-P	04-13-030	357-46-185	NEW	04-18-114
357-40-015	NEW-P	04-13-190	357-46-025	NEW	04-18-114	357-46-190	NEW-P	04-13-030
357-40-015	NEW	04-18-113	357-46-030	NEW-P	04-13-030	357-46-190	NEW	04-18-114
357-40-020	NEW-P	04-13-190	357-46-030	NEW	04-18-114	357-46-195	NEW-P	04-13-030
357-40-020	NEW	04-18-113	357-46-035	NEW-P	04-13-030	357-46-195	NEW	04-18-114
357-40-025	NEW-P	04-13-190	357-46-035	NEW	04-18-114	357-46-200	NEW-P	04-13-030
357-40-025	NEW	04-18-113	357-46-040	NEW-P	04-13-030	357-46-200	NEW	04-18-114
357-40-030	NEW-P	04-13-190	357-46-040	NEW	04-18-114	357-46-205	NEW-P	04-13-030
357-40-030	NEW	04-18-113	357-46-045	NEW-P	04-13-030	357-46-205	NEW	04-18-114
357-40-035	NEW-P	04-13-190	357-46-045	NEW	04-18-114	357-46-210	NEW	04-18-114
357-40-035	NEW	04-18-113	357-46-050	NEW-P	04-13-030	357-46-215	NEW	04-18-114
357-40-040	NEW-P	04-13-190	357-46-050	NEW	04-18-114	357-46-220	NEW	04-18-114
357-40-040	NEW	04-18-113	357-46-060	NEW-P	04-13-030	357-46-225	NEW	04-18-114
357-40-045	NEW-P	04-13-190	357-46-060	NEW	04-18-114	357-49-010	NEW-P	04-13-192
357-40-045	NEW	04-18-113	357-46-070	NEW-P	04-13-030	357-49-010	NEW-S	04-18-127
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357-40-050	NEW-W	04-18-115	357-46-075	NEW-P	04-13-030	357-49-015	NEW-C	04-18-126
357-40-055	NEW-P	04-13-190	357-46-075	NEW	04-18-114	357-49-020	NEW-P	04-13-192
357-40-055	NEW-W	04-18-115	357-46-080	NEW-P	04-13-030	357-49-020	NEW-C	04-18-126
357-40-060	NEW-P	04-13-190	357-46-080	NEW	04-18-114	357-52-005	NEW-P	04-18-119
357-40-060	NEW-W	04-18-115	357-46-085	NEW-P	04-13-030	357-52-010	NEW-P	04-18-119
357-40-065	NEW-P	04-13-190	357-46-085	NEW	04-18-114	357-52-015	NEW-P	04-18-119
357-40-065	NEW-W	04-18-115	357-46-090	NEW-P	04-13-030	357-52-020	NEW-P	04-18-119
357-43-001	NEW-P	04-13-191	357-46-090	NEW	04-18-114	357-52-025	NEW-P	04-18-119
357-43-005	NEW-P	04-13-191	357-46-095	NEW-P	04-13-030	357-52-030	NEW-P	04-18-119
357-43-007	NEW-P	04-18-124	357-46-095	NEW	04-18-114	357-52-035	NEW-P	04-18-119
357-43-008	NEW-P	04-20-113	357-46-100	NEW-P	04-13-030	357-52-040	NEW-P	04-18-119
357-43-010	NEW-P	04-13-191	357-46-100	NEW	04-18-114	357-52-045	NEW-P	04-18-119
357-43-015	NEW-P	04-13-191	357-46-105	NEW-P	04-13-030	357-52-050	NEW-P	04-18-119
357-43-020	NEW-P	04-13-191	357-46-105	NEW	04-18-114	357-52-055	NEW-P	04-18-119
357-43-025	NEW-P	04-13-191	357-46-110	NEW-P	04-13-030	357-52-060	NEW-P	04-18-119
357-43-030	NEW-P	04-13-191	357-46-110	NEW	04-18-114	357-52-065	NEW-P	04-18-119
357-43-035	NEW-P	04-13-191	357-46-115	NEW-P	04-13-030	357-52-070	NEW-P	04-18-119
357-43-040	NEW-P	04-13-191	357-46-115	NEW	04-18-114	357-52-075	NEW-P	04-18-119
357-43-045	NEW-P	04-13-191	357-46-120	NEW-P	04-13-030	357-52-077	NEW-P	04-18-119
357-43-050	NEW-P	04-13-191	357-46-120	NEW	04-18-114	357-52-080	NEW-P	04-18-119
357-43-055	NEW-P	04-13-191	357-46-125	NEW-P	04-13-030	357-52-085	NEW-P	04-18-119
357-43-060	NEW-P	04-13-191	357-46-125	NEW	04-18-114	357-52-090	NEW-P	04-18-119
357-43-065	NEW-P	04-13-191	357-46-130	NEW-P	04-13-030	357-52-095	NEW-P	04-18-119
357-43-070	NEW-P	04-13-191	357-46-130	NEW	04-18-114	357-52-100	NEW-P	04-18-118
357-43-075	NEW-P	04-13-191	357-46-135	NEW-P	04-13-030	357-52-105	NEW-P	04-18-118
357-43-080	NEW-P	04-13-191	357-46-135	NEW	04-18-114	357-52-110	NEW-P	04-18-118
357-43-085	NEW-P	04-13-191	357-46-140	NEW-P	04-13-030	357-52-115	NEW-P	04-18-118
357-43-090	NEW-P	04-13-191	357-46-140	NEW-S	04-18-125	357-52-120	NEW-P	04-18-118
357-43-090	NEW-W	04-18-117	357-46-145	NEW-P	04-13-030	357-52-125	NEW-P	04-18-118
357-43-095	NEW-P	04-13-191	357-46-145	NEW	04-18-114	357-52-130	NEW-P	04-18-118
357-43-095	NEW-C	04-18-123	357-46-147	NEW-P	04-18-120	357-52-135	NEW-P	04-18-118
357-43-100	NEW-P	04-13-191	357-46-150	NEW-P	04-13-030	357-52-140	NEW-P	04-18-118
357-43-100	NEW-C	04-18-123	357-46-150	NEW	04-18-114	357-52-145	NEW-P	04-18-118
357-43-105	NEW-P	04-13-191	357-46-155	NEW-P	04-13-030	357-52-150	NEW-P	04-18-118
357-43-110	NEW-P	04-13-191	357-46-155	NEW	04-18-114	357-52-155	NEW-P	04-18-118
357-43-115	NEW-P	04-13-191	357-46-160	NEW-P	04-13-030	357-52-160	NEW-P	04-18-118
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357- 52-175	NEW-P	04-18-118	365-230-140	NEW-P	04-05-062	388- 14A-4100	PREP	04-07-062
357- 52-180	NEW-P	04-18-118	365-230-140	NEW	04-10-037	388- 14A-4100	AMD-P	04-13-139
357- 52-185	NEW-P	04-18-118	365-230-150	NEW-P	04-05-062	388- 14A-4100	AMD-E	04-14-054
357- 52-190	NEW-P	04-18-118	365-230-150	NEW	04-10-037	388- 14A-4100	AMD	04-17-119
357- 52-195	NEW-P	04-18-118	365-230-160	NEW-P	04-05-062	388- 14A-4110	PREP-W	04-07-022
357- 52-200	NEW-P	04-18-118	365-230-160	NEW	04-10-037	388- 14A-4110	AMD-E	04-07-057
357- 52-205	NEW-P	04-18-118	365-230-170	NEW-P	04-05-062	388- 14A-4110	PREP	04-07-062
357- 52-210	NEW-P	04-18-118	365-230-170	NEW	04-10-037	388- 14A-4110	AMD-P	04-13-139
357- 52-215	NEW-P	04-18-118	365-230-180	NEW-P	04-05-062	388- 14A-4110	AMD-E	04-14-054
357- 52-220	NEW-P	04-18-118	365-230-180	NEW	04-10-037	388- 14A-4110	AMD	04-17-119
357- 52-225	NEW-P	04-18-118	365-230-190	NEW-P	04-05-062	388- 14A-4119	NEW-E	04-20-001
357- 52-230	NEW-P	04-18-118	365-230-190	NEW	04-10-037	388- 14A-4120	PREP-W	04-07-022
357- 52-235	NEW-P	04-18-118	365-230-200	NEW-P	04-05-062	388- 14A-4120	AMD-E	04-07-057
357- 52-240	NEW-P	04-18-118	365-230-200	NEW	04-10-037	388- 14A-4120	PREP	04-07-062
357- 52-245	NEW-P	04-18-118	365-230-210	NEW-P	04-05-062	388- 14A-4120	AMD-P	04-13-139
357- 52-250	NEW-P	04-18-118	365-230-210	NEW	04-10-037	388- 14A-4120	AMD-E	04-14-054
357- 52-255	NEW-P	04-18-118	365-230-220	NEW-P	04-05-062	388- 14A-4120	AMD	04-17-119
357- 52-260	NEW-P	04-18-118	365-230-220	NEW	04-10-037	388- 14A-4121	NEW-E	04-07-057
357- 52-265	NEW-P	04-18-118	365-230-230	NEW-P	04-05-062	388- 14A-4121	NEW-P	04-13-139
363-116-070	AMD-P	04-10-030	365-230-230	NEW	04-10-037	388- 14A-4121	NEW-E	04-14-054
363-116-070	AMD	04-14-017	365-230-240	NEW-P	04-05-062	388- 14A-4121	NEW	04-17-119
363-116-185	AMD-P	04-10-031	365-230-240	NEW	04-10-037	388- 14A-4122	NEW-E	04-07-057
363-116-185	AMD	04-14-018	365-230-250	NEW-P	04-05-062	388- 14A-4122	NEW-P	04-13-139
363-116-300	AMD-P	04-08-008	365-230-250	NEW	04-10-037	388- 14A-4122	NEW-E	04-14-054
363-116-300	AMD	04-12-014	365-230-260	NEW-P	04-05-062	388- 14A-4122	NEW	04-17-119
365-110-035	AMD-X	04-17-139	365-230-260	NEW	04-10-037	388- 14A-4123	NEW-E	04-07-057
365-230-010	NEW-P	04-05-062	365-230-270	NEW-P	04-05-062	388- 14A-4123	NEW-P	04-13-139
365-230-010	NEW	04-10-037	365-230-270	NEW	04-10-037	388- 14A-4123	NEW-E	04-14-054
365-230-015	NEW-P	04-05-062	371- 08	PREP	04-15-009	388- 14A-4123	NEW	04-17-119
365-230-015	NEW	04-10-037	371- 08-305	AMD-E	04-15-010	388- 14A-4124	NEW-E	04-07-057
365-230-016	NEW-P	04-05-062	371- 08-306	NEW	04-03-001	388- 14A-4124	NEW-P	04-13-139
365-230-016	NEW	04-10-037	371- 08-315	AMD	04-03-001	388- 14A-4124	NEW-E	04-14-054
365-230-020	NEW-P	04-05-062	371- 08-335	AMD-E	04-15-010	388- 14A-4124	NEW	04-17-119
365-230-020	NEW	04-10-037	388- 02-0215	AMD-E	04-07-090	388- 14A-4125	NEW-E	04-07-057
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365-230-030	NEW	04-10-037	388- 02-0215	AMD-P	04-20-042	388- 14A-4125	NEW-E	04-14-054
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365-230-040	NEW-P	04-05-062	388- 11-048	PREP-W	04-07-112	388- 14A-4126	NEW-P	04-13-139
365-230-040	NEW	04-10-037	388- 11-205	PREP-W	04-07-112	388- 14A-4126	NEW-E	04-14-054
365-230-050	NEW-P	04-05-062	388- 14-045	PREP-W	04-07-112	388- 14A-4126	NEW	04-17-119
365-230-050	NEW	04-10-037	388- 14-450	PREP-W	04-07-112	388- 14A-4130	PREP-W	04-07-022
365-230-060	NEW-P	04-05-062	388- 14A	PREP	04-07-113	388- 14A-4130	AMD-E	04-07-057
365-230-060	NEW	04-10-037	388- 14A	PREP	04-19-129	388- 14A-4130	PREP	04-07-062
365-230-070	NEW-P	04-05-062	388- 14A-1020	PREP	04-06-053	388- 14A-4130	AMD-P	04-13-139
365-230-070	NEW	04-10-037	388- 14A-1020	AMD-E	04-07-057	388- 14A-4130	AMD-E	04-14-054
365-230-080	NEW-P	04-05-062	388- 14A-1020	PREP	04-09-036	388- 14A-4130	AMD	04-17-119
365-230-080	NEW	04-10-037	388- 14A-1020	AMD-P	04-13-139	388- 14A-4135	NEW-E	04-07-057
365-230-090	NEW-P	04-05-062	388- 14A-1020	AMD-E	04-14-054	388- 14A-4135	NEW-P	04-13-139
365-230-090	NEW	04-10-037	388- 14A-1020	AMD	04-17-119	388- 14A-4135	NEW-E	04-14-054
365-230-100	NEW-P	04-05-062	388- 14A-3140	PREP	04-09-036	388- 14A-4135	NEW	04-17-119
365-230-100	NEW	04-10-037	388- 14A-3350	PREP	04-19-130	388- 14A-4140	NEW-E	04-07-057
365-230-110	NEW-P	04-05-062	388- 14A-3370	PREP	04-09-036	388- 14A-4140	NEW-P	04-13-139
365-230-110	NEW	04-10-037	388- 14A-3600	PREP	04-09-036	388- 14A-4140	NEW-E	04-14-054
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365-230-120	NEW	04-10-037	388- 14A-3810	PREP	04-09-036	388- 14A-4143	NEW-E	04-07-057
365-230-130	NEW-P	04-05-062	388- 14A-4040	AMD-E	04-07-057	388- 14A-4143	NEW-P	04-13-139
365-230-130	NEW	04-10-037	388- 14A-4040	AMD-P	04-13-139	388- 14A-4143	NEW-E	04-14-054
365-230-132	NEW-P	04-05-062	388- 14A-4040	AMD-E	04-14-054	388- 14A-4143	NEW	04-17-119
365-230-132	NEW	04-10-037	388- 14A-4040	AMD	04-17-119	388- 14A-4145	NEW-E	04-07-057
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388- 14A-4150	NEW-E	04-07-057	388- 27-0195	AMD-E	04-03-018	388- 71-01260	NEW-P	04-13-138
388- 14A-4150	NEW-P	04-13-139	388- 27-0195	AMD	04-06-024	388- 71-01260	NEW	04-19-136
388- 14A-4150	NEW-E	04-14-054	388- 27-0200	AMD-E	04-03-018	388- 71-01265	NEW-P	04-13-138
388- 14A-4150	NEW	04-17-119	388- 27-0200	AMD	04-06-024	388- 71-01265	NEW	04-19-136
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388- 14A-4160	NEW-P	04-13-139	388- 27-0210	AMD	04-06-024	388- 71-01270	NEW	04-19-136
388- 14A-4160	NEW-E	04-14-054	388- 27-0215	AMD-E	04-03-018	388- 71-01275	NEW-P	04-13-138
388- 14A-4160	NEW	04-17-119	388- 27-0215	AMD	04-06-024	388- 71-01275	NEW	04-19-136
388- 14A-4165	NEW-E	04-07-057	388- 27-0220	AMD-E	04-03-018	388- 71-01280	NEW-P	04-13-138
388- 14A-4165	NEW-P	04-13-139	388- 27-0220	AMD	04-06-024	388- 71-01280	NEW	04-19-136
388- 14A-4165	NEW-E	04-14-054	388- 27-0225	REP-E	04-03-018	388- 71-0150	REP-P	04-13-138
388- 14A-4165	NEW	04-17-119	388- 27-0225	REP	04-06-024	388- 71-0150	REP	04-19-136
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388- 14A-4170	NEW-P	04-13-139	388- 27-0230	AMD	04-06-024	388- 71-0155	REP	04-19-136
388- 14A-4170	NEW-E	04-14-054	388- 27-0235	REP-E	04-03-018	388- 71-0194	AMD-E	04-10-062
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388- 14A-4175	NEW-P	04-13-139	388- 27-0240	REP	04-06-024	388- 71-0202	AMD	04-04-042
388- 14A-4175	NEW-E	04-14-054	388- 27-0245	REP-E	04-03-018	388- 71-0202	AMD-E	04-10-062
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388- 14A-4180	NEW-E	04-20-001	388- 27-0270	REP-E	04-03-018	388- 71-0202	AMD	04-16-029
