

Washington State Register

March 16, 2005

OLYMPIA, WASHINGTON

ISSUE 05-06



IN THIS ISSUE

Accountancy, Board of
Aging and Disability Services Administration
Agriculture, Department of
Attorney General's Office
Barley Commission
Bellingham Technical College
Building Code Council
Cascadia Community College
Child Support, Division of
Children's Administration
Community Economic Revitalization Board
Deaf, Washington State School for the
Ecology, Department of
Economic Services Administration
Everett Community College
Financial Management, Office of
Fish and Wildlife Commission
Fish and Wildlife, Department of
Forest Practices Board
Gambling Commission
Health Care Facilities Authority
Health, Department of
Health, State Board of

Insurance Commissioner, Office of
Interagency Committee, Office of the
Labor and Industries, Department of
Licensing, Department of
Lottery, Washington State
Management Services Administration
Medical Assistance Administration
Natural Resources, Department of
Olympic College
Outdoor Recreation, Interagency Committee for
Parks and Recreation Commission
Physical Therapy, Board of
Pierce College
Pilotage Commissioners, Board of
Public Disclosure Commission
Public Instruction, Superintendent of
Puget Sound Clean Air Agency
Retirement Systems, Department of
Revenue, Department of
Secretary of State
Shoreline Community College
Skagit Valley College
Social and Health Services, Department of
Utilities and Transportation Commission

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

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of March 2005 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 March 2005 is 4.786%.

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

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

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

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

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

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

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

REGULATORY FAIRNESS ACT

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

Small Business Economic Impact Statements (SBEIS)

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

Mitigation

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

When is an SBEIS Required?

When:

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

When is an SBEIS Not Required?

When:

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

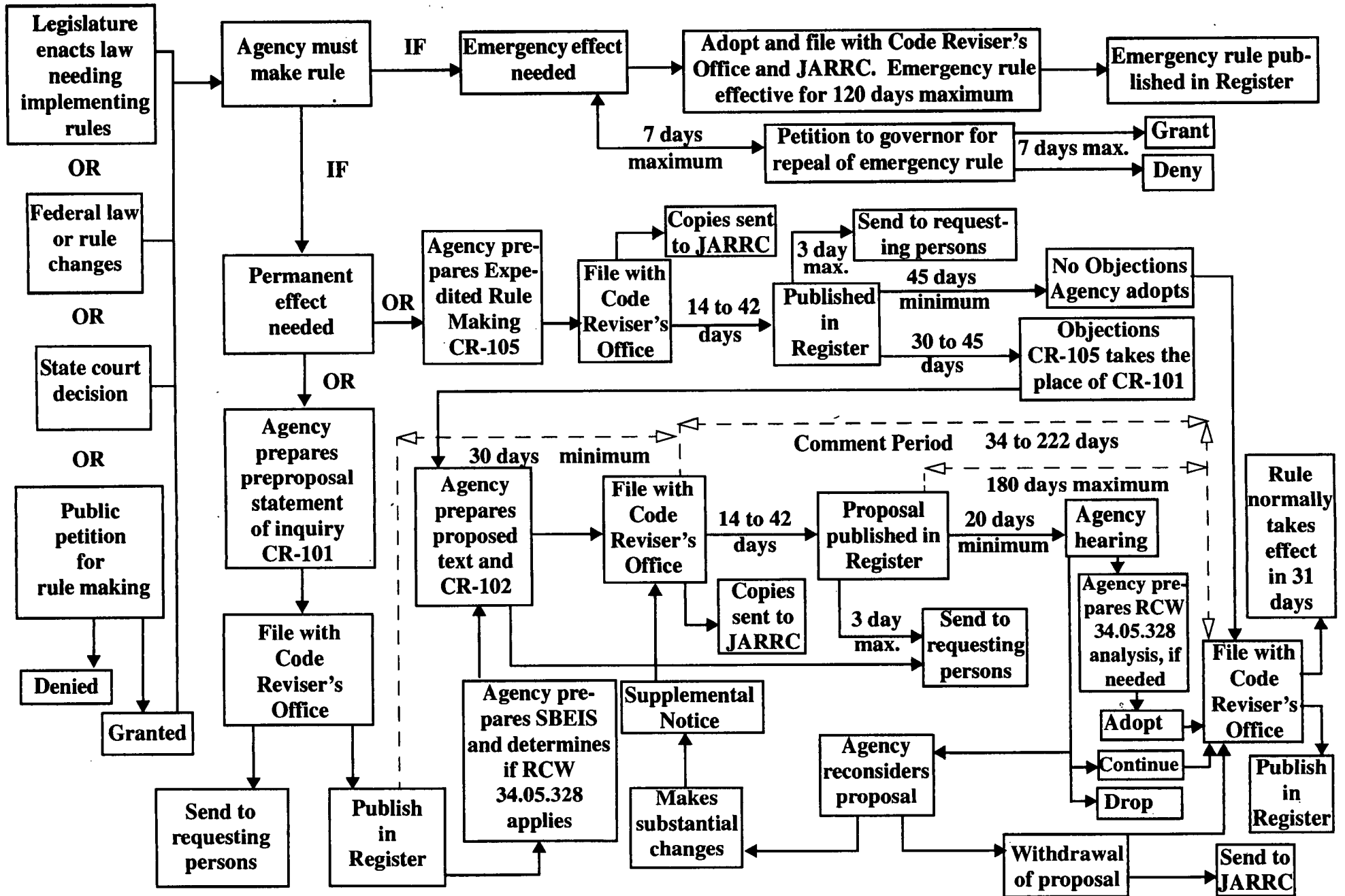
There is less than minor economic impact on business;

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

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

The rule is pure restatement of state statute.

RULE-MAKING PROCESS



WSR 05-06-002**PREPROPOSAL STATEMENT OF INQUIRY
SECRETARY OF STATE**

[Filed February 16, 2005, 2:53 p.m.]

Subject of Possible Rule Making: Fee for filing initiatives and signature verification method for initiative petitions and absentee ballots.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 29A.04.610, 43.07.120.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules are needed to define the filing procedure for initiatives, including fees, and required documents. There is also a need to standardize the method by which signatures are verified for petitions and absentee ballots.

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 Pamela Floyd, P.O. Box 40237, Olympia, WA 98504-0237, pfloyd@secstate.wa.gov, phone (360) 725-5781, fax (360) 664-2971.

February 17 [16], 2005

Sam Reed

Secretary of State

WSR 05-06-005**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF LICENSING**

[Filed February 18, 2005, 2:43 p.m.]

Subject of Possible Rule Making: Possible adjustments to fees charged by the collection agency program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.16.351 and 43.24.086.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Assure that revenue collection is properly aligned with the cost of operating the licensing program.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Harumi Tucker Tolbert, Department of Licensing, Collection Agency Board, P.O. Box 9034, Olympia, WA 98507-9034, fax (360) 570-7875. Notification will be sent to all licensees and interested parties.

February 18, 2005

Harumi Tucker Tolbert

WMS Manager

WSR 05-06-017**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF REVENUE**

[Filed February 22, 2005, 2:47 p.m.]

Subject of Possible Rule Making: Amending WAC 458-12-342 New construction—Assessment.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 84.08.010 and 84.41.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is considering an amendment to the rule as it believes the rule is currently more restrictive than the law with respect to what property can be added to the assessment roll under the new construction statute. The department is considering an amendment to allow new construction to be added to the assessment roll when the new construction was located on leased public land. The department also anticipates amending the rule to bring it up-to-date with the law regarding the time period for filing appeals of the value placed on new construction by the assessor.

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

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes is available upon request. Written comments on and/or requests for copies of the rule may be directed to James A. Winterstein, Interpretations and Technical Advice Unit, P.O. Box 47453, Olympia, WA 98504-47453 [98504-7453], e-mail JimWi@dor.wa.gov, phone (360) 570-6117, fax (360) 586-5543.

Public Meeting Location: Capital Plaza Building, 4th Floor L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on April 13, 2004 [2005], at 2:00 p.m.

February 22, 2005

Alan R. Lynn

Rules Coordinator

WSR 05-06-026**PREPROPOSAL STATEMENT OF INQUIRY
WASHINGTON STATE LOTTERY**

[Filed February 23, 2005, 2:03 p.m.]

Subject of Possible Rule Making: Mega Million matrix changes.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: California is joining the multistate game Mega Millions, so the Lottery Commission will be amending chapter 315-38 WAC to reflect the correct matrix change and party lotteries.

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 Ceil Buddeke, Rules Coordinator, at (360) 664-4833, fax (360) 586-6586, e-mail Cbuddeke@walottery.com, P.O. Box 43025, Olympia, WA 98504-3025, with any comments or questions regarding this statement of intent.

February 23, 2005
Ceil Buddeke
Rules Coordinator

WSR 05-06-027

PREPROPOSAL STATEMENT OF INQUIRY SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed February 23, 2005, 2:28 p.m.]

Subject of Possible Rule Making: Chapter 392-126 WAC, Shared leave resulting from HB 2266.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.400.380 for school districts.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Revision of the WAC is needed to address the effect of changes in law made by the legislature. Rule revision is needed to address donation of leave for employees who are called to voluntary and involuntary military duty.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, Legal Services, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 753-4201, TTY (360) 664-3631. For telephone assistance contact Ron Stead, Director, School Financial Services, (360) 725-6302.

February 11, 2005
Dr. Terry Bergeson
Superintendent of
Public Instruction

WSR 05-06-030

PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF HEALTH

[Filed February 24, 2005, 11:49 a.m.]