388- 14A-5000	PREP	04-07-166	388- 27-0270	REP	04-06-024	388- 71-0405	AMD-E	04-10-062
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388- 14A-6300	PREP	04-09-036	388- 71	PREP	04-19-100	388- 71-0405	AMD	04-16-029
388- 14A-6300	PREP	04-19-099	388- 71-0100	AMD-P	04-13-138	388- 71-0410	AMD-E	04-10-062
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388- 25-0225	PREP	04-08-068	388- 71-0105	AMD-E	04-06-039	388- 71-0410	AMD	04-16-029
388- 25-0225	AMD-E	04-15-082	388- 71-0105	AMD-P	04-13-138	388- 71-0415	AMD-E	04-10-062
388- 25-0226	PREP	04-08-068	388- 71-0105	AMD-E	04-14-013	388- 71-0415	AMD-P	04-10-101
388- 25-0226	NEW-E	04-15-082	388- 71-0105	AMD	04-19-136	388- 71-0415	AMD	04-16-029
388- 25-0227	NEW-E	04-15-082	388- 71-0110	AMD-P	04-13-138	388- 71-0420	AMD-E	04-10-062
388- 25-0228	NEW-E	04-15-082	388- 71-0110	AMD	04-19-136	388- 71-0420	AMD-P	04-10-101
388- 25-0230	PREP	04-08-068	388- 71-0115	AMD-P	04-13-138	388- 71-0420	AMD	04-16-029
388- 25-0230	REP-E	04-15-082	388- 71-0115	AMD	04-19-136	388- 71-0425	AMD-E	04-10-062
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388- 25-1000	NEW-E	04-15-055	388- 71-0116	NEW-E	04-14-013	388- 71-0425	AMD	04-16-029
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388- 25-1010	NEW-E	04-15-055	388- 71-0120	REP	04-19-136	388- 71-0440	AMD-P	04-10-101
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388- 25-1020	NEW-E	04-15-055	388- 71-01205	NEW	04-19-136	388- 71-0465	AMD-E	04-10-062
388- 25-1030	NEW-E	04-07-091	388- 71-0121	NEW-P	04-13-138	388- 71-0465	AMD-P	04-10-101
388- 25-1030	NEW-E	04-15-055	388- 71-0121	NEW	04-19-136	388- 71-0465	AMD	04-16-029
388- 25-1040	NEW-E	04-07-091	388- 71-01210	NEW-P	04-13-138	388- 71-0470	AMD-E	04-10-062
388- 25-1040	NEW-E	04-15-055	388- 71-01210	NEW	04-19-136	388- 71-0470	AMD-P	04-10-101
388- 25-1050	NEW-E	04-07-091	388- 71-01215	NEW-P	04-13-138	388- 71-0470	AMD	04-16-029
388- 25-1050	NEW-E	04-15-055	388- 71-01215	NEW	04-19-136	388- 71-0480	AMD-E	04-10-062
388- 27-0120	AMD-E	04-03-018	388- 71-01220	NEW-P	04-13-138	388- 71-0480	AMD-P	04-10-101
388- 27-0120	AMD	04-06-024	388- 71-01220	NEW	04-19-136	388- 71-0480	AMD	04-16-029
388- 27-0130	AMD-E	04-03-018	388- 71-01225	NEW-P	04-13-138	388- 71-0510	AMD-E	04-10-062
388- 27-0130	AMD	04-06-024	388- 71-01225	NEW	04-19-136	388- 71-0510	AMD-P	04-10-101
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388- 71-0700	AMD	04-16-029	388- 72A-0040	REP-E	04-15-013	388- 72A-0080	AMD-P	04-14-099
388- 71-0708	AMD-E	04-10-062	388- 72A-0040	REP	04-19-103	388- 72A-0080	AMD-E	04-15-013
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388- 71-0708	AMD	04-16-029	388- 72A-0041	NEW-P	04-10-097	388- 72A-0081	NEW-E	04-09-094
388- 71-0900	PREP	04-07-061	388- 72A-0041	NEW-W	04-11-082	388- 72A-0081	NEW-P	04-14-099
388- 71-0905	PREP	04-07-061	388- 72A-0041	NEW-S	04-11-086	388- 72A-0081	NEW-E	04-15-013
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388- 71-0915	PREP	04-07-061	388- 72A-0041	NEW-P	04-14-099	388- 72A-0082	NEW-E	04-09-094
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388- 71-0930	PREP	04-07-061	388- 72A-0042	NEW-W	04-14-096	388- 72A-0083	NEW-E	04-15-013
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388- 71-0960	PREP	04-07-061	388- 72A-0042	NEW	04-19-103	388- 72A-0085	AMD-E	04-09-094
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388- 72A-0010	AMD-W	04-11-082	388- 72A-0057	NEW	04-16-029	388- 72A-0087	NEW-E	04-09-094
388- 72A-0010	AMD-S	04-11-086	388- 72A-0058	NEW-E	04-10-062	388- 72A-0087	NEW-P	04-14-099
388- 72A-0010	AMD-W	04-14-096	388- 72A-0058	NEW-P	04-10-101	388- 72A-0087	NEW-E	04-15-013
388- 72A-0010	AMD-P	04-14-099	388- 72A-0058	NEW	04-16-029	388- 72A-0087	NEW	04-19-103
388- 72A-0010	AMD-E	04-15-013	388- 72A-0060	AMD-E	04-09-094	388- 72A-0090	AMD-E	04-09-094
388- 72A-0010	AMD	04-19-103	388- 72A-0060	AMD-E	04-10-062	388- 72A-0090	AMD-P	04-14-099
388- 72A-0035	AMD-P	04-14-099	388- 72A-0060	AMD-P	04-10-101	388- 72A-0090	AMD-E	04-15-013
388- 72A-0035	AMD-E	04-15-013	388- 72A-0060	AMD-P	04-14-099	388- 72A-0090	AMD	04-19-103
388- 72A-0035	AMD	04-19-103	388- 72A-0060	AMD-E	04-15-013	388- 72A-0092	NEW-E	04-09-094
388- 72A-0036	NEW-E	04-09-094	388- 72A-0060	AMD	04-16-029	388- 72A-0092	NEW-P	04-14-099
388- 72A-0036	NEW-P	04-10-097	388- 72A-0060	AMD	04-19-103	388- 72A-0092	NEW-E	04-15-013
388- 72A-0036	NEW-W	04-11-082	388- 72A-0065	AMD-E	04-09-094	388- 72A-0092	NEW	04-19-103
388- 72A-0036	NEW-S	04-11-086	388- 72A-0065	AMD-E	04-10-062	388- 72A-0095	AMD-E	04-09-094
388- 72A-0036	NEW-W	04-14-096	388- 72A-0065	AMD-P	04-10-101	388- 72A-0095	AMD-P	04-10-097
388- 72A-0036	NEW-P	04-14-099	388- 72A-0065	AMD-P	04-14-099	388- 72A-0095	AMD-W	04-11-082
388- 72A-0036	NEW-E	04-15-013	388- 72A-0065	AMD-E	04-15-013	388- 72A-0095	AMD-S	04-11-086
388- 72A-0036	NEW	04-19-103	388- 72A-0065	AMD	04-16-029	388- 72A-0095	AMD-W	04-14-096
388- 72A-0037	NEW-E	04-09-094	388- 72A-0065	AMD	04-19-103	388- 72A-0095	AMD-P	04-14-099
388- 72A-0037	NEW-P	04-14-099	388- 72A-0069	NEW-E	04-09-094	388- 72A-0095	AMD-E	04-15-013
388- 72A-0037	NEW-E	04-15-013	388- 72A-0069	NEW-P	04-14-099	388- 72A-0095	AMD	04-19-103
388- 72A-0037	NEW	04-19-103	388- 72A-0069	NEW-E	04-15-013	388- 72A-0100	AMD-E	04-10-062
388- 72A-0037	NEW-E	04-09-094	388- 72A-0069	NEW	04-19-103	388- 72A-0100	AMD-P	04-10-101
388- 72A-0038	NEW-E	04-09-094	388- 72A-0070	AMD-E	04-09-094	388- 72A-0100	AMD	04-16-029
388- 72A-0038	NEW-P	04-14-099	388- 72A-0070	AMD-P	04-14-099	388- 72A-0115	NEW-E	04-09-094
388- 72A-0038	NEW-E	04-15-013	388- 72A-0070	AMD-E	04-15-013	388- 72A-0115	NEW-P	04-14-099
388- 72A-0038	NEW	04-19-103	388- 72A-0070	AMD	04-19-103	388- 72A-0115	NEW-E	04-15-013
388- 72A-0039	NEW-E	04-09-094	388- 72A-0075	REP-E	04-09-094	388- 72A-0115	NEW	04-19-103
388- 72A-0039	NEW-P	04-14-099	388- 72A-0075	REP-P	04-14-099	388- 72A-0120	NEW-P	04-14-099
388- 72A-0039	NEW-E	04-15-013	388- 72A-0075	REP-E	04-15-013	388- 72A-0120	NEW-E	04-15-013
388- 72A-0039	NEW	04-19-103						

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388- 78A-2600	NEW-P	04-11-116	388- 78A-2910	NEW-P	04-11-116	388- 78A-3220	NEW-P	04-11-116
388- 78A-2600	NEW	04-16-065	388- 78A-2910	NEW	04-16-065	388- 78A-3220	NEW	04-16-065
388- 78A-2610	NEW-P	04-11-116	388- 78A-2920	NEW-P	04-11-116	388- 78A-3230	NEW-P	04-11-116
388- 78A-2610	NEW	04-16-065	388- 78A-2920	NEW	04-16-065	388- 78A-3230	NEW	04-16-065
388- 78A-2620	NEW-P	04-11-116	388- 78A-2930	NEW-P	04-11-116	388- 96	PREP	04-08-133
388- 78A-2620	NEW	04-16-065	388- 78A-2930	NEW	04-16-065	388- 96-117	AMD-P	04-17-144
388- 78A-2630	NEW-P	04-11-116	388- 78A-2940	NEW-P	04-11-116	388- 96-217	AMD-P	04-17-144
388- 78A-2630	NEW	04-16-065	388- 78A-2940	NEW	04-16-065	388- 96-218	AMD-P	04-17-144
388- 78A-2640	NEW-P	04-11-116	388- 78A-2950	NEW-P	04-11-116	388- 96-369	AMD-P	04-17-144
388- 78A-2640	NEW	04-16-065	388- 78A-2950	NEW	04-16-065	388- 96-372	AMD-P	04-17-144
388- 78A-2650	NEW-P	04-11-116	388- 78A-2960	NEW-P	04-11-116	388- 96-708	AMD-P	04-17-144
388- 78A-2650	NEW	04-16-065	388- 78A-2960	NEW	04-16-065	388- 96-709	AMD-P	04-17-144
388- 78A-2660	NEW-P	04-11-116	388- 78A-2970	NEW-P	04-11-116	388- 96-713	AMD-P	04-17-144
388- 78A-2660	NEW	04-16-065	388- 78A-2970	NEW	04-16-065	388- 96-714	REP-P	04-17-144
388- 78A-2670	NEW-P	04-11-116	388- 78A-2980	NEW-P	04-11-116	388- 96-723	AMD-P	04-17-144
388- 78A-2670	NEW	04-16-065	388- 78A-2980	NEW	04-16-065	388- 96-724	AMD-P	04-17-144
388- 78A-2680	NEW-P	04-11-116	388- 78A-2990	NEW-P	04-11-116	388- 96-725	AMD-P	04-17-144
388- 78A-2680	NEW	04-16-065	388- 78A-2990	NEW	04-16-065	388- 96-726	AMD-P	04-17-144
388- 78A-2690	NEW-P	04-11-116	388- 78A-3000	NEW-P	04-11-116	388- 96-728	REP-P	04-17-144
388- 78A-2690	NEW	04-16-065	388- 78A-3000	NEW	04-16-065	388- 96-729	REP-P	04-17-144
388- 78A-2700	NEW-P	04-11-116	388- 78A-3010	NEW-P	04-11-116	388- 96-730	AMD-P	04-17-144
388- 78A-2700	NEW	04-16-065	388- 78A-3010	NEW	04-16-065	388- 96-731	AMD-P	04-17-144
388- 78A-2710	NEW-P	04-11-116	388- 78A-3020	NEW-P	04-11-116	388- 96-732	REP-P	04-17-144
388- 78A-2710	NEW	04-16-065	388- 78A-3020	NEW	04-16-065	388- 96-740	AMD-P	04-17-144
388- 78A-2720	NEW-P	04-11-116	388- 78A-3030	NEW-P	04-11-116	388- 96-742	AMD-P	04-17-144
388- 78A-2720	NEW	04-16-065	388- 78A-3030	NEW	04-16-065	388- 96-749	NEW-P	04-17-144
388- 78A-2730	NEW-P	04-11-116	388- 78A-3040	NEW-P	04-11-116	388- 96-766	AMD-P	04-17-144
388- 78A-2730	NEW	04-16-065	388- 78A-3040	NEW	04-16-065	388- 96-776	AMD-P	04-17-144
388- 78A-2740	NEW-P	04-11-116	388- 78A-3050	NEW-P	04-11-116	388- 96-779	REP-P	04-17-144
388- 78A-2740	NEW	04-16-065	388- 78A-3050	NEW	04-16-065	388- 96-780	REP-P	04-17-144
388- 78A-2750	NEW-P	04-11-116	388- 78A-3060	NEW-P	04-11-116	388- 96-782	AMD-P	04-17-144
388- 78A-2750	NEW	04-16-065	388- 78A-3060	NEW	04-16-065	388- 96-783	NEW-P	04-17-144
388- 78A-2760	NEW-P	04-11-116	388- 78A-3070	NEW-P	04-11-116	388- 96-901	AMD-P	04-17-144
388- 78A-2760	NEW	04-16-065	388- 78A-3070	NEW	04-16-065	388- 96-904	AMD-P	04-17-144
388- 78A-2770	NEW-P	04-11-116	388- 78A-3080	NEW-P	04-11-116	388- 97-017	PREP	04-12-095
388- 78A-2770	NEW	04-16-065	388- 78A-3080	NEW	04-16-065	388- 97-017	AMD-P	04-17-107
388- 78A-2780	NEW-P	04-11-116	388- 78A-3090	NEW-P	04-11-116	388- 97-017	AMD	04-20-055
388- 78A-2780	NEW	04-16-065	388- 78A-3090	NEW	04-16-065	388- 97-125	PREP	04-06-055
388- 78A-2790	NEW-P	04-11-116	388- 78A-3100	NEW-P	04-11-116	388- 97-125	AMD-P	04-20-056
388- 78A-2790	NEW	04-16-065	388- 78A-3100	NEW	04-16-065	388-105	PREP	04-10-089
388- 78A-2800	NEW-P	04-11-116	388- 78A-3110	NEW-P	04-11-116	388-105	PREP	04-18-066
388- 78A-2800	NEW	04-16-065	388- 78A-3110	NEW	04-16-065	388-105	PREP	04-20-100
388- 78A-2810	NEW-P	04-11-116	388- 78A-3120	NEW-P	04-11-116	388-105	PREP-W	04-20-102
388- 78A-2810	NEW	04-16-065	388- 78A-3120	NEW	04-16-065	388-105-0005	AMD-P	04-04-044
388- 78A-2820	NEW-P	04-11-116	388- 78A-3130	NEW-P	04-11-116	388-105-0005	AMD-E	04-06-038
388- 78A-2820	NEW	04-16-065	388- 78A-3130	NEW	04-16-065	388-105-0005	AMD-W	04-06-056
388- 78A-2830	NEW-P	04-11-116	388- 78A-3140	NEW-P	04-11-116	388-105-0005	AMD-P	04-06-075
388- 78A-2830	NEW	04-16-065	388- 78A-3140	NEW	04-16-065	388-105-0005	AMD	04-09-092
388- 78A-2840	NEW-P	04-11-116	388- 78A-3150	NEW-P	04-11-116	388-105-0030	AMD-P	04-04-044
388- 78A-2840	NEW	04-16-065	388- 78A-3150	NEW	04-16-065	388-105-0030	AMD-E	04-06-038
388- 78A-2850	NEW-P	04-11-116	388- 78A-3160	NEW-P	04-11-116	388-105-0030	AMD-W	04-06-056
388- 78A-2850	NEW	04-16-065	388- 78A-3160	NEW	04-16-065	388-105-0030	AMD-P	04-06-075
388- 78A-2860	NEW-P	04-11-116	388- 78A-3170	NEW-P	04-11-116	388-105-0030	AMD	04-09-092
388- 78A-2860	NEW	04-16-065	388- 78A-3170	NEW	04-16-065	388-105-0040	AMD-P	04-04-044