Subject of Possible Rule Making: Amending chapter 246-650 WAC, to include cystic fibrosis in the mandatory

disorders for newborn screening conducted by the Department of Health.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.83.050, 43.20.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: An increasing body of knowledge from medical and scientific research, as well as experience from newborn screening programs in other states and countries, indicates that children who have cystic fibrosis experience significantly better outcomes if their disease is detected shortly after birth through screening performed on the same dried blood spots that are tested for phenylketonuria (PKU) and other congenital disorders. The board intends to evaluate the evidence to determine if newborn screening for cystic fibrosis meets the criteria that the board has adopted for inclusion in mandatory newborn screening.

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

Process for Developing New Rule: Expert technical review of medical/scientific evidence for cystic fibrosis treatment and, if significant health benefit is found, full review by a broadly representative Newborn Screening Advisory Committee. The committee will develop recommendations for the board to consider.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael Glass, Director Newborn Screening, Washington Department of Health, 1610 N.E. 150th Street, Shoreline, WA 98155, voice (206) 418-5470, fax (206) 418-5415, e-mail mike.glass@doh.wa.gov. Meetings will be open, and any written information or findings will be available to the public.

February 23, 2005
Craig McLaughlin
Executive Director

WSR 05-06-032

PREPROPOSAL STATEMENT OF INQUIRY GAMBLING COMMISSION

[Filed February 24, 2005, 3:05 p.m.]

Subject of Possible Rule Making: Recreational gaming activities.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: At the request of the industry, the agency will review requirements and restrictions related to recreational gaming activities.

Process for Developing New Rule: Rule change developed by agency staff. Interested parties can participate in the discussion of this proposed change by attending a commission meeting, or contacting the agency rules coordinator at the contact information below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Day, Deputy Director, P.O. Box

42400, Olympia, WA 98504-2400, (360) 486-3446; Neal Nunamaker, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3449; or Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, e-mail Susana@wsgc.wa.gov.

[Meetings at:] Red Lion - Vancouver at the Quay, 100 Columbia Street, Vancouver, WA 98660, (360) 694-8341, on April 15, 2005; and at the Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000, on May 13, 2005.

February 24, 2005

Susan Arland

Rules Coordinator

WSR 05-06-033

PREPROPOSAL STATEMENT OF INQUIRY GAMBLING COMMISSION

[Filed February 24, 2005, 3:06 p.m.]

Subject of Possible Rule Making: Card games.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 9.46.070.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: At the request of the industry, the agency will consider including mini baccarat as an authorized card game in Washington.

Process for Developing New Rule: Rule change developed by agency staff. Interested parties can participate in the discussion of this proposed change by attending a commission meeting, or contacting the agency rules coordinator at the contact information below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; Neal Nunamaker, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3449; or Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466, e-mail Susana@wsgc.wa.gov.

[Meetings at:] Red Lion - Vancouver at the Quay, 100 Columbia Street, Vancouver, WA 98660, (360) 694-8341, on April 15, 2005; at the Red Lion Hotel at the Park, 303 West North River Drive, Spokane, WA 99201, (509) 326-8000, on May 13, 2005; and at the LaConner Maple Hall, 108 Commercial Street, LaConner, WA 98257, (360) 466-3101, on June 10, 2005.

February 24, 2005

Susan Arland

Rules Coordinator

WSR 05-06-040

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF RETIREMENT SYSTEMS

[Filed February 25, 2005, 2:23 p.m.]

Subject of Possible Rule Making: Chapter 415-108 WAC, Public employees' retirement system.

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 will amend sections of chapter 415-108 WAC as needed to ensure they are accurate, up-to-date, and written in "plain English."

Process for Developing New Rule: The Department of Retirement Systems (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.

February 24, 2005

Leslie L. Saeger

Rules Coordinator

WSR 05-06-041

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF RETIREMENT SYSTEMS

[Filed February 25, 2005, 2:24 p.m.]

Subject of Possible Rule Making: Chapter 415-110 WAC, School employees' retirement system.

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 reviewed most of chapter 415-110 WAC in fiscal year 2005, as part of its four-year regulatory reform review. As a result, the department will amend many of the rules to ensure they are accurate, up-to-date, and written in "plain English."

Process for Developing New Rule: The Department of Retirement Systems (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.

February 24, 2005
Leslie L. Saeger
Rules Coordinator

WSR 05-06-059

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed March 1, 2005, 9:13 a.m.]

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

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 84.33.096, 82.32.300, and 82.01.060(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: RCW 84.33.091 requires the department to revise the stumpage value tables every six months. The department establishes stumpage value tables to apprise timber harvesters of the timber values on which the timber excise tax is calculated.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Although the United States Forest Service and Washington State Department of Natural Resources both regulate forest practices, neither is involved in valuation for taxation purposes. The nontax processes and definitions are coordinated with these agencies to avoid conflict, but there should be no need to involve them in the valuation revisions provided in this rule.

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes will be available upon request shortly before the public meeting. Written comments on and/or requests for copies of the rule may be directed to Gilbert Brewer, Interpretations and Technical Advice Unit, P.O. Box 47453, Olympia, WA 98504-7453, e-mail GilB@dor.wa.gov, phone (360) 570-6133, fax (360) 586-5543.

Public Meeting Location: Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on April 27, 2005, at 10:00 a.m.

February 28, 2005
Alan R. Lynn
Rules Coordinator

WSR 05-06-065

PREPROPOSAL STATEMENT OF INQUIRY SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed March 1, 2005, 2:09 p.m.]

Subject of Possible Rule Making: Chapter 392-121
WAC, Finance—General apportionment.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28A.150.290.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To revise current alternative learning experience rules (WAC 392-121-182) and/or add a new section to chapter 392-121 WAC in order to delineate processes, procedures, policies, and other requirements related to the general apportionment of state moneys for schools or programs where learning occurs away from the traditional classroom setting, including those that are digital, online, or internet based.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Martin Mueller, (360) 725-6050, mmueller@ospi.wednet.edu.

February 18, 2005
Dr. Terry Bergeson
Superintendent of
Public Instruction

WSR 05-06-077

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF SOCIAL AND HEALTH SERVICES (Economic Services Administration)

[Filed March 1, 2005, 4:09 p.m.]

Subject of Possible Rule Making: WAC 388-273-0035
What we reimburse the local telephone company, DSHS reimburses local telephone companies for certain expenses associated with the Washington telephone assistance program (WTAP). This change will clarify the amount available to telephone companies for reimbursement of connection fees discounted for WTAP clients.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.770, 74.08.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule needs to be changed to clarify payment limits for reimbursable services, and to keep the WTAP fund operating within budget.

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

Process for Developing New Rule: DSHS welcomes the public to take part in developing the rules. Anyone interested should contact the staff person identified below. At a later date, DSHS will file proposed with the Office of the Code Reviser with a notice of proposed rule making. A copy of the proposal will be sent to everyone on the mailing list and to anyone who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Amber Gillum, Policy Analyst, Division of Employment and Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, phone (360) 725-4612, fax (360) 493-3493, e-mail gilluae@dshs.wa.gov.

March 1, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-06-078

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)**

[Filed March 1, 2005, 4:11 p.m.]

Subject of Possible Rule Making: Working Connections child care, WAC 388-290-0010, 388-290-0025, 388-290-0075, 388-290-0095, 388-290-0100, 388-290-0105, 388-290-0110, 388-290-0120, and other sections as appropriate. In addition, new WAC may need to be developed for the management of a waiting list for WCCC applicants. Amendments to some sections may be done in conjunction with rule making under preproposal notice WSR 04-13-046.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.13.085, and 74.12.340.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Budgetary constraints require implementation of cost savings measures for the Working Connections child care program. Several changes will occur with this WAC filing including decreasing the federal poverty level for eligibility purposes and incorporating flexibility for temporarily not accepting applications, or creating a waiting list for applicants.

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

Process for Developing New Rule: All interested parties are invited to review and provide input on draft rule language. Obtain draft material by contacting the identified representative below.

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

lication by contacting Sheri Bruu-Deleon, Program Manager, Division of Child Care and Early Learning, P.O. Box 45480, Olympia, WA 98504-5480, phone (360) 725-4675, fax (360) 413-3482, e-mail brudsl@dshs.wa.gov.

February 28, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-06-079

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)**

[Filed March 1, 2005, 4:11 p.m.]

Subject of Possible Rule Making: WAC 388-501-0135 Patient review and restriction.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is updating and clarifying policy and adding language that allows the medical assistance administration (MAA) to restrict a client to one narcotic prescriber.

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, Medical Assistance Administration, Olympia, WA 98504-45533 [98504-5533], phone (360) 725-1342, fax (360) 586-9727, TTY 1-800-848-5429, e-mail sayrek@dshs.wa.gov.

February 28, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-06-080

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)**

[Filed March 1, 2005, 4:12 p.m.]

Subject of Possible Rule Making: Adopting a new section in chapter 388-550 WAC, Hospital services; and amending WAC 388-550-3300 Hospital peer groups and cost caps, 388-550-4300 Hospitals and units exempt from the DRG payment method, 388-550-4600 Hospital selective contracting program, 388-550-4800 Hospital payment methods—State-administered programs, and possible other sections in chapter 388-550 WAC.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Due to the elimination of intergovernmental transfers (IGTs), a new WAC section is being created to allow the department to reimburse certain public hospitals through the "full cost" public hospital certified public expenditure (CPE) payment program. In addition, the department is updating applicable sections in chapter 388-550 WAC.

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, Medical Assistance Administration, Olympia, WA 98504-45533 [98504-5533], phone (360) 725-1342, fax (360) 586-9727, TTY 1-800-848-5429, e-mail sayrek@dshs.wa.gov.

February 28, 2005
Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-06-081
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Management Services Administration)

[Filed March 1, 2005, 4:13 p.m.]

Subject of Possible Rule Making: Chapter 388-02 WAC, DSHS Hearing rules.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 34.05.020.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: DSHS plans to amend WAC 388-02-0215 and other rules in chapter 388-02 WAC in order to:

- Correct obsolete cross references to other rules in WAC 388-02-0215(4) and reduce the need for future corrections by simplifying the list of cases where the parties may request review of an initial order by a review judge; and
- Clarify, correct, update, and/or make other changes to chapter 388-02 WAC as appropriate in order to improve efficiency, increase consistency, and ensure due process in DSHS hearings and the review process.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The department will request comments on draft rules from the Office of Administrative Hearings (OAH).

Process for Developing New Rule: DSHS welcomes public comment on draft rules. To receive draft rules for comment, contact the person listed below (e-mail preferred).

At a later date, proposed rules will be filed with the Office of the Code Reviser and the proposed rules will be sent to persons and organizations that have requested to receive rule-making notices on this subject.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Brian H. Lindgren, Administrator, DSHS Board of Appeals, P.O. Box 45803, Olympia, WA 98504-5803, phone (360) 664-6093, e-mail lindgbh@dshs.wa.gov.

February 28, 2005
Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-06-082
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)

[Filed March 1, 2005, 4:14 p.m.]

Subject of Possible Rule Making: Adding sections to chapter 388-106 WAC, Long-term care services. Other WAC chapters may be opened as needed.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 42 C.F.R. 441.302(a), Social Security Act section 1915(c) waiver rules, 42 C.F.R. 44.180, 42 C.F.R. 438.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose of the new language is to add eligibility criteria and guidance for implementation of the Medicare/Medicaid integration project (MMIP). In addition, ADSA may amend existing rules to ensure that rules are current and clear. Policy changes that arise during this time may be incorporated in this rule making.

Process for Developing New Rule: DSHS welcomes the public to take part in developing these rules. Draft material and information about how to participate may be obtained from the department representatives listed below. At a later date, DSHS will file the proposed rule with the Office of the Code Reviser with a notice of proposed rule making, and send the proposal to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tiffany Sevruck, Home and Community Services, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2538, fax (360) 407-7582, TTY (360) 493-2637, e-mail sevruta@dshs.wa.gov.

February 28, 2005
Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-06-083**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed March 1, 2005, 4:14 p.m.]

Subject of Possible Rule Making: Adding sections to chapter 388-106 WAC, Long-term care services. Other WAC chapters may be opened as needed.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 42 C.F.R. 441.302(a), Social Security Act section 1915(c) waiver rules, 42 C.F.R. 44.180, 42 C.F.R. 438.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The purpose of the new language is to add eligibility criteria and guidance for implementation of the Washington Medicaid integration partnership (WMIP) project. In addition, ADSA may amend existing rules to ensure that rules are current and clear. Policy changes that arise during this time may be incorporated in this rule making.

Process for Developing New Rule: DSHS welcomes the public to take part in developing these rules. Draft material and information about how to participate may be obtained from the department representatives listed below. At a later date, DSHS will file the proposed rule with the Office of the Code Reviser with a notice of proposed rule making, and send the proposal to everyone currently on the mailing list and anyone else who requests a copy.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tiffany Sevrak, Home and Community Services, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2538, fax (360) 407-7582, TTY (360) 493-2637, e-mail sevvruta@dshs.wa.gov.

February 28, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-06-084**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed March 1, 2005, 4:15 p.m.]

Subject of Possible Rule Making: WAC 388-515-1505 Community options program entry system (COPEs).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.08.090, 74.04.050, 74.04.057, and 74.09-575.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Changes to the language to clarify the rules and adding PACE (program of all-inclusive care for the elderly) and MMIP (Medicare-Medicaid integration project) rules to this WAC.

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 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 Wendy Forslin, Program Manager, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1343, fax (360) 664-0910, TTY 1-800-848-5429, e-mail forslwc@dshs.wa.gov.

February 28, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

WSR 05-06-097**WITHDRAWAL OF
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed March 2, 2005, 8:02 a.m.]

The Department of Agriculture is formally withdrawing its preproposed amendment to WAC 16-230-860 regarding expanding the aerial pesticide spray boundaries of Area 6 in Benton County. This amendment was preproposed in WSR 04-13-057 on July 7, 2004. After reviewing public comment, the department determined there is no consensus for amending the current rule, and the current rule already allows, through a permit process, for aerial applications in critical situations.

Bob Arrington, Assistant Director
Pesticide Management Division

WSR 05-06-098**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
NATURAL RESOURCES**

[Filed March 2, 2005, 9:16 a.m.]

Subject of Possible Rule Making: The Department of Natural Resources (DNR) is directed by the Revised Code of Washington (RCW) to manage state-owned aquatic lands to provide a balance of public benefits that include encouraging public access, fostering water-dependent use, ensuring environmental protection, and utilizing renewable resources. DNR is further authorized to identify and withdraw from all conflicting uses public lands that can be utilized for their natural ecological systems. Based upon this authority, WAC 332-30-151 directs DNR to consider lands with educational, scientific, and environmental values for aquatic reserve status, and identifies general aquatic reserve management guidelines. The DNR Aquatics Resources Division is exploring options to clarify the general management guidelines contained in WAC 332-30-151 in order to provide more certainty as to how DNR will manage uses that impact designated aquatic reserves.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.30.215, 79.10.210, 79.90.460.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: DNR has identified a need to provide a more clearly defined method of managing uses that impact designated aquatic reserves. The general management guidelines for aquatic reserves contained in WAC 332-30-151 provide general direction to DNR for managing aquatic reserves, but the existing rule lacks the specificity needed to effectively manage them. Amending the rule to provide additional clarity as to how DNR will manage uses that impact designated aquatic reserves may be the most effective means to ensure the consistent implementation of DNR's aquatic reserves management program.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Responsibility for administering the proposed rule will lie exclusively with DNR and other agencies that have entered into agreements with DNR to manage aquatic reserves.

Process for Developing New Rule: DNR will contact stakeholders and affected parties and entities to solicit their participation in the rule development process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. DNR encourages your active participation in the rule-making process. For more information, please contact Matt Niles, Aquatic Resources Division, Washington State Department of Natural Resources, P.O. Box 47027, Olympia, WA 98504-7020, phone (360) 902-1100, fax (360) 902-1786, e-mail matthew.niles@wadnr.gov.

February 28, 2005

Doug Sutherland

Commissioner of Public Lands

WSR 05-06-104

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF FISH AND WILDLIFE

[Filed March 2, 2005, 10:16 a.m.]

Subject of Possible Rule Making: Aquatic farm registration 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: Additional specificity is needed in identifying aquatic farm sites.

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 Lew Atkins, Fish Program Assistant Director, 600 Capitol Way North, Olympia, WA 98504-

1091, phone (360) 902-2651. Contact by April 14, 2005. Expected proposal filing on or after April 15, 2005.

March 2, 2005

Evan Jacoby

Rules Coordinator

WSR 05-06-109

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed March 2, 2005, 11:17 a.m.]

Subject of Possible Rule Making: Chapter 16-470 WAC, Quarantine—Agricultural pests (WAC 16-470-900 through 16-470-921), the department is reviewing its fees for plant pathology services performed by the plan services and pest programs and may propose to raise them. In addition, the department may increase the penalty charge for past due accounts to make it consistent with charges related to other program rules, amend the existing language to increase its clarity and readability and update the language to conform to current industry and regulatory standards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 17.24 and 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Current plant pathology fee income is not adequate to cover costs associated with providing program services. RCW 17.24.131 Requested inspections—Fee for service—Disbursements in lieu of fee, states that the director may prescribe a fee for plant pathology services that "shall, as closely as practical, cover the cost of the service rendered, including the salaries and expenses of the personnel involved."

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

Process for Developing New Rule: Department staff will discuss any proposed amendments with affected stakeholders. Affected stakeholders will also have an opportunity to submit written comments on the proposed rules during the public comment period and will be able to present oral testimony at the public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Plant Protection Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094, e-mail mtoohey@agr.wa.gov; and Tom Wessels, Program Manager, Washington State Department of Agriculture, Plant Protection Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1984, fax (360) 902-2094, e-mail twessels@agr.wa.gov.

March 1, 2005

Mary A. Martin Toohey

Assistant Director

WSR 05-06-110**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed March 2, 2005, 11:18 a.m.]

Subject of Possible Rule Making: Chapter 16-401 WAC, Nursery inspection fees, the department is reviewing its nursery inspection fees and the nursery dealer license fees and may propose to raise them. In addition, the department may amend the existing language to increase its clarity and readability and update the language to conform to current industry and regulatory standards.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapters 15.13, 15.14, and 34.05 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Current fee income is not adequate to cover costs associated with providing program services.

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

Process for Developing New Rule: Department staff will discuss any proposed amendments with affected stakeholders. Affected stakeholders will also have an opportunity to submit written comments on the proposed rules during the public comment period and will be able to present oral testimony at the public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Plant Protection Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094, e-mail mtoohey@agr.wa.gov; and Tom Wessels, Program Manager, Washington State Department of Agriculture, Plant Protection Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1984, fax (360) 902-2094, e-mail twessels@agr.wa.gov.