388- 78A-2870	NEW-P	04-11-116	388- 78A-3180	NEW-P	04-11-116	388-105-0040	AMD-E	04-06-038
388- 78A-2870	NEW	04-16-065	388- 78A-3180	NEW	04-16-065	388-105-0040	AMD-W	04-06-056
388- 78A-2880	NEW-P	04-11-116	388- 78A-3190	NEW-P	04-11-116	388-105-0040	AMD-P	04-06-075
388- 78A-2880	NEW	04-16-065	388- 78A-3190	NEW	04-16-065	388-105-0040	AMD	04-09-092
388- 78A-2890	NEW-P	04-11-116	388- 78A-3200	NEW-P	04-11-116	388-105-0045	NEW-P	04-04-044
388- 78A-2890	NEW	04-16-065	388- 78A-3200	NEW	04-16-065	388-105-0045	NEW-E	04-06-038
388- 78A-2900	NEW-P	04-11-116	388- 78A-3210	NEW-P	04-11-116	388-105-0045	NEW-W	04-06-056
388- 78A-2900	NEW	04-16-065	388- 78A-3210	NEW	04-16-065	388-105-0045	NEW-P	04-06-075

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-105-0045	NEW	04-09-092	388-140-0055	NEW-E	04-03-010D	388-140-0365	NEW-E	04-03-010D
388-110	AMD-P	04-13-021	388-140-0060	NEW-E	04-03-010D	388-140-0370	NEW-E	04-03-010D
388-110	AMD	04-16-063	388-140-0065	NEW-E	04-03-010D	388-140-0375	NEW-E	04-03-010D
388-110-005	AMD-P	04-13-021	388-140-0070	NEW-E	04-03-010D	388-140-0380	NEW-E	04-03-010D
388-110-005	AMD	04-16-063	388-140-0075	NEW-E	04-03-010D	388-140-0385	NEW-E	04-03-010D
388-110-010	AMD-P	04-13-021	388-140-0080	NEW-E	04-03-010D	388-140-0390	NEW-E	04-03-010D
388-110-010	AMD	04-16-063	388-140-0085	NEW-E	04-03-010D	388-140-0395	NEW-E	04-03-010D
388-110-020	AMD-P	04-13-021	388-140-0090	NEW-E	04-03-010D	388-140-0400	NEW-E	04-03-010D
388-110-020	AMD	04-16-063	388-140-0095	NEW-E	04-03-010D	388-140-0405	NEW-E	04-03-010D
388-110-020	AMD	04-18-001	388-140-0100	NEW-E	04-03-010D	388-140-0410	NEW-E	04-03-010D
388-110-030	AMD-P	04-13-021	388-140-0105	NEW-E	04-03-010D	388-140-0415	NEW-E	04-03-010D
388-110-030	AMD	04-16-063	388-140-0110	NEW-E	04-03-010D	388-140-0420	NEW-E	04-03-010D
388-110-040	AMD-P	04-13-021	388-140-0115	NEW-E	04-03-010D	388-140-0425	NEW-E	04-03-010D
388-110-040	AMD	04-16-063	388-140-0120	NEW-E	04-03-010D	388-140-0430	NEW-E	04-03-010D
388-110-050	AMD-P	04-13-021	388-140-0125	NEW-E	04-03-010D	388-140-0435	NEW-E	04-03-010D
388-110-050	AMD	04-16-063	388-140-0130	NEW-E	04-03-010D	388-140-0440	NEW-E	04-03-010D
388-110-060	REP-P	04-13-021	388-140-0135	NEW-E	04-03-010D	388-140-0445	NEW-E	04-03-010D
388-110-060	REP	04-16-063	388-140-0140	NEW-E	04-03-010D	388-140-0450	NEW-E	04-03-010D
388-110-070	AMD-P	04-13-021	388-140-0145	NEW-E	04-03-010D	388-140-0455	NEW-E	04-03-010D
388-110-070	AMD	04-16-063	388-140-0150	NEW-E	04-03-010D	388-140-0460	NEW-E	04-03-010D
388-110-080	REP-P	04-13-021	388-140-0155	NEW-E	04-03-010D	388-140-0465	NEW-E	04-03-010D
388-110-080	REP	04-16-063	388-140-0160	NEW-E	04-03-010D	388-140-0470	NEW-E	04-03-010D
388-110-090	AMD-P	04-13-021	388-140-0165	NEW-E	04-03-010D	388-140-0475	NEW-E	04-03-010D
388-110-090	AMD	04-16-063	388-140-0170	NEW-E	04-03-010D	388-140-0480	NEW-E	04-03-010D
388-110-100	AMD-P	04-13-021	388-140-0175	NEW-E	04-03-010D	388-140-0485	NEW-E	04-03-010D
388-110-100	AMD	04-16-063	388-140-0180	NEW-E	04-03-010D	388-140-0490	NEW-E	04-03-010D
388-110-120	AMD-P	04-13-021	388-140-0185	NEW-E	04-03-010D	388-140-0495	NEW-E	04-03-010D
388-110-120	AMD	04-16-063	388-140-0190	NEW-E	04-03-010D	388-140-0500	NEW-E	04-03-010D
388-110-140	AMD-P	04-13-021	388-140-0195	NEW-E	04-03-010D	388-140-0505	NEW-E	04-03-010D
388-110-140	AMD	04-16-063	388-140-0200	NEW-E	04-03-010D	388-140-0510	NEW-E	04-03-010D
388-110-140	AMD	04-18-001	388-140-0205	NEW-E	04-03-010D	388-140-0515	NEW-E	04-03-010D
388-110-150	AMD-P	04-13-021	388-140-0210	NEW-E	04-03-010D	388-140-0520	NEW-E	04-03-010D
388-110-150	AMD	04-16-063	388-140-0215	NEW-E	04-03-010D	388-140-0525	NEW-E	04-03-010D
388-110-170	REP-P	04-13-021	388-140-0220	NEW-E	04-03-010D	388-140-0530	NEW-E	04-03-010D
388-110-170	REP	04-16-063	388-140-0225	NEW-E	04-03-010D	388-140-0535	NEW-E	04-03-010D
388-110-180	REP-P	04-13-021	388-140-0230	NEW-E	04-03-010D	388-140-0540	NEW-E	04-03-010D
388-110-180	REP	04-16-063	388-140-0235	NEW-E	04-03-010D	388-140-0545	NEW-E	04-03-010D
388-110-190	REP-P	04-13-021	388-140-0240	NEW-E	04-03-010D	388-140-0550	NEW-E	04-03-010D
388-110-190	REP	04-16-063	388-140-0245	NEW-E	04-03-010D	388-140-0560	NEW-E	04-03-010D
388-110-200	REP-P	04-13-021	388-140-0250	NEW-E	04-03-010D	388-140-0565	NEW-E	04-03-010D
388-110-200	REP	04-16-063	388-140-0255	NEW-E	04-03-010D	388-140-0570	NEW-E	04-03-010D
388-110-220	AMD-P	04-13-021	388-140-0260	NEW-E	04-03-010D	388-140-0575	NEW-E	04-03-010D
388-110-220	AMD	04-16-063	388-140-0265	NEW-E	04-03-010D	388-140-0580	NEW-E	04-03-010D
388-110-220	AMD	04-18-001	388-140-0270	NEW-E	04-03-010D	388-140-0585	NEW-E	04-03-010D
388-110-240	AMD-P	04-13-021	388-140-0275	NEW-E	04-03-010D	388-140-0590	NEW-E	04-03-010D
388-110-240	AMD	04-16-063	388-140-0280	NEW-E	04-03-010D	388-140-0595	NEW-E	04-03-010D
388-110-260	AMD-P	04-13-021	388-140-0285	NEW-E	04-03-010D	388-140-0600	NEW-E	04-03-010D
388-110-260	AMD	04-16-063	388-140-0290	NEW-E	04-03-010D	388-140-0605	NEW-E	04-03-010D
388-110-270	AMD-P	04-13-021	388-140-0295	NEW-E	04-03-010D	388-140-0610	NEW-E	04-03-010D
388-110-270	AMD	04-16-063	388-140-0300	NEW-E	04-03-010D	388-140-0615	NEW-E	04-03-010D
388-110-280	AMD-P	04-13-021	388-140-0305	NEW-E	04-03-010D	388-140-0620	NEW-E	04-03-010D
388-110-280	AMD	04-16-063	388-140-0310	NEW-E	04-03-010D	388-140-0625	NEW-E	04-03-010D
388-140-0005	NEW-E	04-03-010D	388-140-0315	NEW-E	04-03-010D	388-140-0630	NEW-E	04-03-010D
388-140-0010	NEW-E	04-03-010D	388-140-0320	NEW-E	04-03-010D	388-140-0635	NEW-E	04-03-010D
388-140-0015	NEW-E	04-03-010D	388-140-0325	NEW-E	04-03-010D	388-145-0100	PREP	04-18-069
388-140-0020	NEW-E	04-03-010D	388-140-0330	NEW-E	04-03-010D	388-145-0230	PREP	04-18-069
388-140-0025	NEW-E	04-03-010D	388-140-0335	NEW-E	04-03-010D	388-147-0010	NEW-P	04-18-045
388-140-0030	NEW-E	04-03-010D	388-140-0340	NEW-E	04-03-010D	388-147-0020	NEW-P	04-18-045
388-140-0035	NEW-E	04-03-010D	388-140-0345	NEW-E	04-03-010D	388-147-0030	NEW-P	04-18-045
388-140-0040	NEW-E	04-03-010D	388-140-0350	NEW-E	04-03-010D	388-147-0040	NEW-P	04-18-045
388-140-0045	NEW-E	04-03-010D	388-140-0355	NEW-E	04-03-010D	388-147-0050	NEW-P	04-18-045
388-140-0050	NEW-E	04-03-010D	388-140-0360	NEW-E	04-03-010D	388-147-0060	NEW-P	04-18-045

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-147-0070	NEW-P	04-18-045	388-147-0690	NEW-P	04-18-045	388-148-0125	AMD	04-08-073
388-147-0080	NEW-P	04-18-045	388-147-0700	NEW-P	04-18-045	388-148-0127	NEW-P	04-03-116
388-147-0090	NEW-P	04-18-045	388-147-0710	NEW-P	04-18-045	388-148-0127	NEW	04-08-073
388-147-0100	NEW-P	04-18-045	388-147-0720	NEW-P	04-18-045	388-148-0130	AMD-P	04-03-116
388-147-0110	NEW-P	04-18-045	388-148	AMD-P	04-03-116	388-148-0130	AMD	04-08-073
388-147-0120	NEW-P	04-18-045	388-148	AMD	04-08-073	388-148-0135	AMD-P	04-03-116
388-147-0130	NEW-P	04-18-045	388-148-0005	AMD-P	04-03-116	388-148-0135	AMD	04-08-073
388-147-0140	NEW-P	04-18-045	388-148-0005	AMD	04-08-073	388-148-0140	AMD-P	04-03-116
388-147-0150	NEW-P	04-18-045	388-148-0010	AMD-P	04-03-116	388-148-0140	AMD-E	04-05-035
388-147-0160	NEW-P	04-18-045	388-148-0010	AMD	04-08-073	388-148-0140	AMD	04-08-073
388-147-0170	NEW-P	04-18-045	388-148-0015	AMD-P	04-03-116	388-148-0150	AMD-P	04-03-116
388-147-0180	NEW-P	04-18-045	388-148-0015	AMD	04-08-073	388-148-0150	AMD	04-08-073
388-147-0190	NEW-P	04-18-045	388-148-0020	AMD-P	04-03-116	388-148-0165	AMD-P	04-03-116
388-147-0200	NEW-P	04-18-045	388-148-0020	AMD	04-08-073	388-148-0165	AMD	04-08-073
388-147-0210	NEW-P	04-18-045	388-148-0025	AMD-P	04-03-116	388-148-0170	AMD-P	04-03-116
388-147-0220	NEW-P	04-18-045	388-148-0025	AMD	04-08-073	388-148-0170	AMD-E	04-05-035
388-147-0230	NEW-P	04-18-045	388-148-0035	AMD-P	04-03-116	388-148-0170	AMD	04-08-073
388-147-0240	NEW-P	04-18-045	388-148-0035	AMD-E	04-05-035	388-148-0180	AMD-P	04-03-116
388-147-0250	NEW-P	04-18-045	388-148-0035	AMD	04-08-073	388-148-0180	AMD	04-08-073
388-147-0260	NEW-P	04-18-045	388-148-0040	AMD-P	04-03-116	388-148-0185	AMD-P	04-03-116
388-147-0270	NEW-P	04-18-045	388-148-0040	AMD-E	04-05-035	388-148-0185	AMD	04-08-073
388-147-0280	NEW-P	04-18-045	388-148-0040	AMD	04-08-073	388-148-0200	AMD-P	04-03-116
388-147-0290	NEW-P	04-18-045	388-148-0045	AMD-P	04-03-116	388-148-0200	AMD	04-08-073
388-147-0300	NEW-P	04-18-045	388-148-0045	AMD-E	04-05-035	388-148-0210	AMD-P	04-03-116
388-147-0310	NEW-P	04-18-045	388-148-0045	AMD	04-08-073	388-148-0210	AMD	04-08-073
388-147-0320	NEW-P	04-18-045	388-148-0050	AMD-P	04-03-116	388-148-0220	AMD-P	04-03-116
388-147-0330	NEW-P	04-18-045	388-148-0050	AMD-E	04-05-035	388-148-0220	AMD-E	04-05-035
388-147-0340	NEW-P	04-18-045	388-148-0050	AMD	04-08-073	388-148-0220	AMD	04-08-073
388-147-0350	NEW-P	04-18-045	388-148-0050	AMD-P	04-16-001	388-148-0225	AMD-P	04-03-116
388-147-0360	NEW-P	04-18-045	388-148-0055	AMD-P	04-03-116	388-148-0225	AMD	04-08-073
388-147-0370	NEW-P	04-18-045	388-148-0055	AMD	04-08-073	388-148-0230	AMD-P	04-03-116
388-147-0380	NEW-P	04-18-045	388-148-0058	NEW-P	04-03-116	388-148-0230	AMD	04-08-073
388-147-0390	NEW-P	04-18-045	388-148-0058	NEW-E	04-05-035	388-148-0235	AMD-P	04-03-116
388-147-0400	NEW-P	04-18-045	388-148-0058	NEW	04-08-073	388-148-0235	AMD	04-08-073
388-147-0410	NEW-P	04-18-045	388-148-0060	AMD-P	04-03-116	388-148-0240	AMD-P	04-03-116
388-147-0420	NEW-P	04-18-045	388-148-0060	AMD-E	04-05-035	388-148-0240	AMD	04-08-073
388-147-0430	NEW-P	04-18-045	388-148-0060	AMD	04-08-073	388-148-0245	AMD-P	04-03-116
388-147-0440	NEW-P	04-18-045	388-148-0065	AMD-P	04-03-116	388-148-0245	AMD	04-08-073
388-147-0450	NEW-P	04-18-045	388-148-0065	AMD-E	04-05-035	388-148-0250	AMD-P	04-03-116
388-147-0460	NEW-P	04-18-045	388-148-0065	AMD	04-08-073	388-148-0250	AMD	04-08-073
388-147-0470	NEW-P	04-18-045	388-148-0070	AMD-P	04-03-116	388-148-0255	AMD-P	04-03-116
388-147-0480	NEW-P	04-18-045	388-148-0070	AMD	04-08-073	388-148-0255	AMD	04-08-073
388-147-0490	NEW-P	04-18-045	388-148-0075	AMD-P	04-03-116	388-148-0260	AMD-P	04-03-116
388-147-0500	NEW-P	04-18-045	388-148-0075	AMD	04-08-073	388-148-0260	AMD-E	04-05-035
388-147-0510	NEW-P	04-18-045	388-148-0085	AMD-P	04-03-116	388-148-0260	AMD	04-08-073
388-147-0520	NEW-P	04-18-045	388-148-0085	AMD	04-08-073	388-148-0265	AMD-P	04-03-116
388-147-0530	NEW-P	04-18-045	388-148-0090	AMD-P	04-03-116	388-148-0265	AMD	04-08-073
388-147-0540	NEW-P	04-18-045	388-148-0090	AMD	04-08-073	388-148-0270	AMD-P	04-03-116
388-147-0550	NEW-P	04-18-045	388-148-0095	AMD-P	04-03-116	388-148-0270	AMD-E	04-05-035
388-147-0560	NEW-P	04-18-045	388-148-0095	AMD-E	04-05-035	388-148-0270	AMD	04-08-073
388-147-0570	NEW-P	04-18-045	388-148-0095	AMD	04-08-073	388-148-0275	AMD-P	04-03-116