March 1, 2005

Mary A. Martin Toohey
Assistant Director**WSR 05-06-113****PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY**

[Order 05-03—Filed March 2, 2005, 11:24 a.m.]

Subject of Possible Rule Making: This rule making will create chapter 173-525 WAC, Grays-Elochoman instream resources protection and water management program, which will establish the amount of water ("instream flow") that would protect and preserve flow-dependent resources such as fish, wildlife, recreation, water quality, navigation and aesthetics. Instream flows set in rule become water rights with priority dates of the effective date of the rule. The established flow levels will serve as benchmarks to determine whether additional water is available for future allocation beyond the needs of existing water rights, including the instream flows once adopted by rule.

Instream flows will be proposed for Grays and Elochoman rivers. Instream flows also may be proposed for a number of other tributaries within the watershed where habitat studies exist. This rule will establish reservations for future water supply for specific purposes and geographical areas, closures, and the administration of future water allocation and use. A maximum allocation will be set to limit appropriations from streams within the watershed when flows in these streams exceed the instream flows set in rule.

Statutes Authorizing the Agency to Adopt Rules on this Subject:

- The Watershed Planning Act (RCW 90.82.080) directs the department to undertake rule making to adopt instream flows recommended by the planning unit.
- The 1917 Water Code Act (chapter 90.03 RCW) and the minimum water flows and levels (chapter 90.22 RCW) give ecology authority to establish minimum water flows or levels for streams, lakes or other public waters for the purposes of protecting fish, game, birds or other wildlife, or recreational or aesthetic values.
- The Water Resources Act of 1971, chapter 90.54 RCW, especially RCW 90.54.020 and 90.54.050(1), are the basis for protecting and preserving instream resources, providing uninterrupted supply of water, and sets the authority to set aside/reserve water for future uses.
- Regulation of public ground waters (chapter 90.44 RCW) sets forth the exemption from permit application, and requires protection of surface water from any ground water withdrawals in hydraulic continuity with those surface waters.
- Water well construction (chapter 18.104 RCW) gives ecology the authority to regulate the design and construction of wells.
- Water resource management (chapter 90.42 RCW) creates a voluntary mechanism to acquire water rights that can be transferred to the trust water rights program for instream purposes.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In 1998, the Washington legislature passed the Watershed Planning Act, chapter 90.82 RCW, to provide a framework for citizens, interest groups, and government organizations to recommend instream flow levels and water resources provisions in their watersheds, known as water resource inventory areas (WRIAs). Watershed planning for the Grays-Elochoman (WRIA 25) started in 1999 and the Lower Columbia Fish Recovery Board was selected to serve as the lead agency. The planning unit approved a water management plan for the drainage basin, achieving planning unit agreement on instream flows and submitting their recommendations to ecology, on December 9, 2004. The planning unit also voted unanimously to make the effective date of the instream flows the effective date of the rule in accordance with RCW 90.82.080 (2)(a). Therefore, in accordance with RCW 90.82.080 (1)(b), the Department of Ecology (ecology) is undertaking rule making to set instream flows for several streams within WRIA 25.

Instream flows set in rule become water rights with priority dates of the effective date of the rule. The established flow levels will serve as benchmarks to determine whether additional water is available for future allocation beyond the needs of existing water rights, including the instream flows once adopted by rule.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: RCW 90.03.247 states, "*the department shall, during all stages of development by the department of ecology of minimum flow proposals, consult with, and carefully consider the recommendations of, the department of fish and wildlife, the department of community, trade, and economic development, the department of agriculture, and representatives of the affected Indian tribes*" in the Lewis River watershed. Ecology will also coordinate with the Department of Health, IAH, and other appropriate federal and tribal agencies.

Process for Developing New Rule: During rule making, draft language will be shared with the local watershed planning unit; Washington Departments of Fish and Wildlife, Community, Trade and Economic Development, and Agriculture; tribes; and other interested parties. Ecology will hold at least one open house prior to filing the CR-102 and proposed rule language. A focus sheet, web page, and public notice will be developed to explain the elements of the proposed rule and announce the date(s) of the open house(s). A press release, mailing and e-mail will be used to distribute the information. At the open house(s), staff will be available to discuss the proposal and answer questions. Informational displays and handouts will also be available.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting James Pacheco, Department of Ecology, Water Resources Program, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-7458, jpac461@ecy.wa.gov, fax (360) 407-6574, or Scott McKinney, Department of Ecology, SWRO, Shorelands and Environmental Assistance Program, P.O. Box 47775, Olympia, WA 98504-7775, (360) 407-6389, smck461@ecy.wa.gov, fax (360) 407-6574.

For the latest updates on Water Resources issues, including the Lewis watershed rule-making process, sign up for the Department of Ecology water resources e-mail list at <http://listserv.wa.gov/archives/water-resources.html> or check out the water resources website at <http://www.ecy.wa.gov/programs/wr/wrhome.html>.

March 1, 2005

Joe Stohr

Program Manager

WSR 05-06-114

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 05-04—Filed March 2, 2005, 11:25 a.m.]

Subject of Possible Rule Making: This rule making will create chapter 173-526 WAC, Cowlitz instream resources protection and water management program which will estab-

lish the amount of water ("instream flow") that would protect and preserve flow-dependent resources such as fish, wildlife, recreation, water quality, navigation and aesthetics. Instream flows set in rule become water rights with priority dates of the effective date of the rule. The established flow levels will serve as benchmarks to determine whether additional water is available for future allocation beyond the needs of existing water rights, including the instream flows once adopted by rule.

Instream flows will be proposed for the Cowlitz and Coweeman rivers. Instream flows also may be proposed for a number of other tributaries within the watershed where habitat studies exist. This rule will establish reservations for future water supply for specific purposes and geographical areas, closures, and the administration of future water allocation and use. A maximum allocation limit will be set to determine the amount of water available for appropriation from streams within the watershed when flows in these streams exceed the instream flows set in rule.

Statutes Authorizing the Agency to Adopt Rules on this Subject:

- The Watershed Planning Act (RCW 90.82.080) directs the department to undertake rule making to adopt instream flows recommended by the planning unit.
- The 1917 Water Code Act (chapter 90.03 RCW) and the minimum water flows and levels (chapter 90.22 RCW) give ecology authority to establish minimum water flows or levels for streams, lakes or other public waters for the purposes of protecting fish, game, birds or other wildlife, or recreational or aesthetic values.
- The Water Resources Act of 1971, chapter 90.54 RCW, especially RCW 90.54.020 and 90.54.050(1), are the basis for protecting and preserving instream resources, providing uninterrupted supply of water, and sets the authority to set aside/reserve water for future uses.
- Regulation of public ground waters (chapter 90.44 RCW) sets forth the exemption from permit application, and requires protection of surface water from any ground water withdrawals in hydraulic continuity with those surface waters.
- Water well construction (chapter 18.104 RCW) gives ecology the authority to regulate the design and construction of wells.
- Water resource management (chapter 90.42 RCW) creates a voluntary mechanism to acquire water rights that can be transferred to the trust water rights program for instream purposes.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In 1998, the Washington legislature passed the Watershed Planning Act, chapter 90.82 RCW, to provide a framework for citizens, interest groups, and government organizations to recommend instream flow levels and water resources provisions in their watersheds, known as water resource inventory areas (WRIAs). Watershed planning for the Grays-Elochoman (WRIA 26) started in 1999 and the Lower Columbia Fish Recovery Board was selected to serve as the lead agency. The planning unit

approved a water management plan for the drainage basin, achieving planning unit agreement on instream flows and submitting their recommendations to ecology, on December 9, 2004. The planning unit also voted unanimously to make the effective date of the instream flows the effective date of the rule in accordance with RCW 90.82.080 (2)(a). Therefore, in accordance with RCW 90.82.080 (1)(b), the Department of Ecology (ecology) is undertaking rule making to set instream flows for several streams within WRIA 26.

Instream flows set in rule become water rights with priority dates of the effective date of the rule. The established flow levels will serve as benchmarks to determine whether additional water is available for future allocation beyond the needs of existing water rights, including the instream flows once adopted by rule.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: RCW 90.03.247 states, "*the department shall, during all stages of development by the department of ecology of minimum flow proposals, consult with, and carefully consider the recommendations of, the department of fish and wildlife, the department of community, trade, and economic development, the department of agriculture, and representatives of the affected Indian tribes*" in the Lewis River watershed. Ecology will also coordinate with the Department of Health, IAH, and other appropriate federal tribal agencies.

Process for Developing New Rule: During rule making, draft language will be shared with the local watershed planning unit; Washington Departments of Fish and Wildlife, Community, Trade and Economic Development, and Agriculture; tribes; and other interested parties. Ecology will hold at least one open house prior to filing the CR-102 and proposed rule language. A focus sheet, web page, and public notice will be developed to explain the elements of the proposed rule and announce the date(s) of the open house(s). A press release, mailing and e-mail will be used to distribute the information. At the open house(s), staff will be available to discuss the proposal and answer questions. Informational displays and handouts will also be available.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting James Pacheco, Department of Ecology, Water Resources Program, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-7458, jpac461@ecy.wa.gov, fax (360) 407-6574; or Scott McKinney, Department of Ecology, SWRO, Shorelands and Environmental Assistance Program, P.O. Box 47775, Olympia, WA 98504-7775, (360) 407-6389, smck461@ecy.wa.gov, fax (360) 407-6574.

For the latest updates on water resources issues, including the Lewis watershed rule-making process, sign up for the Department of Ecology water resources e-mail list at <http://listserv.wa.gov/archives/water-resources.html> or check out the water resources website at <http://www.ecy.wa.gov/programs/wr/wrhome.html>.

March 1, 2005

Joe Stohr
Program Manager

WSR 05-06-115
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF ECOLOGY
[Order 05-05—Filed March 2, 2005, 11:26 a.m.]

Subject of Possible Rule Making: This rule making will create chapter 173-527 WAC, Lewis instream resources protection and water management program. Instream flows will be proposed for the Lewis (lower, middle, upper), East Fork Lewis, and Kalama rivers. Instream flows may also be proposed for a number of other tributaries within the watershed where habitat studies exist. The rule language will provide for mitigation of any new water rights or water right transfers, as well as optional ways to secure water via water banking, aquifer storage and recovery, and others. A maximum net quantity of water will be available for appropriation from streams within the watershed when flows in these streams exceed the instream flows set in rule. Finally, a reserve amount of ground water for each subbasin and county will be available for future use.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Several statutes provide the current impetus for action to achieve and protect stream flows:

- The Watershed Planning Act (RCW 90.82.080) directs the department to undertake rule making to adopt instream flows recommended by the planning unit.
- The 1917 Water Code Act (chapter 90.03 RCW) and the minimum water flows and levels (chapter 90.22 RCW) give ecology authority to establish minimum water flows or levels for streams, lakes or other public waters for the purposes of protecting fish, game, birds or other wildlife, or recreational or aesthetic values.
- The Water Resources Act of 1971, chapter 90.54 RCW, especially RCW 90.54.020 and 90.54.050(1), are the basis for protecting and preserving instream resources, providing uninterrupted supply of water, and sets the authority to set aside/reserve water for future uses.
- Regulation of public ground waters (chapter 90.44 RCW) sets forth the exemption from permit application, and requires protection of surface water from any ground water withdrawals in hydraulic continuity with those surface waters.
- Water well construction (chapter 18.104 RCW) gives ecology the authority to regulate the design and construction of wells.
- Water resource management (chapter 90.42 RCW) creates a voluntary mechanism to acquire water rights that can be transferred to the trust water rights program for instream purposes.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Water resources inventory area (WRIA) 27 is located in southwest Washington state and comprises portions of Clark, Skamania, Cowlitz and Yakima counties. A variety of needs must be met by surface and ground waters in this region of the state. Just as water supply for people is growing in demand, instream flows throughout the watershed are vital for fish and wildlife species. Local

streams provide habitat for fish species that have recently been listed under the federal Endangered Species Act (ESA).

ESA Status of Listed Fish Species in WRIA 27

Spring and Fall Chinook	"Threatened"	March 24, 1999
Coho	"Candidate"	July 14, 1997
Summer and Winter Steelhead	"Threatened"	March 19, 1998
Chum	"Threatened"	March 25, 1999
Bull Trout	"Threatened"	June 10, 1998

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Each watershed planning unit that elected to make instream flow recommendations is essentially an advisory group to ecology for setting instream flows. Chapter 90.82 RCW allows local planning units, of which ecology is an active partner, to develop and recommend instream flows, with ecology having authority to convert those recommendations into rule.

Furthermore, per RCW 90.03.247, the department will consult with the affected tribes in the Lewis watershed, other state departments, and appropriate federal agencies.

Process for Developing New Rule: During rule making, draft language will be shared with the local watershed planning unit; Washington Departments of Fish and Wildlife, Community, Trade and Economic Development, and Agriculture; tribes; and other interested parties. Ecology will hold at least one open house prior to filing the CR-102 and proposed rule language. A focus sheet, web page, and public notice will be developed to explain the elements of the proposed rule and announce the date(s) of the open house(s). A press release, mailing and e-mail will be used to distribute the information. At the open house(s), staff will be available to discuss the proposal and answer questions. Informational displays and handouts will also be available.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathleen Ensenat, Department of Ecology, Water Resources Program, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-6780, kspa461@ecy.wa.gov, fax (360) 407-6574; or Scott McKinney, Department of Ecology, SWRD, Shorelands and Environmental Assistance Program, P.O. Box 47775, Olympia, WA 98504-7775, (360) 407-6389, smck461@ecy.wa.gov, fax (360) 407-6574.

For the latest updates on water resources issues, including the Lewis watershed rule-making process, sign up for the department of ecology water resources e-mail list at <http://listserv.wa.gov/archives/water-resources.html> or check out the water resources website at <http://www.ecy.wa.gov/programs/wr/wrhome.html>.

March 1, 2005
 Joe Stohr
 Program Manager

**PREPROPOSAL STATEMENT OF INQUIRY
 DEPARTMENT OF ECOLOGY**

[Order 05-06—Filed March 2, 2005, 11:27 a.m.]

Subject of Possible Rule Making: This rule making will create chapter 173-528 WAC, Salmon-Washougal instream resources protection and water management program. Instream flows will be proposed for the Washougal River, and Salmon, Burnt Bridge, and Lacamas creeks. Instream flows may also be proposed for a number of other tributaries within the watershed where habitat studies exist. The rule language will provide for mitigation of any new water rights or water right transfers, as well as optional ways to secure water via water banking, aquifer storage and recovery, and others. A maximum net quantity of water will be available for appropriation from streams within the watershed when flows in these streams exceed the instream flows set in rule. Finally, a reserve amount of ground water for each subbasin and county will be available for future use.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Several statutes provide the current impetus for action to achieve and protect stream flows:

- The Watershed Planning Act (RCW 90.82.080) directs the department to undertake rule making to adopt instream flows recommended by the planning unit.
- The 1917 Water Code Act (chapter 90.03 RCW) and the minimum water flows and levels (chapter 90.22 RCW) give ecology authority to establish minimum water flows or levels for streams, lakes or other public waters for the purposes of protecting fish, game, birds or other wildlife, or recreational or aesthetic values.
- The Water Resources Act of 1971, chapter 90.54 RCW, especially RCW 90.54.020 and 90.54.050(1), are the basis for protecting and preserving instream resources, providing uninterrupted supply of water, and sets the authority to set aside/reserve water for future uses.
- Regulation of public ground waters (chapter 90.44 RCW) sets forth the exemption from permit application, and requires protection of surface water from any ground water withdrawals in hydraulic continuity with those surface waters.
- Water well construction (chapter 18.104 RCW) gives ecology the authority to regulate the design and construction of wells.
- Water resource management (chapter 90.42 RCW) creates a voluntary mechanism to acquire water rights that can be transferred to the trust water rights program for instream purposes.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Water resources inventory area (WRIA) 28 is located in southwest Washington state and comprises portions of Clark and Skamania counties. A variety of needs must be met by surface and ground waters in this region of the state. Just as water supply for people is growing in demand, instream flows throughout the watershed are vital for fish and wildlife species. Local streams provide habitat

for fish species that have recently been listed under the federal Endangered Species Act (ESA).

ESA Status of Listed Fish Species in WRIA 28

Spring and Fall Chinook	"Threatened"	March 24, 1999
Coho	"Candidate"	July 14, 1997
Summer and Winter Steelhead	"Threatened"	March 19, 1998
Chum	"Threatened"	March 25, 1999
Bull Trout	"Threatened"	June 10, 1998

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Each watershed planning unit that elected to make instream flow recommendations is essentially an advisory group to ecology for setting instream flows. Chapter 90.82 RCW allows local planning units, of which ecology is an active partner, to develop and recommend instream flows, with ecology having authority to convert those recommendations into rule.

Furthermore, per RCW 90.03.247, the department will consult with the affected tribes in the Lewis watershed, other state departments, and appropriate federal agencies.

Process for Developing New Rule: Ecology will hold at least one open house prior to filing the CR-102 and proposed rule language. A focus sheet, web page, and public notice will be developed to explain the elements of the proposed rule and announce the date(s) of the open house(s). A press release, mailing and e-mail will be used to distribute the information. At the open house(s), staff will be available to discuss the proposal and answer questions. Informational displays and handouts will also be available.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathleen Ensenat, Department of Ecology, Water Resources Program, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-6780, kspa461@ecy.wa.gov, fax (360) 407-6574; or Scott McKinney, Department of Ecology, SWRD, Shorelands and Environmental Assistance Program, P.O. Box 47775, Olympia, WA 98504-7775, (360) 407-6389, smck461@ecy.wa.gov, fax (360) 407-6574.

For the latest updates on water resources issues, including the Lewis watershed rule-making process, sign up for the department of ecology water resources e-mail list at <http://listserv.wa.gov/archives/water-resources.html> or check out the water resources website at <http://www.ecy.wa.gov/programs/wr/wrhome.html>.

March 1, 2005
Joe Stohr
Program Manager

WSR 05-06-119

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH

[Filed March 2, 2005, 11:29 a.m.]

Subject of Possible Rule Making: Chapter 246-130 WAC, Human immunodeficiency virus (HIV) early intervention program.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.70.670, 43.70.120, and 43.70.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The HIV client services program of the Department of Health is filing a CR-101 to revise chapter 246-130 WAC to achieve two goals:

- To establish rules as authorized under RCW 43.70.670.
- To update and clarify the language of the rule.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: In 2003, SHB 1275, now RCW 43.70.670, authorized the Department of Health to operate the human immunodeficiency virus insurance program. This program, formerly known as the acquired human immunodeficiency syndrome insurance program was formerly administered by the Department of Social and Health Services under RCW 74.09.757 from 1993-2003. Rules established by DSHS for the acquired human immunodeficiency syndrome insurance program will have to be repealed. The Department of Health will coordinate the adoption of the revised chapter 246-130 WAC with the repeal of WAC 388-539-0200.