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388-147-0590	NEW-P	04-18-045	388-148-0098	NEW	04-08-073	388-148-0285	REP-P	04-03-116
388-147-0600	NEW-P	04-18-045	388-148-0100	AMD-P	04-03-116	388-148-0285	REP	04-08-073
388-147-0610	NEW-P	04-18-045	388-148-0100	AMD	04-08-073	388-148-0300	AMD-P	04-03-116
388-147-0620	NEW-P	04-18-045	388-148-0110	AMD-P	04-03-116	388-148-0300	AMD	04-08-073
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388-147-0650	NEW-P	04-18-045	388-148-0120	AMD-E	04-05-035	388-148-0315	AMD-P	04-03-116
388-147-0660	NEW-P	04-18-045	388-148-0120	AMD	04-08-073	388-148-0315	AMD	04-08-073
388-147-0670	NEW-P	04-18-045	388-148-0125	AMD-P	04-03-116	388-148-0320	AMD-P	04-03-116
388-147-0680	NEW-P	04-18-045	388-148-0125	AMD-E	04-05-035	388-148-0320	AMD	04-08-073

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388-148-0335	AMD-P	04-03-116	388-148-0520	AMD-E	04-05-035	388-148-0715	AMD	04-08-073
388-148-0335	AMD-E	04-05-035	388-148-0520	AMD	04-08-073	388-148-0718	NEW-P	04-03-116
388-148-0335	AMD	04-08-073	388-148-0525	AMD-P	04-03-116	388-148-0718	NEW	04-08-073
388-148-0340	AMD-P	04-03-116	388-148-0525	AMD	04-08-073	388-148-0720	AMD-P	04-03-116
388-148-0340	AMD	04-08-073	388-148-0535	AMD-P	04-03-116	388-148-0720	AMD-E	04-05-035
388-148-0345	AMD-P	04-03-116	388-148-0535	AMD	04-08-073	388-148-0720	AMD	04-08-073
388-148-0345	AMD-E	04-05-035	388-148-0540	AMD-P	04-03-116	388-148-0722	NEW-P	04-03-116
388-148-0345	AMD	04-08-073	388-148-0540	AMD	04-08-073	388-148-0722	NEW-E	04-05-035
388-148-0350	AMD-P	04-03-116	388-148-0541	NEW-P	04-03-116	388-148-0722	NEW	04-08-073
388-148-0350	AMD-E	04-05-035	388-148-0541	NEW	04-08-073	388-148-0725	AMD-P	04-03-116
388-148-0350	AMD	04-08-073	388-148-0542	NEW-P	04-03-116	388-148-0725	AMD-E	04-05-035
388-148-0352	NEW-P	04-03-116	388-148-0542	NEW-E	04-05-035	388-148-0725	AMD	04-08-073
388-148-0352	NEW	04-08-073	388-148-0542	NEW	04-08-073	388-148-0730	AMD-P	04-03-116
388-148-0355	AMD-P	04-03-116	388-148-0555	AMD-P	04-03-116	388-148-0730	AMD	04-08-073
388-148-0355	AMD	04-08-073	388-148-0555	AMD	04-08-073	388-148-0735	REP-P	04-03-116
388-148-0360	REP-P	04-03-116	388-148-0560	AMD-P	04-03-116	388-148-0735	REP	04-08-073
388-148-0360	REP	04-08-073	388-148-0560	AMD-E	04-05-035	388-148-0750	AMD-P	04-03-116
388-148-0365	AMD-P	04-03-116	388-148-0560	AMD	04-08-073	388-148-0750	AMD	04-08-073
388-148-0365	AMD	04-08-073	388-148-0585	AMD-P	04-03-116	388-148-0765	AMD-P	04-03-116
388-148-0375	AMD-P	04-03-116	388-148-0585	AMD-E	04-05-035	388-148-0765	AMD	04-08-073
388-148-0375	AMD	04-08-073	388-148-0585	AMD	04-08-073	388-148-0775	AMD-P	04-03-116
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388-148-0385	AMD	04-08-073	388-148-0605	AMD	04-08-073	388-148-0785	AMD	04-08-073
388-148-0395	AMD-P	04-03-116	388-148-0610	AMD-P	04-03-116	388-148-0795	AMD-P	04-03-116
388-148-0395	AMD-E	04-05-035	388-148-0610	AMD	04-08-073	388-148-0795	AMD	04-08-073
388-148-0395	AMD	04-08-073	388-148-0615	REP-P	04-03-116	388-148-0800	AMD-P	04-03-116
388-148-0400	AMD-P	04-03-116	388-148-0615	REP	04-08-073	388-148-0800	AMD	04-08-073
388-148-0400	AMD	04-08-073	388-148-0620	AMD-P	04-03-116	388-148-0805	AMD-P	04-03-116
388-148-0422	NEW-P	04-03-116	388-148-0620	AMD	04-08-073	388-148-0805	AMD	04-08-073
388-148-0422	NEW	04-08-073	388-148-0625	AMD-P	04-03-116	388-148-0810	AMD-P	04-03-116
388-148-0425	AMD-P	04-03-116	388-148-0625	AMD	04-08-073	388-148-0810	AMD	04-08-073
388-148-0425	AMD	04-08-073	388-148-0630	REP-P	04-03-116	388-148-0830	AMD-P	04-03-116
388-148-0427	NEW-E	04-05-035	388-148-0630	AMD-E	04-05-035	388-148-0830	AMD	04-08-073
388-148-0430	AMD-P	04-03-116	388-148-0630	REP	04-08-073	388-148-0860	AMD-P	04-03-116
388-148-0430	AMD	04-08-073	388-148-0635	REP-P	04-03-116	388-148-0860	AMD	04-08-073
388-148-0445	AMD-P	04-03-116	388-148-0635	REP	04-08-073	388-148-0870	AMD-P	04-03-116
388-148-0445	AMD	04-08-073	388-148-0640	AMD-P	04-03-116	388-148-0870	AMD	04-08-073
388-148-0450	REP-P	04-03-116	388-148-0640	AMD	04-08-073	388-148-0875	AMD-P	04-03-116
388-148-0450	REP	04-08-073	388-148-0645	AMD-P	04-03-116	388-148-0875	AMD	04-08-073
388-148-0455	AMD-P	04-03-116	388-148-0645	AMD	04-08-073	388-148-0880	AMD-P	04-03-116
388-148-0455	AMD	04-08-073	388-148-0650	REP-P	04-03-116	388-148-0880	AMD-E	04-05-035
388-148-0460	AMD-P	04-03-116	388-148-0650	REP	04-08-073	388-148-0880	AMD	04-08-073
388-148-0460	AMD-E	04-05-035	388-148-0655	AMD-P	04-03-116	388-148-0885	AMD-P	04-03-116
388-148-0460	AMD	04-08-073	388-148-0655	AMD	04-08-073	388-148-0885	AMD	04-08-073
388-148-0462	NEW-E	04-05-035	388-148-0660	AMD-P	04-03-116	388-148-0890	AMD-P	04-03-116
388-148-0470	AMD-P	04-03-116	388-148-0660	AMD	04-08-073	388-148-0890	AMD	04-08-073
388-148-0470	AMD	04-08-073	388-148-0670	AMD-P	04-03-116	388-148-0892	NEW-P	04-03-116
388-148-0480	AMD-P	04-03-116	388-148-0670	AMD	04-08-073	388-148-0892	NEW-E	04-05-035
388-148-0480	AMD	04-08-073	388-148-0685	AMD-P	04-03-116	388-148-0892	NEW	04-08-073
388-148-0485	AMD-P	04-03-116	388-148-0685	AMD	04-08-073	388-148-0895	AMD-P	04-03-116
388-148-0485	AMD	04-08-073	388-148-0695	AMD-P	04-03-116	388-148-0895	AMD	04-08-073
388-148-0487	NEW-P	04-03-116	388-148-0695	AMD	04-08-073	388-148-0900	AMD-P	04-03-116
388-148-0487	NEW	04-08-073	388-148-0700	AMD-P	04-03-116	388-148-0900	AMD	04-08-073
388-148-0488	NEW-P	04-03-116	388-148-0700	AMD-E	04-05-035	388-148-0905	AMD-P	04-03-116
388-148-0488	NEW	04-08-073	388-148-0700	AMD	04-08-073	388-148-0905	AMD	04-08-073
388-148-0490	AMD-P	04-03-116	388-148-0705	AMD-P	04-03-116	388-148-0915	AMD-P	04-03-116
388-148-0490	AMD	04-08-073	388-148-0705	AMD	04-08-073	388-148-0915	AMD-E	04-05-035
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388-148-0935	REP	04-08-073	388-148-1245	NEW-P	04-03-116	388-155-140	REP	04-18-082
388-148-0995	AMD-P	04-03-116	388-148-1245	NEW	04-08-073	388-155-150	REP-P	04-07-134
388-148-0995	AMD-E	04-05-035	388-148-1250	NEW-P	04-03-116	388-155-150	REP	04-18-082
388-148-0995	AMD	04-08-073	388-148-1250	NEW	04-08-073	388-155-160	REP-P	04-07-134
388-148-1020	REP-P	04-03-116	388-148-1255	NEW-P	04-03-116	388-155-160	REP	04-18-082
388-148-1020	REP	04-08-073	388-148-1255	NEW	04-08-073	388-155-165	REP-P	04-07-134
388-148-1025	AMD-P	04-03-116	388-148-1260	NEW-P	04-03-116	388-155-165	REP	04-18-082
388-148-1025	AMD	04-08-073	388-148-1260	NEW	04-08-073	388-155-170	REP-P	04-07-134
388-148-1030	AMD-P	04-03-116	388-148-1265	NEW-P	04-03-116	388-155-170	REP	04-18-082
388-148-1030	AMD	04-08-073	388-148-1265	NEW	04-08-073	388-155-180	REP-P	04-07-134
388-148-1035	AMD-P	04-03-116	388-148-1270	NEW-P	04-03-116	388-155-180	REP	04-18-082
388-148-1035	AMD	04-08-073	388-148-1270	NEW	04-08-073	388-155-190	REP-P	04-07-134
388-148-1045	AMD-P	04-03-116	388-148-1275	NEW-P	04-03-116	388-155-190	REP	04-18-082
388-148-1045	AMD	04-08-073	388-148-1275	NEW	04-08-073	388-155-200	REP-P	04-07-134
388-148-1050	AMD-P	04-03-116	388-148-1280	NEW-P	04-03-116	388-155-200	REP	04-18-082
388-148-1050	AMD	04-08-073	388-148-1280	NEW	04-08-073	388-155-220	REP-P	04-07-134
388-148-1060	AMD-P	04-03-116	388-155	REP-C	04-10-095	388-155-220	REP	04-18-082
388-148-1060	AMD-E	04-05-035	388-155-005	REP-P	04-07-134	388-155-230	REP-P	04-07-134
388-148-1060	AMD	04-08-073	388-155-005	REP	04-18-082	388-155-230	REP	04-18-082
388-148-1065	REP-P	04-03-116	388-155-010	REP-P	04-07-134	388-155-240	REP-P	04-07-134
388-148-1065	REP	04-08-073	388-155-010	REP	04-18-082	388-155-240	REP	04-18-082
388-148-1066	NEW-P	04-03-116	388-155-020	REP-P	04-07-134	388-155-250	REP-P	04-07-134
388-148-1066	NEW	04-08-073	388-155-020	REP	04-18-082	388-155-250	REP	04-18-082
388-148-1070	AMD-P	04-03-116	388-155-040	REP-P	04-07-134	388-155-270	REP-P	04-07-134
388-148-1070	AMD-E	04-05-035	388-155-040	REP	04-18-082	388-155-270	REP	04-18-082
388-148-1070	AMD	04-08-073	388-155-050	REP-P	04-07-134	388-155-280	REP-P	04-07-134
388-148-1076	NEW-P	04-03-116	388-155-050	REP	04-18-082	388-155-280	REP	04-18-082
388-148-1076	NEW-E	04-05-035	388-155-060	REP-P	04-07-134	388-155-290	REP-P	04-07-134
388-148-1076	NEW	04-08-073	388-155-060	REP	04-18-082	388-155-290	REP	04-18-082
388-148-1077	NEW-P	04-03-116	388-155-070	REP-P	04-07-134	388-155-295	REP-P	04-07-134
388-148-1077	NEW-E	04-05-035	388-155-070	REP	04-18-082	388-155-295	REP	04-18-082
388-148-1077	NEW	04-08-073	388-155-080	REP-P	04-07-134	388-155-310	REP-P	04-07-134
388-148-1078	NEW-P	04-03-116	388-155-080	REP-W	04-18-046	388-155-310	REP	04-18-082
388-148-1078	NEW-E	04-05-035	388-155-083	REP-P	04-07-134	388-155-320	REP-P	04-07-134
388-148-1078	NEW	04-08-073	388-155-083	REP	04-18-082	388-155-320	REP	04-18-082
388-148-1079	NEW-P	04-03-116	388-155-085	REP-P	04-07-134	388-155-330	REP-P	04-07-134
388-148-1079	NEW-E	04-05-035	388-155-085	REP	04-18-082	388-155-330	REP	04-18-082
388-148-1079	NEW	04-08-073	388-155-090	REP-P	04-07-134	388-155-340	REP-P	04-07-134
388-148-1085	AMD-P	04-03-116	388-155-090	REP	04-18-082	388-155-340	REP	04-18-082
388-148-1085	AMD	04-08-073	388-155-092	REP-P	04-07-134	388-155-350	REP-P	04-07-134
388-148-1115	AMD-P	04-03-116	388-155-092	REP	04-18-082	388-155-350	REP	04-18-082
388-148-1115	AMD-E	04-05-035	388-155-093	REP-P	04-07-134	388-155-360	REP-P	04-07-134
388-148-1115	AMD	04-08-073	388-155-093	REP	04-18-082	388-155-360	REP	04-18-082
388-148-1120	AMD-P	04-03-116	388-155-094	REP-P	04-07-134	388-155-370	REP-P	04-07-134
388-148-1120	AMD-E	04-05-035	388-155-094	REP	04-18-082	388-155-370	REP	04-18-082
388-148-1120	AMD	04-08-073	388-155-095	REP-P	04-07-134	388-155-380	REP-P	04-07-134
388-148-1205	NEW-P	04-03-116	388-155-095	REP	04-18-082	388-155-380	REP	04-18-082
388-148-1205	NEW	04-08-073	388-155-096	REP-P	04-07-134	388-155-390	REP-P	04-07-134
388-148-1210	NEW-P	04-03-116	388-155-096	REP	04-18-082	388-155-390	REP	04-18-082
388-148-1210	NEW	04-08-073	388-155-097	REP-P	04-07-134	388-155-400	REP-P	04-07-134
388-148-1215	NEW-P	04-03-116	388-155-097	REP	04-18-082	388-155-400	REP	04-18-082
388-148-1215	NEW	04-08-073	388-155-098	REP-P	04-07-134	388-155-410	REP-P	04-07-134
388-148-1220	NEW-P	04-03-116	388-155-098	REP	04-18-082	388-155-410	REP	04-18-082
388-148-1220	NEW	04-08-073	388-155-100	REP-P	04-07-134	388-155-420	REP-P	04-07-134
388-148-1225	NEW-P	04-03-116	388-155-100	REP	04-18-082	388-155-420	REP	04-18-082
388-148-1225	NEW	04-08-073	388-155-110	REP-P	04-07-134	388-155-430	REP-P	04-07-134
388-148-1230	NEW-P	04-03-116	388-155-110	REP	04-18-082	388-155-430	REP	04-18-082
388-148-1230	NEW	04-08-073	388-155-120	REP-P	04-07-134	388-155-440	REP-P	04-07-134
388-148-1235	NEW-P	04-03-116	388-155-120	REP	04-18-082	388-155-440	REP	04-18-082
388-148-1235	NEW	04-08-073	388-155-130	REP-P	04-07-134	388-155-450	REP-P	04-07-134
388-148-1240	NEW-P	04-03-116	388-155-130	REP	04-18-082	388-155-450	REP	04-18-082