Process for Developing New Rule: Collaborative.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Anne Stuyvesant, Program Manager, Department of Health, Olympia, WA 98504-7841, phone (360) 236-3477, fax (360) 664-2216, e-mail Anne.Stuyvesant@doh.wa.gov.

February 28, 2005
Mary C. Selecky
Secretary

WSR 05-06-124

PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF REVENUE

[Filed March 2, 2005, 11:33 a.m.]

Subject of Possible Rule Making: WAC 458-20-194 Doing business inside and outside the state.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 82.32.300 and 82.01.060(2).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The current rule describes methods for apportionment of service providers' income in very general terms. Most of the department's specific advice on the subject has been by Washington tax decision (WTD), and this advice has proved difficult to interpret and apply for taxpayers. An amended rule could provide specific and consistent guidance on the subject of apportionment under RCW

82.04.460(1), creating more predictable and equitable results for taxpayers.

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

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes is available upon request. Written comments on and/or requests for copies of the rule may be directed to Chris Coffman or Nathan Schreiner, Interpretations and Technical Advice Unit, P.O. Box 47453, Olympia, WA 98504-7453, e-mail ChrisC@dor.wa.gov or NathanS@dor.wa.gov, phone (360) 570-6150 or (360) 570-6136, fax (360) 586-5543.

Public Meeting Location: Capital Plaza Building, 4th Floor, Executive Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on April 7, 2004 [2005], at 10:00 a.m.

March 2, 2005

Alan R. Lynn

Rules Coordinator

Road South, Olympia, WA 98512, phone (360) 956-4803, fax (360) 586-4272, e-mail Lisa.Lantz@parks.wa.gov.

March 2, 2005

Jim French

Chief of Policy Research and Program Development

WSR 05-06-125

PREPROPOSAL STATEMENT OF INQUIRY

**PARKS AND RECREATION
COMMISSION**

[Filed March 2, 2005, 11:35 a.m.]

Subject of Possible Rule Making: The state Parks and Recreation Commission is considering amending chapter 352-28 WAC following an agency study on issues related to the harvest and personal consumption of nonmarine edible plants and edible fruiting bodies, including fungi.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 79A.05.030, 79A.05.035, 79A.05.055, 79A.05.070, 79A.05.075, 79A.05.305.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To define and establish limits and procedures for the harvesting of nonmarine edible plants and edible fruiting bodies, including fungi, for personal consumption.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The Washington State Parks and Recreation Commission has lead agency jurisdiction over the public use of natural resources on agency property.

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 Lisa Lantz, Environmental Planner, Washington State Parks, Southwest Region HQ, 11838 Tilley

WSR 05-04-057
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Aging and Disability Services Administration)
 [Filed January 28, 2005, 4:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 02-07-107.

Title of Rule and Other Identifying Information: Adopting new chapter 388-823 WAC, Division of developmental disabilities intake and determination of developmental disabilities; and repealing existing WAC 388-825-030, 388-825-035, and 388-825-040.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on April 5, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 6, 2005.

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 p.m., April 5, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by April 1, 2005, 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 these rules is to clarify the entire application and eligibility determination process used by the Division of Developmental Disabilities (DDD). This new chapter:

- Describes how to apply for a determination of a developmental disability;
- Defines the conditions required to be considered a person with a developmental disability, defines how these conditions may meet substantial limitations to adaptive functioning and defines the evidence required to substantiate adaptive functioning limitations;
- Defines how the age of an individual affects the eligibility determination process;
- Describes the inventory for client and agency planning (ICAP);
- Defines the expiration of eligibility, reviews and reapplication; and
- Describes an individual's rights as a client of DDD.

Reasons Supporting Proposal: DDD determined that adopting new rules on the application and eligibility determination process would be more effective and clearer than amending current rules in chapter 388-825 WAC.

Statutory Authority for Adoption: RCW 71A.10.020, 71A.12.030, 71A.12.050, 71A.12.070, 71A.16.020, 71A.16.030, 71A.16.040, and 71A.16.050.

Statute Being Implemented: Chapters 71A.10, 71A.12 and 71A.16 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: Steve Brink, 640 Woodland Square Loop S.E., Lacey, WA 98503-1045, P.O. Box 45310, Olympia, WA 98507-5310, e-mail brinksc@dshs.wa.gov, phone (360) 725-3416, fax (360) 407-0955; **Implementation and Enforcement:** Sue Poltl, 640 Woodland Square Loop S.E., Lacey, WA 98503-1045, P.O. Box 45310, Olympia, WA 98507-5310, e-mail poltlse@dshs.wa.gov, phone (360) 725-3454, fax (360) 407-0955.

No small business economic impact statement has been prepared under chapter 19.85 RCW. DDD has determined that these rules do not affect small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. These rules are exempt from preparing a cost-benefit analysis pursuant to RCW 34.05.328 (5)(b)(vii). These rules relate only to client medical and financial eligibility.

January 24, 2005

Andy Fernando, Manager

Rules and Policies Assistance Unit

Chapter 388-823 WAC

DIVISION OF DEVELOPMENTAL DISABILITIES INTAKE AND DETERMINATION OF DEVELOPMENTAL DISABILITIES

APPLYING FOR A DETERMINATION OF A DEVELOPMENTAL DISABILITY

NEW SECTION

WAC 388-823-0010 Definitions The following definitions apply to this chapter:

"Client" means a person with a developmental disability as defined in chapter 388-823 WAC who is currently eligible and active with the division of developmental disabilities.

"DAS" means Differential Ability Scales, which is a cognitive abilities battery for children and adolescents at least age two years, six months but under age eighteen.

"DDD" means the division of developmental disabilities, a division within the aging and disability services administration, department of social and health services.

"Department" means the department of social and health services.

"Division" means the division of developmental disabilities.

"Eligible" means you have a developmental disability that meets all of the requirements in this chapter for a specific condition.

"Expiration date" means a specific date that your eligibility as a client of DDD and all services paid by DDD will stop.

"FSIQ" means the full scale intelligence quotient which is a broad measure of intelligence achieved through one of the standardized intelligence tests included in these rules. Any standard error of measurement value will not be taken into consideration when making a determination for DDD eligibility.

PROPOSED

"ICAP" means the inventory for client and agency planning. This is a standardized assessment of functional ability. The adaptive behavior section of the ICAP assesses daily living skills and the applicant awareness of when to perform these skills. The goal is to get a snapshot of his/her ability.

"IMR" means an institution for the mentally retarded, per chapter 388-835 WAC or chapter 388-837 WAC.

"K-ABC" means Kaufman Assessment Battery for Children, which is a clinical instrument for assessing cognitive development. It is an individually administered test of intelligence and achievement for children at least age two years, six months but under age twelve years, six months. The K-ABC comprises four global scales, each yielding standard scores. A special nonverbal scale is provided for children at least age four years but under age twelve years, six months.

"Leiter-R" means Leiter International Performance Scale -Revised, which is an untimed, individually administered test of nonverbal cognitive ability for individuals at least age two years but under age twenty-one years.

"Review" means DDD must redetermine that you still have a developmental disability according to the rules that are in place at the time of the review.

"RHC" means one of five residential habilitation centers operated by the division: Lakeland Village, Yakima Valley School, Fircrest, Rainier School, and Francis Haddon Morgan Center.

"SIB-R" means the scale of independent behavior-revised which is an adaptive behavior assessment derived from quality standardization and norming. It can be administered as a questionnaire or as a carefully structured interview, with special materials to aid the interview process.

"SOLA" means a state operated living alternative residential service for adults operated by the Division.

"Stanford-Binet" is a battery of fifteen subtests measuring intelligence for individuals at least age two years but under age twenty-three years.

"Termination" means an action taken by DDD that stops your DDD eligibility and services paid by DDD.

"VABS" means Vineland Adaptive Behavior Scales, which in an assessment to measure adaptive behavior in children from birth but under age eighteen years, nine months and in adults with low functioning in four separate domains: communication, daily living skills, socialization, and motor skills.

"Wechsler" means the Wechsler Intelligence Scale, which is an individually administered 11-subtest measure of an individual's capacity for intelligent behavior. The Wechsler has both a verbal scale and a performance scale. The Wechsler is used with individuals at least age three years but under age seventy-four years. The verbal scale can be used alone with individuals who have visual or motor impairments, and the performance scale can be used alone with individuals who cannot adequately understand or produce spoken language. There are three Wechsler Intelligence Scales, dependent upon the age of the individual:

- The Wechsler Preschool and Primary Scale of Intelligence - Revised (WPPSI-R), for children at least age three years but under age seven years;

- The Wechsler Intelligence Scale for Children - Third Edition, (WISC-III), for children at least age six years but under age sixteen years; and

- The Wechsler Adult Intelligence Scale - Revised (WAIS-R), for individuals at least age sixteen years but under age seventy-four years.

NEW SECTION

WAC 388-823-0020 How do I become a client of the division of developmental disabilities? You become a client of the division of developmental disabilities (DDD) if you apply for eligibility with DDD and DDD determines that you have a "developmental disability" as defined in this chapter.

NEW SECTION

WAC 388-823-0030 Will I receive paid services if DDD decides that I have a developmental disability? If DDD determines that you have a developmental disability, your access to paid services as a DDD client depends on:

- (1) Your meeting eligibility requirements for the specific service;
- (2) An assessed need for the service; and
- (3) Available funding for the service.