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388-155-460	REP	04-18-082	388-290-0015	AMD	04-08-021	388-290-0085	PREP	04-13-046
388-155-470	REP-P	04-07-134	388-290-0015	AMD	04-08-134	388-290-0090	AMD-P	04-02-047
388-155-470	REP	04-18-082	388-290-0020	AMD-P	04-02-047	388-290-0090	AMD	04-08-021
388-155-480	REP-P	04-07-134	388-290-0020	AMD	04-08-021	388-290-0090	AMD	04-08-134
388-155-480	REP	04-18-082	388-290-0020	AMD	04-08-134	388-290-0090	PREP	04-13-046
388-155-490	REP-P	04-07-134	388-290-0020	PREP	04-13-046	388-290-0095	AMD-P	04-02-047
388-155-490	REP	04-18-082	388-290-0025	AMD-P	04-02-047	388-290-0095	AMD	04-08-021
388-155-500	REP-P	04-07-134	388-290-0025	AMD	04-08-021	388-290-0095	AMD	04-08-134
388-155-500	REP	04-18-082	388-290-0025	AMD	04-08-134	388-290-0100	AMD-P	04-02-047
388-155-600	REP-P	04-07-134	388-290-0025	PREP	04-13-046	388-290-0100	AMD	04-08-021
388-155-600	REP	04-18-082	388-290-0030	AMD-P	04-02-047	388-290-0100	AMD	04-08-134
388-155-605	REP-P	04-07-134	388-290-0030	AMD	04-08-021	388-290-0105	AMD-P	04-02-047
388-155-605	REP	04-18-082	388-290-0030	AMD	04-08-134	388-290-0105	AMD	04-08-021
388-155-610	REP-P	04-07-134	388-290-0030	PREP	04-13-046	388-290-0105	AMD	04-08-134
388-155-610	REP	04-18-082	388-290-0030	PREP	04-13-046	388-290-0105	PREP	04-13-046
388-155-620	REP-P	04-07-134	388-290-0031	NEW-P	04-02-047	388-290-0105	PREP	04-13-046
388-155-620	REP	04-18-082	388-290-0031	NEW	04-08-021	388-290-0107	NEW-P	04-02-047
388-155-630	REP-P	04-07-134	388-290-0031	NEW	04-08-134	388-290-0107	NEW	04-08-021
388-155-630	REP	04-18-082	388-290-0032	NEW-P	04-02-047	388-290-0107	NEW	04-08-134
388-155-640	REP-P	04-07-134	388-290-0032	NEW	04-08-021	388-290-0108	NEW-P	04-02-047
388-155-640	REP	04-18-082	388-290-0032	NEW	04-08-134	388-290-0108	NEW	04-08-021
388-155-650	REP-P	04-07-134	388-290-0032	PREP	04-13-046	388-290-0108	NEW	04-08-134
388-155-650	REP	04-18-082	388-290-0032	PREP	04-13-046	388-290-0108	PREP	04-13-046
388-155-660	REP-P	04-07-134	388-290-0035	AMD-P	04-02-047	388-290-0110	AMD-P	04-02-047
388-155-660	REP	04-18-082	388-290-0035	AMD	04-08-021	388-290-0110	AMD	04-08-021
388-155-670	REP-P	04-07-134	388-290-0035	AMD	04-08-134	388-290-0110	AMD	04-08-134
388-155-670	REP	04-18-082	388-290-0040	AMD-P	04-02-047	388-290-0110	AMD	04-08-134
388-155-680	REP-P	04-07-134	388-290-0040	AMD	04-08-021	388-290-0110	PREP	04-13-046
388-155-680	REP	04-18-082	388-290-0040	AMD	04-08-134	388-290-0120	AMD-P	04-02-047
388-155-991	REP-P	04-07-134	388-290-0040	AMD	04-08-134	388-290-0120	AMD	04-08-021
388-155-991	REP	04-18-082	388-290-0040	PREP	04-13-046	388-290-0120	AMD	04-08-134
388-155-992	REP-P	04-07-134	388-290-0045	AMD-P	04-02-047	388-290-0125	AMD-P	04-02-047
388-155-992	REP	04-18-082	388-290-0045	AMD	04-08-021	388-290-0125	AMD	04-08-021
388-155-993	REP-P	04-07-134	388-290-0045	AMD	04-08-134	388-290-0125	AMD	04-08-134
388-155-993	REP	04-18-082	388-290-0045	PREP	04-13-046	388-290-0130	AMD-P	04-02-047
388-160-0075	PREP	04-18-067	388-290-0050	AMD-P	04-02-047	388-290-0130	AMD-E	04-04-030
388-160-0195	PREP	04-18-067	388-290-0050	AMD	04-08-021	388-290-0130	AMD	04-08-021
388-273-0025	AMD-E	04-03-097	388-290-0050	AMD	04-08-134	388-290-0130	AMD	04-08-134
388-273-0025	AMD-P	04-07-089	388-290-0055	AMD-P	04-02-047	388-290-0130	PREP	04-13-046
388-273-0025	AMD-E	04-11-080	388-290-0055	AMD	04-08-021	388-290-0135	AMD-P	04-02-047
388-273-0025	AMD	04-13-136	388-290-0055	AMD	04-08-134	388-290-0135	AMD	04-08-021
388-273-0030	AMD-E	04-03-097	388-290-0060	AMD	04-08-021	388-290-0140	AMD	04-08-134
388-273-0030	AMD-P	04-07-089	388-290-0060	AMD	04-08-134	388-290-0140	AMD-P	04-02-047
388-273-0030	AMD-E	04-11-080	388-290-0060	PREP	04-13-046	388-290-0140	AMD	04-08-021
388-273-0030	AMD	04-13-136	388-290-0065	AMD-P	04-02-047	388-290-0140	AMD	04-08-134
388-273-0035	AMD-E	04-03-097	388-290-0065	AMD	04-08-021	388-290-0140	PREP	04-13-046
388-273-0035	AMD-P	04-07-089	388-290-0065	AMD	04-08-134	388-290-0143	AMD-P	04-02-047
388-273-0035	AMD-E	04-11-080	388-290-0070	AMD-P	04-02-047	388-290-0143	AMD	04-08-021
388-273-0035	AMD	04-13-136	388-290-0070	AMD	04-08-021	388-290-0143	AMD	04-08-134
388-290-0001	AMD-P	04-02-047	388-290-0070	AMD	04-08-134	388-290-0145	AMD-P	04-02-047
388-290-0001	AMD	04-08-021	388-290-0075	AMD-P	04-02-047	388-290-0145	AMD	04-08-021
388-290-0001	AMD	04-08-134	388-290-0075	AMD-E	04-05-079	388-290-0145	AMD	04-08-134
388-290-0005	AMD-P	04-02-047	388-290-0075	AMD	04-08-021	388-290-0150	AMD-P	04-02-047
388-290-0005	AMD	04-08-021	388-290-0075	AMD	04-08-134	388-290-0150	AMD	04-08-021
388-290-0005	AMD	04-08-134	388-290-0080	REP-P	04-02-047	388-290-0150	AMD	04-08-134
388-290-0010	AMD-P	04-02-047	388-290-0080	REP	04-08-021	388-290-0155	AMD-P	04-02-047
388-290-0010	AMD	04-08-021	388-290-0080	REP	04-08-134	388-290-0155	AMD	04-08-021
388-290-0010	AMD	04-08-134	388-290-0082	NEW-P	04-02-047	388-290-0155	AMD	04-08-134
388-290-0012	NEW-P	04-02-047	388-290-0082	NEW	04-08-021	388-290-0155	PREP	04-13-046
388-290-0012	NEW	04-08-021	388-290-0082	NEW	04-08-134	388-290-0160	AMD-P	04-02-047
388-290-0012	NEW	04-08-134	388-290-0085	NEW	04-08-021	388-290-0160	AMD	04-08-021
388-290-0012	NEW	04-08-134	388-290-0085	AMD-P	04-02-047	388-290-0160	AMD	04-08-134
388-290-0012	NEW	04-08-134	388-290-0085	AMD-E	04-05-079	388-290-0165	AMD	04-08-134
388-290-0012	NEW	04-08-134	388-290-0085	AMD	04-08-021	388-290-0165	AMD-P	04-02-047

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388-290-0165	AMD	04-08-134	388-290-0271	NEW	04-08-134	388-296-0170	NEW-P	04-07-134
388-290-0165	PREP	04-13-046	388-290-0273	NEW-P	04-02-047	388-296-0170	NEW	04-18-082
388-290-0167	AMD-P	04-02-047	388-290-0273	NEW	04-08-021	388-296-0180	NEW-P	04-07-134
388-290-0167	AMD	04-08-021	388-290-0273	NEW	04-08-134	388-296-0180	NEW	04-18-082
388-290-0167	AMD	04-08-134	388-295-0020	AMD-P	04-05-084	388-296-0190	NEW-P	04-07-134
388-290-0180	AMD-P	04-02-047	388-295-0020	AMD	04-09-093	388-296-0190	NEW	04-18-082
388-290-0180	AMD	04-08-021	388-295-0060	AMD-P	04-05-084	388-296-0195	NEW	04-18-082
388-290-0180	AMD	04-08-134	388-295-0060	AMD	04-09-093	388-296-0200	NEW-P	04-07-134
388-290-0190	AMD-P	04-02-047	388-295-0070	AMD-P	04-05-084	388-296-0200	NEW	04-18-082
388-290-0190	AMD-E	04-05-079	388-295-0070	AMD	04-09-093	388-296-0205	NEW	04-18-082
388-290-0190	AMD	04-08-021	388-295-0090	AMD-P	04-05-084	388-296-0210	NEW-P	04-07-134
388-290-0190	AMD	04-08-134	388-295-0090	AMD	04-09-093	388-296-0210	NEW	04-18-082
388-290-0200	AMD-P	04-02-047	388-295-0100	AMD-P	04-05-084	388-296-0215	NEW	04-18-082
388-290-0200	AMD	04-08-021	388-295-0100	AMD	04-09-093	388-296-0220	NEW-P	04-07-134
388-290-0200	AMD	04-08-134	388-295-0110	AMD-P	04-05-084	388-296-0220	NEW	04-18-082
388-290-0200	AMD-E	04-14-014	388-295-0110	AMD	04-09-093	388-296-0230	NEW-P	04-07-134
388-290-0200	PREP	04-19-102	388-295-1070	AMD-P	04-05-084	388-296-0230	NEW	04-18-082
388-290-0205	AMD-P	04-02-047	388-295-1070	AMD	04-09-093	388-296-0240	NEW-P	04-07-134
388-290-0205	AMD	04-08-021	388-295-1110	AMD-P	04-05-084	388-296-0240	NEW	04-18-082
388-290-0205	AMD	04-08-134	388-295-1110	AMD	04-09-093	388-296-0250	NEW-P	04-07-134
388-290-0205	AMD-E	04-14-014	388-295-2010	AMD-P	04-05-084	388-296-0250	NEW	04-18-082
388-290-0205	PREP	04-19-102	388-295-2010	AMD	04-09-093	388-296-0260	NEW-P	04-07-134
388-290-0210	REP-P	04-02-047	388-295-2090	AMD-P	04-05-084	388-296-0260	NEW	04-18-082
388-290-0210	REP-E	04-05-079	388-295-2090	AMD	04-09-093	388-296-0270	NEW-P	04-07-134
388-290-0210	REP	04-08-021	388-295-2100	AMD-P	04-05-084	388-296-0270	NEW	04-18-082
388-290-0210	REP	04-08-134	388-295-2100	AMD	04-09-093	388-296-0280	NEW-P	04-07-134
388-290-0220	AMD-P	04-02-047	388-295-3010	AMD-P	04-05-084	388-296-0280	NEW	04-18-082
388-290-0220	AMD	04-08-021	388-295-3010	AMD	04-09-093	388-296-0290	NEW-P	04-07-134
388-290-0220	AMD	04-08-134	388-295-4010	AMD-P	04-05-084	388-296-0290	NEW	04-18-082
388-290-0225	AMD-P	04-02-047	388-295-4010	AMD	04-09-093	388-296-0300	NEW-P	04-07-134
388-290-0225	AMD	04-08-021	388-295-4100	AMD-P	04-05-084	388-296-0300	NEW	04-18-082
388-290-0225	AMD	04-08-134	388-295-4100	AMD	04-09-093	388-296-0310	NEW-P	04-07-134
388-290-0230	AMD-P	04-02-047	388-295-5030	AMD-P	04-05-084	388-296-0310	NEW-W	04-18-046
388-290-0230	AMD	04-08-021	388-295-5030	AMD	04-09-093	388-296-0320	NEW-P	04-07-134
388-290-0230	AMD	04-08-134	388-295-5150	AMD-P	04-05-084	388-296-0320	NEW	04-18-082
388-290-0235	AMD-P	04-02-047	388-295-5150	AMD	04-09-093	388-296-0330	NEW-P	04-07-134
388-290-0235	AMD	04-08-021	388-295-6010	PREP	04-17-105	388-296-0330	NEW	04-18-082
388-290-0235	AMD	04-08-134	388-295-7010	AMD-P	04-05-084	388-296-0340	NEW-P	04-07-134
388-290-0245	AMD-P	04-02-047	388-295-7010	AMD	04-09-093	388-296-0340	NEW	04-18-082
388-290-0245	AMD	04-08-021	388-295-7040	AMD-P	04-05-084	388-296-0350	NEW-P	04-07-134
388-290-0245	AMD	04-08-134	388-295-7040	AMD	04-09-093	388-296-0350	NEW	04-18-082
388-290-0247	NEW-P	04-02-047	388-295-7050	AMD-P	04-05-084	388-296-0360	NEW-P	04-07-134
388-290-0247	NEW	04-08-021	388-295-7050	AMD	04-09-093	388-296-0360	NEW	04-18-082
388-290-0247	NEW	04-08-134	388-296	NEW-C	04-10-095	388-296-0370	NEW-P	04-07-134
388-290-0250	AMD-P	04-02-047	388-296-0010	NEW-P	04-07-134	388-296-0370	NEW	04-18-082
388-290-0250	AMD	04-08-021	388-296-0010	NEW	04-18-082	388-296-0380	NEW-P	04-07-134
388-290-0250	AMD	04-08-134	388-296-0020	NEW-P	04-07-134	388-296-0380	NEW	04-18-082
388-290-0255	AMD-P	04-02-047	388-296-0020	NEW	04-18-082	388-296-0390	NEW-P	04-07-134
388-290-0255	AMD	04-08-021	388-296-0110	NEW-P	04-07-134	388-296-0390	NEW	04-18-082
388-290-0255	AMD	04-08-134	388-296-0110	NEW	04-18-082	388-296-0400	NEW-P	04-07-134
388-290-0260	AMD-P	04-02-047	388-296-0120	NEW-P	04-07-134	388-296-0400	NEW	04-18-082
388-290-0260	AMD	04-08-021	388-296-0120	NEW	04-18-082	388-296-0410	NEW-P	04-07-134
388-290-0260	AMD	04-08-134	388-296-0125	NEW-P	04-07-134	388-296-0410	NEW	04-18-082
388-290-0265	AMD-P	04-02-047	388-296-0125	NEW	04-18-082	388-296-0420	NEW-P	04-07-134
388-290-0265	AMD	04-08-021	388-296-0130	NEW-P	04-07-134	388-296-0420	NEW	04-18-082
388-290-0265	AMD	04-08-134	388-296-0130	NEW	04-18-082	388-296-0430	NEW-P	04-07-134
388-290-0270	AMD-P	04-02-047	388-296-0140	NEW-P	04-07-134	388-296-0430	NEW	04-18-082
388-290-0270	AMD	04-08-021	388-296-0140	NEW	04-18-082	388-296-0440	NEW-P	04-07-134
388-290-0270	AMD	04-08-134	388-296-0150	NEW-P	04-07-134	388-296-0440	NEW	04-18-082
388-290-0270	PREP	04-13-046	388-296-0150	NEW	04-18-082	388-296-0450	NEW-P	04-07-134
388-290-0271	NEW-P	04-02-047	388-296-0160	NEW-P	04-07-134	388-296-0450	NEW	04-18-082

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388-296-1450	NEW-P	04-07-134	388-418-0005	AMD-W	04-02-052	388-442-0010	AMD-P	04-14-042
388-296-1450	NEW	04-18-082	388-418-0005	AMD-P	04-02-072	388-442-0010	AMD	04-18-002
388-310-0800	AMD-E	04-14-044	388-418-0005	AMD-E	04-02-073	388-444-0055	AMD-C	04-02-058
388-310-0800	PREP	04-15-129	388-418-0005	AMD	04-06-026	388-444-0055	AMD	04-05-010
388-310-1500	AMD-C	04-02-058	388-418-0005	AMD-P	04-15-053	388-446-0005	AMD-P	04-03-094
388-310-1500	AMD	04-05-010	388-418-0005	AMD-S	04-17-108	388-446-0005	AMD	04-13-097
388-310-1600	AMD-P	04-03-095	388-418-0005	AMD-E	04-20-044	388-448-0001	AMD-P	04-02-048
388-310-1600	AMD	04-07-025	388-418-0007	AMD-P	04-15-052	388-448-0001	AMD	04-07-140
388-310-1650	AMD-P	04-03-095	388-418-0007	AMD	04-19-134	388-448-0010	AMD-P	04-02-048
388-310-1650	AMD	04-07-025	388-418-0011	NEW-P	04-15-052	388-448-0010	AMD	04-07-140
388-310-2000	AMD-C	04-02-058	388-418-0011	NEW	04-19-134	388-448-0020	AMD-P	04-02-048
388-310-2000	AMD	04-05-010	388-418-0020	AMD-P	04-15-052	388-448-0020	AMD	04-07-140
388-400-0005	AMD-P	04-10-099	388-418-0020	AMD	04-19-134	388-448-0030	AMD-P	04-02-048
388-400-0005	PREP	04-12-096	388-418-0025	AMD	04-03-019	388-448-0030	AMD	04-07-140
388-400-0005	AMD	04-15-057	388-424-0001	NEW-P	04-10-100	388-448-0120	AMD-P	04-02-048
388-400-0005	AMD-P	04-19-131	388-424-0001	NEW	04-15-004	388-448-0120	AMD	04-07-140
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388-400-0025	AMD	04-15-057	388-424-0007	NEW-P	04-10-100	388-448-0170	REP-P	04-02-048
388-400-0025	AMD-P	04-19-131	388-424-0007	NEW	04-15-004	388-448-0170	REP-E	04-02-051
388-400-0025	AMD-E	04-20-043	388-424-0008	NEW-P	04-10-100	388-448-0170	REP-E	04-03-010E
388-400-0030	AMD-P	04-15-054	388-424-0008	NEW	04-15-004	388-448-0170	REP	04-07-140
388-400-0030	AMD	04-19-135	388-424-0009	NEW-P	04-10-100	388-448-0180	AMD-P	04-02-048
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388-400-0040	AMD-P	04-10-099	388-424-0010	AMD-P	04-10-100	388-448-0190	REP-P	04-02-048
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388-410-0001	AMD	04-05-010	388-434-0010	AMD-P	04-16-104	388-450-0100	AMD-P	04-10-099
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388-475-0150	NEW	04-09-002	388-492-0040	AMD-E	04-13-001	388-513-1315	AMD-E	04-08-019
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388-475-0350	NEW	04-09-003	388-492-0050	AMD-E	04-13-001	388-513-1350	AMD-C	04-02-056
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388-475-0450	NEW	04-09-003	388-492-0050	AMD-E	04-19-116	388-513-1350	PREP	04-16-027
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388-475-0550	NEW	04-09-004	388-492-0060	AMD-E	04-13-001	388-513-1380	AMD	04-04-072
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388-475-0650	NEW	04-09-004	388-492-0060	AMD-E	04-19-116	388-513-1380	AMD-E	04-16-028
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388-475-0820	NEW	04-09-005	388-492-0070	AMD-P	04-19-112	388-515-1510	AMD	04-18-054
388-475-0840	NEW	04-09-005	388-492-0070	AMD-E	04-19-116	388-515-1550	NEW-E	04-10-062
388-475-0860	NEW	04-09-005	388-492-0080	AMD-E	04-05-003	388-515-1550	NEW-P	04-10-101
388-475-0880	NEW	04-09-005	388-492-0080	AMD-E	04-13-001	388-515-1550	NEW	04-16-029
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388-527-2750	AMD	04-10-060	388-533-0315	NEW-P	04-05-083	388-538-060	PREP-W	04-14-034
388-527-2754	AMD-P	04-05-082	388-533-0315	NEW	04-13-049	388-538-063	PREP	04-04-095
388-527-2754	AMD	04-10-060	388-533-0320	NEW-P	04-05-083	388-538-063	NEW-P	04-09-090
388-527-2790	AMD-P	04-05-082	388-533-0320	NEW	04-13-049	388-538-063	NEW	04-15-003
388-527-2790	AMD	04-10-060	388-533-0325	NEW-P	04-05-083	388-538-112	AMD-P	04-07-135
388-527-2792	NEW-P	04-05-082	388-533-0325	NEW	04-13-049	388-538-112	AMD	04-13-002
388-527-2792	NEW	04-10-060	388-533-0330	NEW-P	04-05-083	388-542	PREP	04-10-093
388-527-2795	AMD-P	04-05-082	388-533-0330	NEW	04-13-049	388-542	AMD-P	04-13-140
388-527-2795	AMD	04-10-060	388-533-0340	NEW-P	04-05-083	388-542	AMD	04-16-064
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388-530-1050	AMD-P	04-19-109	388-533-0345	NEW	04-13-049	388-542-0020	NEW-P	04-13-140
388-530-1100	AMD-P	04-19-109	388-533-0350	REP-P	04-05-083	388-542-0020	NEW	04-16-064
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388-530-1125	AMD-P	04-19-109	388-533-0360	NEW-P	04-05-083	388-542-0050	AMD	04-16-064
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388-530-1200	PREP	04-09-035	388-533-0365	NEW-P	04-05-083	388-542-0100	REP-P	04-13-140
388-530-1200	AMD-P	04-19-109	388-533-0365	NEW	04-13-049	388-542-0100	REP	04-16-064
388-530-1250	PREP	04-09-035	388-533-0370	NEW-P	04-05-083	388-542-0125	AMD	04-08-018
388-530-1250	AMD-P	04-19-109	388-533-0370	NEW	04-13-049	388-542-0125	REP-P	04-13-140
388-530-1260	PREP	04-09-035	388-533-0375	NEW-P	04-05-083	388-542-0125	REP	04-16-064
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388-530-1270	AMD-P	04-19-109	388-533-0380	NEW-P	04-05-083	388-542-0150	REP	04-16-064
388-530-1280	NEW-P	04-19-109	388-533-0380	NEW	04-13-049	388-542-0200	REP-P	04-13-140
388-530-1290	NEW-P	04-19-109	388-533-0385	NEW-P	04-05-083	388-542-0200	REP	04-16-064
388-530-1400	AMD-P	04-19-109	388-533-0385	NEW	04-13-049	388-542-0220	REP-P	04-13-140
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388-532-550	NEW	04-05-011	388-535A-0060	AMD-E	04-04-073	388-546-0425	NEW-P	04-12-103
388-532-720	AMD-P	04-10-099	388-535A-0060	AMD-E	04-12-041	388-546-0425	NEW	04-17-118
388-532-720	AMD	04-15-057	388-535A-0060	AMD-P	04-19-110	388-546-0450	AMD-P	04-12-103
388-533-0300	AMD-P	04-05-083	388-535A-0060	AMD-E	04-19-115	388-546-0450	AMD	04-17-118
388-533-0300	AMD	04-13-049	388-538	PREP	04-13-101	388-546-0500	AMD-P	04-12-103

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-546-0500	AMD	04-17-118	388-550-5450	NEW-P	04-16-017	388-820-200	AMD-P	04-19-022
388-546-0600	AMD-P	04-12-103	388-550-5450	NEW	04-19-113	388-820-210	AMD-P	04-19-022
388-546-0600	AMD	04-17-118	388-550-5900	PREP	04-13-103	388-820-220	AMD-P	04-19-022
388-546-0700	AMD-P	04-12-103	388-550-5900	REP-P	04-17-112	388-820-230	AMD	04-04-043
388-546-0700	AMD	04-17-118	388-550-5900	REP	04-20-058	388-820-230	AMD-P	04-19-022
388-546-0800	AMD-P	04-12-103	388-550-6000	PREP	04-13-104	388-820-240	AMD-P	04-19-022
388-546-0800	AMD	04-17-118	388-550-6000	AMD-P	04-17-110	388-820-250	AMD-P	04-19-022
388-546-0900	NEW-P	04-12-103	388-550-6000	AMD	04-20-060	388-820-260	AMD	04-04-043
388-546-0900	NEW	04-17-118	388-550-7000	NEW-P	04-17-109	388-820-260	AMD-P	04-19-022
388-546-1000	AMD-P	04-12-103	388-550-7000	NEW	04-20-061	388-820-290	AMD	04-04-043
388-546-1000	AMD	04-17-118	388-550-7050	NEW-P	04-17-109	388-820-290	AMD-P	04-19-022
388-546-1500	NEW-P	04-12-103	388-550-7050	NEW	04-20-061	388-820-300	AMD	04-04-043
388-546-1500	NEW	04-17-118	388-550-7100	NEW-P	04-17-109	388-820-310	AMD	04-04-043
388-546-2500	NEW-P	04-12-103	388-550-7100	NEW	04-20-061	388-820-310	AMD-P	04-19-022
388-546-2500	NEW	04-17-118	388-550-7200	NEW-P	04-17-109	388-820-320	AMD	04-04-043
388-546-3000	NEW-P	04-12-103	388-550-7200	NEW	04-20-061	388-820-330	AMD	04-04-043
388-546-3000	NEW	04-17-118	388-550-7300	NEW-P	04-17-109	388-820-330	AMD-P	04-19-022
388-546-4000	NEW-P	04-12-103	388-550-7300	NEW	04-20-061	388-820-340	AMD	04-04-043
388-546-4000	NEW	04-17-118	388-550-7400	NEW-P	04-17-109	388-820-350	AMD	04-04-043
388-547	PREP-W	04-04-031	388-550-7400	NEW	04-20-061	388-820-360	AMD-P	04-19-022
388-550	PREP	04-03-092	388-550-7500	NEW-P	04-17-109	388-820-400	AMD	04-04-043
388-550	PREP	04-12-093	388-550-7500	NEW	04-20-061	388-820-400	AMD-P	04-19-022
388-550	PREP	04-13-103	388-550-7600	NEW-P	04-17-109	388-820-405	NEW	04-04-043
388-550-1050	PREP	04-13-103	388-550-7600	NEW	04-20-061	388-820-405	AMD-P	04-19-022
388-550-1050	AMD-P	04-17-111	388-551	PREP	04-02-061	388-820-410	AMD	04-04-043
388-550-1050	AMD	04-20-057	388-551	PREP-W	04-07-111	388-820-430	AMD-P	04-19-022
388-550-1700	PREP	04-13-103	388-551	PREP	04-07-114	388-820-440	AMD-P	04-19-022
388-550-1700	AMD-P	04-17-112	388-553-100	NEW-C	04-02-055	388-820-520	AMD-P	04-19-022
388-550-1700	AMD	04-20-058	388-553-100	NEW	04-11-007	388-820-530	AMD-P	04-19-022
388-550-1750	PREP	04-13-103	388-553-200	NEW-C	04-02-055	388-820-540	AMD-P	04-19-022
388-550-1750	REP-P	04-17-112	388-553-200	NEW	04-11-007	388-820-550	AMD	04-04-043
388-550-1750	REP	04-20-058	388-553-300	NEW-C	04-02-055	388-820-550	AMD-P	04-19-022
388-550-2301	NEW-E	04-15-090	388-553-300	NEW	04-11-007	388-820-555	NEW	04-04-043
388-550-2800	PREP	04-03-091	388-553-400	NEW-C	04-02-055	388-820-560	AMD	04-04-043
388-550-2800	AMD-P	04-16-017	388-553-400	NEW	04-11-007	388-820-560	AMD-P	04-19-022
388-550-2800	AMD	04-19-113	388-553-500	NEW-C	04-02-055	388-820-600	AMD	04-04-043
388-550-2900	PREP	04-03-091	388-553-500	NEW	04-11-007	388-820-630	AMD-P	04-19-022
388-550-2900	PREP	04-13-103	388-720-0020	AMD-C	04-02-059	388-820-650	AMD	04-04-043
388-550-2900	AMD-P	04-17-112	388-720-0020	AMD	04-05-080	388-820-650	AMD-P	04-19-022
388-550-2900	AMD	04-20-058	388-800-0048	AMD-P	04-10-099	388-820-690	AMD	04-04-043
388-550-3100	PREP	04-05-085A	388-800-0048	AMD	04-15-057	388-820-720	AMD-P	04-19-022
388-550-3100	AMD-P	04-08-123	388-820	PREP	04-13-106	388-820-880	AMD-P	04-19-022
388-550-3100	AMD	04-13-048	388-820-020	AMD	04-04-043	388-820-890	AMD-P	04-19-022
388-550-3700	PREP	04-15-130	388-820-020	AMD-P	04-19-022	388-820-900	AMD-P	04-19-022
388-550-3800	PREP	04-13-105	388-820-030	AMD	04-04-043	388-820-910	AMD-P	04-19-022
388-550-3800	AMD-P	04-17-114	388-820-030	AMD-P	04-19-022	388-820-920	AMD-P	04-19-022
388-550-4800	AMD-P	04-16-017	388-820-040	AMD-P	04-19-022	388-820-930	AMD-P	04-19-022
388-550-4800	AMD	04-19-113	388-820-050	AMD	04-04-043	388-825	PREP	04-08-071
388-550-4900	PREP	04-03-090	388-820-056	NEW	04-04-043	388-825-030	AMD-E	04-14-003
388-550-4900	AMD-P	04-08-124	388-820-060	AMD	04-04-043	388-825-070	AMD-P	04-08-072
388-550-4900	AMD	04-12-044	388-820-070	AMD	04-04-043	388-825-070	AMD	04-11-087
388-550-5000	PREP	04-03-090	388-820-076	NEW	04-04-043	388-825-090	AMD-P	04-08-072
388-550-5100	PREP	04-03-090	388-820-086	NEW	04-04-043	388-825-090	AMD	04-11-087
388-550-5100	AMD-P	04-08-124	388-820-090	AMD	04-04-043	388-825-100	AMD-P	04-12-100
388-550-5100	AMD	04-12-044	388-820-090	AMD-P	04-19-022	388-825-100	AMD	04-15-093
388-550-5200	PREP	04-03-090	388-820-100	AMD	04-04-043	388-825-101	NEW-P	04-12-100
388-550-5200	AMD-P	04-08-124	388-820-120	AMD	04-04-043	388-825-101	NEW	04-15-093
388-550-5200	AMD	04-12-044	388-820-140	AMD-P	04-19-022	388-825-102	NEW-P	04-12-100
388-550-5210	NEW-P	04-08-124	388-820-150	AMD-P	04-19-022	388-825-102	NEW	04-15-093
388-550-5210	NEW	04-12-044	388-820-160	AMD-P	04-19-022	388-825-103	NEW-P	04-12-100