NEW SECTION

WAC 388-823-0040 What is a developmental disability? (1) A developmental disability is defined in RCW 71A.10.020(3) and must meet all of the following requirements. The developmental disability must:

- (a) Be attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition found by DDD to be closely related to mental retardation or requiring treatment similar to that required for individuals with mental retardation;
- (b) Originate prior to age eighteen;
- (c) Be expected to continue indefinitely; and
- (d) Result in substantial limitations to an individual's adaptive functioning.

(2) In addition to the requirements listed in (1) above, you must meet the other conditions contained in this chapter.

NEW SECTION

WAC 388-823-0050 Must I be a resident of the state of Washington? When you apply for eligibility with DDD, you must be a resident of the state of Washington. Proof of residency includes:

- (1) The receipt of Medicaid or other benefits from the department of social and health services that require residency as a condition of eligibility; or
- (2) Documentation that shows you live in the state of Washington, or, if you are a child under the age of eighteen, documentation that shows your parent or legal guardian lives in the state of Washington.

NEW SECTION

WAC 388-823-0060 How do I apply to become a client of DDD? (1) You apply to become a client of DDD by calling the regional DDD office or a local DDD office and requesting determination of a developmental disability. The toll free regional numbers are:

Region 1	Spokane	1-800-462-0624
Region 2	Yakima	1-800-822-7840
Region 3	Everett	1-800-788-2053
Region 4	Seattle	1-800-314-3296
Region 5	Tacoma	1-800-248-0949
Region 6	Tumwater	1-800-339-8227

(2) DDD will make arrangements with you to complete the application for the eligibility determination by mail, in-person, or over the phone.

NEW SECTION

WAC 388-823-0070 Who can apply for an eligibility determination? (1) The following individuals can apply for a determination of developmental disability:

(a) The parent or legal representative must apply on behalf of a child under the age of eighteen years; or

(b) An adult applicant age eighteen years or older can apply on his/her own behalf or through a legal guardian.

(2) Any person, agency, or advocate may refer an adult for a determination of a developmental disability and assist with the application process. However, since the request for a determination of developmental disability is voluntary, DDD will request the verbal or written consent from the legal guardian of the adult or from the adult applicant if there is no legal guardian.

NEW SECTION

WAC 388-823-0080 Who determines that I have a developmental disability? DDD determines if you have a developmental disability as defined in this chapter after reviewing all documentation received by the division.

NEW SECTION

WAC 388-823-0090 How long will it take to complete a determination of my eligibility? (1) Once DDD receives sufficient documentation to determine you eligible, DDD has thirty days from receipt of the final piece of documentation to make the determination of eligibility.

(2) If DDD has received all requested documentation but it is insufficient to establish eligibility, DDD will make a determination of ineligibility and send you written notice of denial of eligibility.

(3) If DDD has insufficient information to determine you eligible but has not received all of the requested documentation, DDD may deny your eligibility after ninety days from the date of application. Rules governing reapplying for eligibility are in WAC 388-823-1080.

NEW SECTION

WAC 388-823-0105 How will DDD notify me of the results of my eligibility determination? DDD will send you written notification of the final determination of your eligibility per WAC 388-825-100.

(1) If you are not eligible, the written notice will explain why you are not eligible, explain your appeal rights to this decision, and provide you with a fair hearing request form.

(2) If you are eligible, the written notice will include:

(a) Your eligibility condition(s);

(b) The effective date of your eligibility;

(c) The expiration date or review date of your eligibility, if applicable; and

(d) The name and phone number of your assigned case manager.

NEW SECTION

WAC 388-823-0100 What is the effective date that I become an eligible client of DDD? (1) If DDD receives sufficient information to substantiate your DDD eligibility, the effective date of your eligibility as a DDD client is the date of receipt of the final piece of documentation needed to make your eligibility decision.

(2) Paid DDD services cannot begin before the effective date of your DDD eligibility.

NEW SECTION

WAC 388-823-0110 Who is responsible for obtaining the documentation needed to make this eligibility determination? You are responsible to obtain all of the information needed to document your disability or to provide DDD with the sources for obtaining the documentation.

(1) DDD will assist you in obtaining records but the purchase of diagnostic assessments or intelligence quotient (IQ) testing is your responsibility.

(2) If DDD determines that an inventory of client and agency planning (ICAP) is required, DDD will administer the ICAP at no expense to you.

NEW SECTION

WAC 388-823-0120 Will my diagnosis of a developmental disability qualify me for DDD eligibility? Eligibility for DDD requires more than a diagnosis of a developmental disability. You must meet all of the elements that define a developmental disability in WAC 388-823-0040 and meet a specific eligible condition defined in this chapter.

NEW SECTION

WAC 388-823-0130 Can I be eligible for DDD if my disability occurs on or after my eighteenth birthday? DDD eligibility requires that your disability exist before your eighteenth birthday.

NEW SECTION

WAC 388-823-0140 What if I do not have written evidence that my disability began before my eighteenth birthday? (1) If there is no documentation available to prove that your disability began prior to age eighteen, DDD may accept verbal information from your family or others who knew you prior to the age of eighteen about your early developmental history, educational history, illnesses, injuries or other information sufficient to validate the existence of an eligible condition prior to age eighteen.

(2) DDD will determine if the reported verbal information is adequate for documenting the existence of your condition prior to age eighteen.

(3) Additional evidence of your eligible condition and the resulting substantial limitations to adaptive functioning is still required.

NEW SECTION

WAC 388-823-0150 Which rules define a developmental disability if I am a child under the age of six years? If you are a child under the age of six years, assessment of developmental delays and other age appropriate criteria are used to substantiate an eligible condition and substantial limitations in adaptive functioning as defined in WAC 388-823-0800 through WAC 388-823-0850.

NEW SECTION

WAC 388-823-0160 Which rules define a developmental disability if I am age six through nine? If you are a child age six but under age ten, you can meet the criteria for a developmental disability under either of the two following sets of rules:

(1) Developmental delays per WAC 388-823-0800 through WAC 388-823-0850, or

(2) Developmental disabilities per WAC 388-823-0200 through 388-823-0710.

NEW SECTION

WAC 388-823-0170 Which rules define a developmental disability if I am age ten or older? If you are age ten or older, only the rules in WAC 388-823-0200 through WAC 388-823-0710 apply when deciding if you have a developmental disability.

**DETERMINATION OF A
DEVELOPMENTAL DISABILITY
MENTAL RETARDATION**

NEW SECTION

WAC 388-823-0200 What evidence do I need to substantiate "mental retardation" as an eligible condition? Evidence that you have an eligible condition under "mental retardation" requires a diagnosis of mental retardation by a licensed psychologist, or a finding of mental retardation by a certified school psychologist or a diagnosis of Down syndrome by a licensed physician.

(1) This diagnosis is based on documentation of a life-long condition originating before age eighteen.

(2) The condition results in significantly below average cognitive and adaptive skills functioning that will not improve with treatment, instruction or skill acquisition.

(3) A diagnosis or finding of mental retardation by the examining psychologist must include an evaluation of adaptive functioning that includes the use of a standardized adaptive behavior scale indicating adaptive functioning that is more than two standard deviations below the mean, in at least two of the following areas: communication, self care, home living, social/interpersonal skills, use of community resources, self direction, functional academic skills, work, leisure, health, and safety.

NEW SECTION

WAC 388-823-0210 If I have mental retardation, how do I meet the definition of substantial limitations to adaptive functioning? If you meet the definition of mental retardation in WAC 388-823-0200, you must have substantial limitations in adaptive functioning as measured by a full-scale intelligence quotient (FSIQ) of more than two standard deviations below the mean.

NEW SECTION

WAC 388-823-0215 What evidence do I need of my FSIQ? Evidence of a qualifying FSIQ to meet the definition of substantial limitations for the condition of mental retardation is a FSIQ derived from a Stanford-Binet, Wechsler Intelligence Scale (Wechsler), Differential Abilities Scale (DAS), Kaufman Assessment Battery for Children (K-ABC), or a Leiter International Performance Scale-Revised (Leiter-R) if you have a significant hearing impairment or English is not your primary language.

(1) The test must be administered by a licensed psychologist or certified school psychologist.

(2) The FSIQ cannot be attributable to mental illness or other psychiatric condition, or other illness or injury occurring after age eighteen:

(a) If you are dually diagnosed with mental retardation and mental illness, other psychiatric condition, or other illness or injury, DDD must make its decision based solely on the diagnosis of mental retardation, excluding the effects of the mental illness, other psychiatric condition, illness or injury; or

(b) If DDD is unable to make this decision based solely on the diagnosis of mental retardation due to the existence of mental illness, other psychiatric condition or illness or injury, DDD has the authority to deny eligibility.

(3) If you have a significant hearing impairment, the administering professional may estimate an FSIQ score using only the performance IQ score of the appropriate Wechsler or administer the Leiter-R.

(4) If you have a vision impairment that prevents completion of the performance portion of the IQ test, the administering professional may estimate an FSIQ using only the verbal IQ score of the appropriate Wechsler.

(5) The following table shows the standard deviation for each assessment and the qualifying score of more than two standard deviations below the mean.