388-550-5220	NEW-P	04-08-124	388-820-180	AMD-P	04-19-022	388-825-103	NEW	04-15-093
388-550-5220	NEW	04-12-044	388-820-190	AMD-P	04-19-022	388-825-104	NEW-P	04-12-100

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WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-825-104	NEW	04-15-093	388-825-248	AMD-P	04-16-088	388-825-360	NEW-E	04-16-019
388-825-105	NEW-P	04-12-100	388-825-248	AMD-E	04-18-048	388-825-365	NEW-E	04-08-020
388-825-105	NEW	04-15-093	388-825-248	AMD-E	04-20-017	388-825-365	NEW-E	04-16-019
388-825-120	AMD-E	04-08-020	388-825-252	PREP	04-12-091	388-825-370	NEW-E	04-08-020
388-825-120	AMD-E	04-16-019	388-825-252	AMD-P	04-16-088	388-825-370	NEW-E	04-16-019
388-825-125	NEW-E	04-08-020	388-825-252	AMD-E	04-18-048	388-825-375	NEW-E	04-08-020
388-825-125	NEW-E	04-16-019	388-825-252	AMD-E	04-20-017	388-825-375	NEW-E	04-16-019
388-825-130	NEW-E	04-08-020	388-825-253	PREP	04-12-091	388-825-380	NEW-E	04-08-020
388-825-130	NEW-E	04-16-019	388-825-253	NEW-P	04-16-088	388-825-380	NEW-E	04-16-019
388-825-135	NEW-E	04-08-020	388-825-253	NEW-E	04-18-048	388-825-385	NEW-E	04-08-020
388-825-135	NEW-E	04-16-019	388-825-253	NEW-E	04-20-017	388-825-385	NEW-E	04-16-019
388-825-140	NEW-E	04-08-020	388-825-254	PREP	04-12-091	388-825-390	NEW-E	04-08-020
388-825-140	NEW-E	04-16-019	388-825-254	AMD-P	04-16-088	388-825-390	NEW-E	04-16-019
388-825-145	NEW-E	04-08-020	388-825-254	AMD-E	04-18-048	388-825-395	NEW-E	04-08-020
388-825-145	NEW-E	04-16-019	388-825-254	AMD-E	04-20-017	388-825-395	NEW-E	04-16-019
388-825-150	NEW-E	04-08-020	388-825-260	REP-E	04-08-020	388-825-400	NEW-E	04-08-020
388-825-150	NEW-E	04-16-019	388-825-260	REP-E	04-16-019	388-825-400	NEW-E	04-16-019
388-825-155	NEW-E	04-08-020	388-825-262	REP-E	04-08-020	388-826	PREP	04-17-104
388-825-155	NEW-E	04-16-019	388-825-262	REP-E	04-16-019	388-827	PREP	04-08-070
388-825-160	NEW-E	04-08-020	388-825-264	REP-E	04-08-020	388-827-0110	AMD-P	04-12-102
388-825-160	NEW-E	04-16-019	388-825-264	REP-E	04-16-019	388-827-0110	AMD	04-15-094
388-825-165	NEW-E	04-08-020	388-825-266	REP-E	04-08-020	388-827-0115	AMD-P	04-12-102
388-825-165	NEW-E	04-16-019	388-825-266	REP-E	04-16-019	388-827-0115	AMD	04-15-094
388-825-170	REP-E	04-08-020	388-825-268	REP-E	04-08-020	388-827-0175	AMD-P	04-12-102
388-825-170	REP-E	04-16-019	388-825-268	REP-E	04-16-019	388-827-0175	AMD	04-15-094
388-825-180	REP-E	04-08-020	388-825-270	REP-E	04-08-020	388-827-0185	AMD-P	04-12-102
388-825-180	REP-E	04-16-019	388-825-270	REP-E	04-16-019	388-827-0185	AMD	04-15-094
388-825-190	REP-E	04-08-020	388-825-272	REP-E	04-08-020	388-827-0410	AMD-P	04-12-102
388-825-190	REP-E	04-16-019	388-825-272	REP-E	04-16-019	388-827-0410	AMD	04-15-094
388-825-210	PREP	04-12-091	388-825-276	REP-E	04-08-020	388-835-0085	AMD-E	04-10-016
388-825-210	AMD-P	04-16-088	388-825-276	REP-E	04-16-019	388-835-0085	AMD-P	04-12-099
388-825-210	AMD-E	04-18-048	388-825-278	REP-E	04-08-020	388-835-0085	AMD	04-16-018
388-825-210	AMD-E	04-20-017	388-825-278	REP-E	04-16-019	388-835-0090	AMD-E	04-10-016
388-825-228	PREP	04-12-091	388-825-280	REP-E	04-08-020	388-835-0090	AMD-P	04-12-099
388-825-228	AMD-P	04-16-088	388-825-280	REP-E	04-16-019	388-835-0090	AMD	04-16-018
388-825-228	AMD-E	04-18-048	388-825-282	REP-E	04-08-020	388-835-0100	AMD-E	04-10-016
388-825-228	AMD-E	04-20-017	388-825-282	REP-E	04-16-019	388-835-0100	AMD-P	04-12-099
388-825-230	PREP	04-12-091	388-825-284	REP-E	04-08-020	388-835-0100	AMD	04-16-018
388-825-230	AMD-P	04-16-088	388-825-284	REP-E	04-16-019	388-835-0115	AMD-E	04-10-016
388-825-230	AMD-E	04-18-048	388-825-300	NEW-E	04-08-020	388-835-0115	AMD-P	04-12-099
388-825-230	AMD-E	04-20-017	388-825-300	NEW-E	04-16-019	388-835-0115	AMD	04-16-018
388-825-232	PREP	04-12-091	388-825-305	NEW-E	04-08-020	388-835-0135	REP-E	04-10-016
388-825-232	AMD-P	04-16-088	388-825-305	NEW-E	04-16-019	388-835-0135	REP-P	04-12-099
388-825-232	AMD-E	04-18-048	388-825-310	NEW-E	04-08-020	388-835-0135	REP	04-16-018
388-825-232	AMD-E	04-20-017	388-825-310	NEW-E	04-16-019	388-835-0140	AMD-E	04-10-016
388-825-234	PREP	04-12-091	388-825-315	NEW-E	04-08-020	388-835-0140	AMD-P	04-12-099
388-825-234	AMD-P	04-16-088	388-825-315	NEW-E	04-16-019	388-835-0140	AMD	04-16-018
388-825-234	AMD-E	04-18-048	388-825-320	NEW-E	04-08-020	388-837-9005	NEW-E	04-10-016
388-825-234	AMD-E	04-20-017	388-825-320	NEW-E	04-16-019	388-837-9005	NEW-P	04-12-099
388-825-236	PREP	04-12-091	388-825-325	NEW-E	04-08-020	388-837-9005	NEW	04-16-018
388-825-236	AMD-P	04-16-088	388-825-325	NEW-E	04-16-019	388-837-9015	NEW-E	04-10-016
388-825-236	AMD-E	04-18-048	388-825-330	NEW-E	04-08-020	388-837-9015	NEW-P	04-12-099
388-825-236	AMD-E	04-20-017	388-825-330	NEW-E	04-16-019	388-837-9015	NEW	04-16-018
388-825-238	PREP	04-12-091	388-825-335	NEW-E	04-08-020	388-837-9020	NEW-E	04-10-016
388-825-238	AMD-P	04-16-088	388-825-335	NEW-E	04-16-019	388-837-9020	NEW-P	04-12-099
388-825-238	AMD-E	04-18-048	388-825-340	NEW-E	04-08-020	388-837-9020	NEW	04-16-018
388-825-238	AMD-E	04-20-017	388-825-340	NEW-E	04-16-019	388-837-9030	NEW-E	04-10-016
388-825-242	PREP	04-12-091	388-825-345	NEW-E	04-08-020	388-837-9030	NEW-P	04-12-099
388-825-242	AMD-P	04-16-088	388-825-345	NEW-E	04-16-019	388-837-9030	NEW	04-16-018
388-825-242	AMD-E	04-18-048	388-825-355	NEW-E	04-08-020	388-837-9040	NEW-E	04-10-016
388-825-242	AMD-E	04-20-017	388-825-355	NEW-E	04-16-019	388-837-9040	NEW-P	04-12-099
388-825-248	PREP	04-12-091	388-825-360	NEW-E	04-08-020	388-837-9040	NEW	04-16-018

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388-845-1400	NEW-E	04-16-019	388-845-2000	NEW-E	04-08-020	388-845-3085	NEW-E	04-20-018
388-845-1400	NEW-E	04-20-018	388-845-2000	NEW-E	04-16-019	388-845-3090	NEW-E	04-20-018
388-845-1405	NEW-E	04-08-020	388-845-2000	NEW-E	04-20-018	388-845-4000	NEW-E	04-08-020
388-845-1405	NEW-E	04-16-019	388-845-2005	NEW-E	04-08-020	388-845-4000	NEW-E	04-16-019
388-845-1405	NEW-E	04-20-018	388-845-2005	NEW-E	04-16-019	388-845-4000	NEW-E	04-20-018
388-845-1410	NEW-E	04-08-020	388-845-2005	NEW-E	04-20-018	388-845-4005	NEW-E	04-08-020
388-845-1410	NEW-E	04-16-019	388-845-2010	NEW-E	04-08-020	388-845-4005	NEW-E	04-16-019
388-845-1410	NEW-E	04-20-018	388-845-2010	NEW-E	04-16-019	388-845-4005	NEW-E	04-20-018
388-845-1500	NEW-E	04-08-020	388-845-2010	NEW-E	04-20-018	388-845-4010	NEW-E	04-08-020
388-845-1500	NEW-E	04-16-019	388-845-2100	NEW-E	04-08-020	388-845-4010	NEW-E	04-16-019
388-845-1500	NEW-E	04-20-018	388-845-2100	NEW-E	04-16-019	388-845-4010	NEW-E	04-20-018
388-845-1505	NEW-E	04-08-020	388-845-2100	NEW-E	04-20-018	388-845-4015	NEW-E	04-08-020
388-845-1505	NEW-E	04-16-019	388-845-2105	NEW-E	04-08-020	388-845-4015	NEW-E	04-16-019
388-845-1505	NEW-E	04-20-018	388-845-2105	NEW-E	04-16-019	388-845-4015	NEW-E	04-20-018
388-845-1510	NEW-E	04-08-020	388-845-2105	NEW-E	04-20-018	388-865	PREP	04-08-122
388-845-1510	NEW-E	04-16-019	388-845-2110	NEW-E	04-08-020	388-865-0335	PREP	04-05-085
388-845-1510	NEW-E	04-20-018	388-845-2110	NEW-E	04-16-019	388-865-0340	PREP	04-05-085
388-845-1515	NEW-E	04-08-020	388-845-2110	NEW-E	04-20-018	388-865-0465	AMD-P	04-05-081
388-845-1515	NEW-E	04-16-019	388-845-2200	NEW-E	04-08-020	388-865-0465	AMD	04-12-043
388-845-1515	NEW-E	04-20-018	388-845-2200	NEW-E	04-16-019	388-865-0500	AMD	04-07-014
388-845-1600	NEW-E	04-08-020	388-845-2200	NEW-E	04-20-018	388-865-0501	REP	04-07-014
388-845-1600	NEW-E	04-16-019	388-845-2205	NEW-E	04-08-020	388-865-0502	REP	04-07-014
388-845-1600	NEW-E	04-20-018	388-845-2205	NEW-E	04-16-019	388-865-0504	REP	04-07-014
388-845-1605	NEW-E	04-08-020	388-845-2205	NEW-E	04-20-018	388-865-0505	REP	04-07-014
388-845-1605	NEW-E	04-16-019	388-845-2210	NEW-E	04-08-020	388-865-0510	REP	04-07-014
388-845-1605	NEW-E	04-20-018	388-845-2210	NEW-E	04-16-019	388-865-0511	NEW	04-07-014
388-845-1610	NEW-E	04-08-020	388-845-2210	NEW-E	04-20-018	388-865-0515	REP	04-07-014
388-845-1610	NEW-E	04-16-019	388-845-3000	NEW-E	04-08-020	388-865-0516	NEW	04-07-014
388-845-1610	NEW-E	04-20-018	388-845-3000	NEW-E	04-16-019	388-865-0520	NEW	04-07-014
388-845-1615	NEW-E	04-08-020	388-845-3000	NEW-E	04-20-018	388-865-0525	REP	04-07-014
388-845-1615	NEW-E	04-16-019	388-845-3005	NEW-E	04-08-020	388-865-0526	NEW	04-07-014
388-845-1615	NEW-E	04-20-018	388-845-3005	NEW-E	04-16-019	388-865-0530	REP	04-07-014
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388-845-1700	NEW-E	04-08-020	388-845-3010	NEW-E	04-20-018	388-865-0540	REP	04-07-014
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388-845-1705	NEW-E	04-20-018	388-845-3020	NEW-E	04-16-019	388-865-0550	REP	04-07-014
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392-142-130	REP-P	04-05-054	415-110-680	AMD	04-04-041	415-501-488	NEW-P	04-19-024
392-142-130	REP	04-08-116	415-110-685	NEW	04-04-041	415-501-491	AMD-P	04-19-024
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392-142-135	REP	04-08-116	415-110-728	AMD	04-04-041	415-501-493	AMD-P	04-19-024
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434-12-230	REP	04-05-041	434-220-050	NEW-E	04-15-081	434-260-020	AMD	04-15-089
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434-110-090	REP	04-04-018	434-220-080	NEW-E	04-15-081	434-260-080	AMD-X	04-10-084
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463- 36-060	DECOD-P	04-13-154	463- 39-005	AMD-X	04-05-058	463- 42-101	NEW-P	04-13-154
463- 36-070	AMD-P	04-13-154	463- 39-005	AMD-P	04-11-070	463- 42-105	AMD-P	04-13-154
463- 36-070	DECOD-P	04-13-154	463- 39-005	DECOD-P	04-13-154	463- 42-105	DECOD-P	04-13-154
463- 36-080	AMD-P	04-13-154	463- 39-005	AMD	04-17-058	463- 42-115	DECOD-P	04-13-154
463- 36-080	DECOD-P	04-13-154	463- 39-005	DECOD-P	04-13-154	463- 42-116	NEW-P	04-13-154
463- 36-090	DECOD-P	04-13-154	463- 39-010	DECOD-P	04-13-154	463- 42-117	NEW-P	04-13-154
463- 36-100	AMD-P	04-13-154	463- 39-020	DECOD-P	04-13-154	463- 42-125	DECOD-P	04-13-154
463- 36-100	DECOD-P	04-13-154	463- 39-030	AMD-X	04-05-058	463- 42-135	AMD-P	04-13-154
463- 38-005	NEW-P	04-13-154	463- 39-030	AMD-P	04-11-070	463- 42-135	DECOD-P	04-13-154
463- 38-010	AMD-P	04-13-154	463- 39-030	DECOD-P	04-13-154	463- 42-145	DECOD-P	04-13-154
			463- 39-030	AMD	04-17-058	463- 42-155	AMD-P	04-13-154
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463-42-175	AMD-P	04-13-154	463-42-655	REP-P	04-13-154	463-60-075	RECOD-P	04-13-154
463-42-175	DECOD-P	04-13-154	463-42-665	DECOD-P	04-13-154	463-60-085	RECOD-P	04-13-154
463-42-185	AMD-P	04-13-154	463-42-665	REP-P	04-13-154	463-60-095	RECOD-P	04-13-154
463-42-185	DECOD-P	04-13-154	463-42-675	DECOD-P	04-13-154	463-60-105	RECOD-P	04-13-154
463-42-195	AMD-P	04-13-154	463-42-675	REP-P	04-13-154	463-60-115	RECOD-P	04-13-154
463-42-195	DECOD-P	04-13-154	463-42-680	DECOD-P	04-13-154	463-60-125	RECOD-P	04-13-154
463-42-205	AMD-P	04-13-154	463-42-680	REP-P	04-13-154	463-60-135	RECOD-P	04-13-154
463-42-205	DECOD-P	04-13-154	463-42-685	DECOD-P	04-13-154	463-60-145	RECOD-P	04-13-154
463-42-215	AMD-P	04-13-154	463-42-685	REP-P	04-13-154	463-60-155	RECOD-P	04-13-154
463-42-215	DECOD-P	04-13-154	463-42-690	DECOD-P	04-13-154	463-60-165	RECOD-P	04-13-154
463-42-225	AMD-P	04-13-154	463-42-690	REP-P	04-13-154	463-60-175	RECOD-P	04-13-154
463-42-225	DECOD-P	04-13-154	463-43	AMD-P	04-13-154	463-60-185	RECOD-P	04-13-154
463-42-235	AMD-P	04-13-154	463-43-010	AMD-P	04-13-154	463-60-195	RECOD-P	04-13-154
463-42-235	DECOD-P	04-13-154	463-43-020	AMD-P	04-13-154	463-60-205	RECOD-P	04-13-154
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463-42-245	DECOD-P	04-13-154	463-43-050	AMD-P	04-13-154	463-60-225	RECOD-P	04-13-154
463-42-255	AMD-P	04-13-154	463-43-060	AMD-P	04-13-154	463-60-235	RECOD-P	04-13-154
463-42-255	DECOD-P	04-13-154	463-43-070	AMD-P	04-13-154	463-60-245	RECOD-P	04-13-154
463-42-265	AMD-P	04-13-154	463-43-080	AMD-P	04-13-154	463-60-255	RECOD-P	04-13-154
463-42-265	DECOD-P	04-13-154	463-47-020	AMD-P	04-13-154	463-60-265	RECOD-P	04-13-154
463-42-275	AMD-P	04-13-154	463-47-040	REP-P	04-13-154	463-60-275	RECOD-P	04-13-154
463-42-275	DECOD-P	04-13-154	463-47-060	AMD-P	04-13-154	463-60-285	RECOD-P	04-13-154
463-42-285	AMD-P	04-13-154	463-47-090	AMD-P	04-13-154	463-60-295	RECOD-P	04-13-154
463-42-285	DECOD-P	04-13-154	463-47-120	AMD-P	04-13-154	463-60-302	RECOD-P	04-13-154
463-42-295	AMD-P	04-13-154	463-47-130	AMD-P	04-13-154	463-60-312	RECOD-P	04-13-154
463-42-295	DECOD-P	04-13-154	463-50	AMD-P	04-13-154	463-60-322	RECOD-P	04-13-154
463-42-296	NEW-P	04-13-154	463-50-010	AMD-P	04-13-154	463-60-332	RECOD-P	04-13-154
463-42-297	NEW-P	04-13-154	463-50-020	REP-P	04-13-154	463-60-342	RECOD-P	04-13-154
463-42-302	AMD-P	04-13-154	463-50-040	AMD-P	04-13-154	463-60-352	RECOD-P	04-13-154
463-42-302	DECOD-P	04-13-154	463-50-050	AMD-P	04-13-154	463-60-362	RECOD-P	04-13-154
463-42-312	AMD-P	04-13-154	463-54	AMD-P	04-13-154	463-60-372	RECOD-P	04-13-154
463-42-312	DECOD-P	04-13-154	463-54-010	AMD-P	04-13-154	463-60-382	RECOD-P	04-13-154
463-42-322	AMD-P	04-13-154	463-54-010	DECOD-P	04-13-154	463-60-385	RECOD-P	04-13-154
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463-42-342	DECOD-P	04-13-154	463-54-050	AMD-P	04-13-154	463-60-655	RECOD-P	04-13-154
463-42-352	AMD-P	04-13-154	463-54-050	DECOD-P	04-13-154	463-60-665	RECOD-P	04-13-154
463-42-352	DECOD-P	04-13-154	463-54-060	AMD-P	04-13-154	463-60-675	RECOD-P	04-13-154
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463-42-382	DECOD-P	04-13-154	463-54-080	REP-P	04-13-154	463-62-020	NEW-P	04-13-154
463-42-382	REP-P	04-13-154	463-58-010	AMD-P	04-13-154	463-62-030	NEW-P	04-13-154
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463-42-385	REP-P	04-13-154	463-58-030	AMD-P	04-13-154	463-62-050	NEW-P	04-13-154
463-42-435	DECOD-P	04-13-154	463-58-040	AMD-P	04-13-154	463-62-060	NEW-P	04-13-154
463-42-435	REP-P	04-13-154	463-58-050	AMD-P	04-13-154	463-62-070	NEW-P	04-13-154
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463-42-535	AMD-P	04-13-154	463-58-080	AMD-P	04-13-154	463-64-030	NEW-P	04-13-154
463-42-535	DECOD-P	04-13-154	463-60-010	RECOD-P	04-13-154	463-64-040	NEW-P	04-13-154
463-42-536	NEW-P	04-13-154	463-60-012	RECOD-P	04-13-154	463-64-050	NEW-P	04-13-154
463-42-537	NEW-P	04-13-154	463-60-015	RECOD-P	04-13-154	463-64-060	NEW-P	04-13-154
463-42-625	DECOD-P	04-13-154	463-60-025	RECOD-P	04-13-154	463-66-010	RECOD-P	04-13-154
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463-66-050	RECOD-P	04-13-154	463-78-030	RECOD-P	04-13-154	478-116-141	AMD	04-13-086
463-66-060	RECOD-P	04-13-154	463-78-070	RECOD-P	04-13-154	478-116-145	AMD-P	04-07-127
463-66-070	RECOD-P	04-13-154	463-78-090	RECOD-P	04-13-154	478-116-145	AMD	04-13-086
463-66-080	RECOD-P	04-13-154	463-78-095	RECOD-P	04-13-154	478-116-161	AMD-P	04-07-127
463-66-090	RECOD-P	04-13-154	463-78-100	RECOD-P	04-13-154	478-116-161	AMD	04-13-086
463-66-100	RECOD-P	04-13-154	463-78-105	RECOD-P	04-13-154	478-116-165	AMD-P	04-07-127
463-68-010	NEW-P	04-13-154	463-78-115	RECOD-P	04-13-154	478-116-165	AMD	04-13-086
463-68-020	NEW-P	04-13-154	463-78-120	RECOD-P	04-13-154	478-116-167	AMD-P	04-07-127
463-68-030	NEW-P	04-13-154	463-78-135	RECOD-P	04-13-154	478-116-167	AMD	04-13-086
463-68-040	NEW-P	04-13-154	463-78-140	RECOD-P	04-13-154	478-116-171	AMD-P	04-07-127
463-68-050	NEW-P	04-13-154	463-78-170	RECOD-P	04-13-154	478-116-171	AMD	04-13-086
463-68-060	NEW-P	04-13-154	463-78-230	RECOD-P	04-13-154	478-116-181	AMD-P	04-07-127
463-68-070	NEW-P	04-13-154	468-38-265	PREP	04-09-067	478-116-181	AMD	04-13-086
463-68-080	NEW-P	04-13-154	468-38-265	AMD-E	04-13-011	478-116-184	AMD-P	04-07-127
463-70-010	RECOD-P	04-13-154	468-38-265	AMD-P	04-13-012	478-116-184	AMD	04-13-086
463-70-020	RECOD-P	04-13-154	468-38-265	AMD	04-16-060	478-116-186	AMD-P	04-07-127
463-70-030	RECOD-P	04-13-154	468-60-010	NEW-P	04-03-112	478-116-186	AMD	04-13-086
463-70-040	RECOD-P	04-13-154	468-60-010	NEW	04-06-087	478-116-191	AMD-P	04-07-127
463-70-050	RECOD-P	04-13-154	468-70-020	AMD-E	04-09-024	478-116-191	AMD	04-13-086
463-70-060	RECOD-P	04-13-154	468-70-020	AMD-P	04-13-045	478-116-201	AMD-P	04-07-127
463-70-070	RECOD-P	04-13-154	468-70-020	AMD	04-16-056	478-116-201	AMD	04-13-086
463-70-080	RECOD-P	04-13-154	468-70-020	AMD-E	04-16-061	478-116-211	AMD-P	04-07-127
463-72-010	NEW-P	04-13-154	468-70-070	AMD-E	04-09-024	478-116-211	AMD	04-13-086
463-72-020	NEW-P	04-13-154	468-70-070	AMD-P	04-13-045	478-116-227	AMD-P	04-07-127
463-72-030	NEW-P	04-13-154	468-70-070	AMD	04-16-056	478-116-227	AMD	04-13-086
463-72-040	NEW-P	04-13-154	468-70-070	AMD-E	04-16-061	478-116-251	AMD-P	04-07-127
463-72-050	NEW-P	04-13-154	468-70-085	REP-E	04-09-014	478-116-251	AMD	04-13-086
463-72-060	NEW-P	04-13-154	468-70-085	REP-P	04-13-045	478-116-253	AMD-P	04-07-127
463-72-070	NEW-P	04-13-154	468-70-085	REP	04-16-056	478-116-253	AMD	04-13-086
463-72-080	NEW-P	04-13-154	468-70-085	REP-E	04-16-061	478-116-255	AMD-P	04-07-127
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463-74-020	RECOD-P	04-13-154	468-95-315	NEW	04-08-010	478-116-271	AMD-P	04-07-127
463-74-030	RECOD-P	04-13-154	468-100-306	AMD-X	04-03-113	478-116-271	AMD	04-13-086
463-74-040	RECOD-P	04-13-154	468-100-306	AMD	04-08-041	478-116-301	AMD-P	04-07-127
463-76-010	RECOD-P	04-13-154	468-100-306	AMD-W	04-12-066	478-116-301	AMD	04-13-086
463-76-020	RECOD-P	04-13-154	468-310-020	PREP	04-03-011	478-116-311	AMD-P	04-07-127
463-76-030	RECOD-P	04-13-154	468-310-020	AMD-P	04-07-092	478-116-311	AMD	04-13-086
463-76-031	RECOD-P	04-13-154	468-310-020	AMD	04-11-004	478-116-431	AMD-P	04-07-127
463-76-032	RECOD-P	04-13-154	468-310-050	PREP	04-03-011	478-116-431	AMD	04-13-086
463-76-033	RECOD-P	04-13-154	468-310-050	AMD-P	04-07-092	478-116-520	AMD-P	04-07-127
463-76-034	RECOD-P	04-13-154	468-310-050	AMD	04-11-004	478-116-520	AMD	04-13-086
463-76-040	RECOD-P	04-13-154	468-500-001	AMD-X	04-20-022	478-116-531	AMD-P	04-07-127
463-76-041	RECOD-P	04-13-154	478-116	AMD-C	04-11-055	478-116-531	AMD	04-13-086
463-76-042	RECOD-P	04-13-154	478-116-051	AMD-P	04-07-127	478-116-670	AMD-P	04-07-127
463-76-043	RECOD-P	04-13-154	478-116-051	AMD	04-13-086	478-116-670	AMD	04-13-086
463-76-050	RECOD-P	04-13-154	478-116-061	AMD-P	04-07-127	478-168	PREP	04-04-016
463-76-051	RECOD-P	04-13-154	478-116-061	AMD	04-13-086	478-168-160	AMD-P	04-09-076
463-76-052	RECOD-P	04-13-154	478-116-101	AMD-P	04-07-127	478-168-160	AMD	04-13-087
463-76-053	RECOD-P	04-13-154	478-116-101	AMD	04-13-086	478-168-170	REP-P	04-09-076
463-76-054	RECOD-P	04-13-154	478-116-111	AMD-P	04-07-127	478-168-170	REP	04-13-087
463-76-055	RECOD-P	04-13-154	478-116-111	AMD	04-13-086	478-168-180	AMD-P	04-09-076
463-76-060	RECOD-P	04-13-154	478-116-114	AMD-P	04-07-127	478-168-180	AMD	04-13-087
463-76-061	RECOD-P	04-13-154	478-116-114	AMD	04-13-086	478-168-190	AMD-P	04-09-076
463-76-062	RECOD-P	04-13-154	478-116-116	AMD-P	04-07-127	478-168-190	AMD	04-13-087
463-76-063	RECOD-P	04-13-154	478-116-116	AMD	04-13-086	478-168-200	REP-P	04-09-076
463-76-064	RECOD-P	04-13-154	478-116-121	AMD-P	04-07-127	478-168-200	REP	04-13-087
463-76-065	RECOD-P	04-13-154	478-116-121	AMD	04-13-086	478-168-270	AMD-P	04-09-076
463-76-080	RECOD-P	04-13-154	478-116-125	AMD-P	04-07-127	478-168-270	AMD	04-13-087
463-76-090	RECOD-P	04-13-154	478-116-125	AMD	04-13-086	478-168-290	REP-P	04-09-076
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478-168-298	REP-P	04-09-076	480-73-050	NEW-P	04-18-129	480-93-124	AMD-P	04-15-141
478-168-298	REP	04-13-087	480-73-060	NEW-P	04-18-129	480-93-130	AMD-P	04-15-141
478-168-300	REP-P	04-09-076	480-73-110	NEW-P	04-18-129	480-93-140	AMD-P	04-15-141
478-168-300	REP	04-13-087	480-73-120	NEW-P	04-18-129	480-93-150	REP-P	04-15-141
478-168-310	AMD-P	04-09-076	480-73-130	NEW-P	04-18-129	480-93-155	AMD-P	04-15-141
478-168-310	AMD	04-13-087	480-73-140	NEW-P	04-18-129	480-93-160	AMD-P	04-15-141
478-168-320	AMD-P	04-09-076	480-73-150	NEW-P	04-18-129	480-93-170	AMD-P	04-15-141
478-168-320	AMD	04-13-087	480-73-160	NEW-P	04-18-129	480-93-175	AMD-P	04-15-141
478-168-325	AMD-P	04-09-076	480-73-170	NEW-P	04-18-129	480-93-178	NEW-P	04-15-141
478-168-325	AMD	04-13-087	480-73-180	NEW-P	04-18-129	480-93-180	AMD-P	04-15-141
478-168-330	REP-X	04-14-084	480-73-190	NEW-P	04-18-129	480-93-183	REP-P	04-15-141
478-168-330	REP	04-19-036	480-73-200	NEW-P	04-18-129	480-93-184	REP-P	04-15-141
478-168-340	REP-P	04-09-076	480-73-210	NEW-P	04-18-129	480-93-185	AMD-P	04-15-141
478-168-340	REP	04-13-087	480-73-999	NEW-P	04-18-129	480-93-186	AMD-P	04-15-141
478-168-345	REP-P	04-09-076	480-75-240	PREP	04-17-056	480-93-18601	AMD-P	04-15-141
478-168-345	REP	04-13-087	480-80	PREP	04-03-118	480-93-187	AMD-P	04-15-141
478-168-350	REP-P	04-09-076	480-80-123	AMD-P	04-17-133	480-93-188	AMD-P	04-15-141
478-168-350	REP	04-13-087	480-80-204	AMD-P	04-17-133	480-93-190	REP-P	04-15-141
478-168-360	REP-P	04-09-076	480-80-206	AMD-P	04-17-133	480-93-200	AMD-P	04-15-141
478-168-360	REP	04-13-087	480-90-008	AMD-P	04-18-129	480-93-210	REP-P	04-15-141
478-168-380	AMD-P	04-09-076	480-90-023	AMD-P	04-18-129	480-93-220	REP-P	04-15-141
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479-12-130	AMD-P	04-15-164	480-90-242	NEW-P	04-18-129	480-100-023	AMD-P	04-18-129
479-12-130	AMD	04-19-108	480-90-244	NEW-P	04-18-129	480-100-207	NEW-P	04-18-129
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479-12-430	AMD-P	04-15-164	480-90-257	NEW-P	04-18-129	480-100-218	REP-P	04-18-129
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