ASSESSMENT	STANDARD DEVIATION	QUALIFYING SCORE
Stanford-Binet	16	67 or less
Wechsler Intelligence Scales (Wechsler)	15	69 or less
Differential Abilities Scale (DAS)	15	69 or less
Kaufman Assessment Battery for Children (K-ABC)	15	69 or less
Leiter International Performance Scale-Revised (Leiter-R) [for persons with significant hearing impairments or when English is not a primary language]	15	69 or less

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

NEW SECTION

WAC 388-823-0220 If I am too cognitively impaired to complete a standardized IQ test, how do I meet the criteria under mental retardation? If in the opinion of the examining psychologist, you are too cognitively impaired to complete all of the subtests necessary to achieve an FSIQ score on an approved standardized IQ test, the examining psychologist may estimate an FSIQ from the available information based on a professional judgment about your intellectual functioning.

NEW SECTION

WAC 388-823-0230 If I have more than one FSIQ score, what criteria will DDD use to select the FSIQ score for determining eligibility? (1) If you have more than one FSIQ, DDD will review the pattern of FSIQ scores.

(a) If there is no significant difference among these, DDD will accept the score the closest to age eighteen.

(b) If there are significant differences among the FSIQ scores, DDD will review the pattern and attempt to determine reasons for the fluctuations to ensure that the FSIQ is resulting from mental retardation and not from mental illness or other psychiatric condition, or illness, or other injury.

(2) If you are age eighteen or older, DDD will use the FSIQ obtained at age thirteen or older.

(3) If you are under age eighteen, DDD will use the most current FSIQ.

(4) DDD will exclude any FSIQ score attributable to a condition or impairment that began after the age of eighteen.

CEREBRAL PALSY

NEW SECTION

WAC 388-823-0300 What evidence do I need to substantiate "cerebral palsy" as an eligible condition? Evidence that you have an eligible condition under "cerebral palsy" requires a diagnosis by a licensed physician of cerebral palsy, quadriplegia, hemiplegia, or diplegia with symptoms that:

- (1) Existed prior to age three; and
- (2) Impair control of movement.

NEW SECTION

WAC 388-0823-0310 If I have cerebral palsy, how do I meet the definition of substantial limitations to adaptive functioning? If you have an eligible condition of cerebral palsy, substantial limitations of adaptive functioning is the need for direct physical assistance on a daily basis with two or more of the following activities as a result of your condition:

- (1) Toileting;
- (2) Bathing;
- (3) Eating;
- (4) Dressing;
- (5) Mobility; or
- (6) Communication.

Reviser's note: The above new section was filed by the agency as WAC 388-0823-0310. This section is placed among sections forming new chapter 388-823 WAC, and therefore should be numbered WAC 388-823-0310. Pursuant to the requirements of RCW 34.08.040, the section is published in the same form as filed by the agency.

NEW SECTION

WAC 388-823-0320 What evidence do I need of my need for direct physical assistance with activities of daily living? Evidence for direct physical assistance with activities of daily living requires that:

(1) You need the presence and assistance of another person on a daily basis to be able to communicate and be understood by any other person.

(a) If you are able to communicate through a communication device you will be considered independent in communication.

(b) You must require more than "setting up" of the communication device.

(2) You need direct physical assistance from another person on a daily basis with toileting, bathing, eating, dressing, or mobility.

(a) You require more than "setting up" the task to enable you to perform the task independently.

(b) Your ability to be mobile is your ability to move yourself from place to place, not your ability to walk. For instance, if you can transfer in and out of a wheelchair and are independently mobile in a wheelchair, you do not meet the requirement for hands-on assistance with mobility. You must require direct assistance for more than transferring in and out

PROPOSED

of wheelchair, in and out of the bath or shower, and/or on and off of the toilet.

NEW SECTION

WAC 388-823-0330 How can I document my need for direct physical assistance? Any of the following can be used as evidence to determine your direct physical assistance needs:

- (1) The comprehensive assessment reporting evaluation (CARE) tool or other department assessments that measures direct assistance needs in the areas specified above;
- (2) Assessments and reports from educational or health-care professionals that are current and consistent with your current functioning;
- (3) In the absence of professional reports or assessments, DDD may document its own observation of your direct assistance needs along with reported information by family and others familiar with you.

EPILEPSY

NEW SECTION

WAC 388-823-0400 What evidence do I need to substantiate "epilepsy" as an eligible condition? Evidence of an eligible condition under "epilepsy" requires a diagnosis of a neurological condition that produces brief disturbances in the normal electrical functions of the brain resulting in seizures.

- (1) This condition requires a diagnosis of epilepsy or seizure disorder that originated prior to age eighteen and is expected to continue indefinitely.
- (2) The diagnosis must be made by a board certified neurologist and be based on documentation of medical history and neurological testing.
- (3) You must provide confirmation from your physician or neurologist that your seizures are currently uncontrolled and ongoing or recurring and cannot be controlled by medication.
- (4) DDD will not consider your seizures uncontrolled or ongoing if it is documented or reported that you refuse to take medications.
- (5) Your seizures must occur more than once per month and make you physically incapacitated, requiring direct physical assistance for one or more activities as defined in WAC 388-823-0310 and WAC 388-823-0320 during or following seizures.

NEW SECTION

WAC 388-823-0410 If I have epilepsy, how do I meet the definition of substantial limitations to adaptive functioning? A substantial limitation to adaptive functioning under epilepsy is a functional assessment score of more than two standard deviations below the mean on a Vineland Adaptive Behavior Scales (VABS), Scale of Independent Behavior-Revised (SIB-R) or Inventory for Client and Agency Planning (ICAP) assessment instrument as described in WAC 3880-823-0420.

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 388-823-0420 What evidence do I need to substantiate adaptive functioning limitations for the eligible conditions of epilepsy, autism and other conditions similar to mental retardation? (1) Evidence of substantial limitations of adaptive functioning for the conditions of epilepsy, autism, and other conditions similar to mental retardation requires a qualifying score in a VABS, a SIB-R, or an ICAP completed in the past twenty-four months.

- (a) Professionals who administer and score the VABS must have a background in individual assessment, human development and behavior, and tests and measurements, as well as an understanding of individuals with disabilities.
- (b) Department staff or designee contracted with DDD must administer the ICAP.
- (c) DDD will administer or arrange for the administration of the ICAP if VABS or SIB-R results are not submitted.
- (d) Qualifying scores for each assessment are as follows:

ASSESSMENT	STANDARD DEVIATION	QUALIFYING SCORE
Vineland Adaptive Behavior Scales (VABS)	15	An adaptive behavior composite score of 69 or less
Scales of Independent Behavior-Revised (SIB-R)	15	A broad independence standard score of 69 or less for the adaptive behaviors
Inventory for Client and Agency Planning (ICAP)	15	The broad independence domain score based on the applicant's birth date and the date the test is administered.

- (2) If DDD is unable to determine that your current adaptive functioning impairment is the result of your developmental disability because you have an unrelated injury or illness that is impairing your current adaptive functioning:
 - (a) DDD will not accept the results of a VABS or SIB-R administered after that event and will not administer the ICAP; and
 - (b) Your eligibility will have to be determined under a different condition that does not require evidence of adaptive functioning per a VABS, SIB-R or ICAP.

AUTISM

NEW SECTION

WAC 388-823-0500 What evidence do I need to substantiate "autism" as an eligible condition? Evidence of an eligible condition under "autism" requires a diagnosis by a qualified professional of autism or autistic disorder per 299.00 in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR) that is expected to continue indefinitely, and evidence of onset before age three.

PROPOSED

(1) The following professionals are qualified to give this diagnosis:

- (a) Board eligible neurologist;
- (b) Board eligible psychiatrist;
- (c) Licensed psychologist; or
- (d) Board certified developmental and behavioral pediatrician.

(2) The evidence provided by a diagnosing professional in (1) above exhibits a total of six or more of the following diagnostic criteria listed in the current DSM IV for Autistic Disorder 299.00:

- (a) Two or more qualitative impairments in social interactions;
 - (b) One or more qualitative impairments in communication; and
 - (c) One or more impairments in restricted repetitive and stereotypical patterns or behavior, interests, and activities.
- (3) A checklist of diagnostic criteria follows:

DSM-IV Diagnostic Criteria required for Autism	Check if present
1. Qualitative impairment in social interaction	
a. Marked impairment in the use of multiple non-verbal behaviors	
b. Failure to develop peer relationships appropriate to developmental level	
c. A lack of spontaneous seeking to share enjoyment, interests, or achievements with other people	
d. Lack of social or emotional reciprocity	
2. Qualitative impairment in communication	
a. Delay in the development of spoken language without non-verbal compensation	
b. In individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others	
c. Stereotyped and repetitive use of language or idiosyncratic use of language	
d. Lack of varied, spontaneous, make-believe play or social imitative play appropriate to developmental level	
3. Restricted repetitive and stereotyped patterns of behavior, interests, and activities	
a. Encompassing preoccupation with stereotyped and restricted patterns of interest that is abnormal in either intensity or focus	
b. Apparently inflexible adherence to specific, nonfunctional routines or rituals	
c. Stereotyped and repetitive motor mannerisms (e.g., hand or finger flapping or twisting, or complex whole-body movements)	
d. Persistent occupation with parts of objects	
TOTAL	

NEW SECTION

WAC 388-823-0510 If I have autism, how do I meet the definition of substantial limitations to adaptive functioning? A substantial limitation of adaptive functioning for the condition of autism is the presence of adaptive functioning impairment as described in WAC 388-823-0515.

NEW SECTION

WAC 388-823-0515 What evidence do I need to substantiate adaptive functioning limitations for the condition of autism? Evidence of the substantial limitations of adaptive functioning for the condition of autism is both (1) and (2) below:

- (1) Evidence of delay or abnormal functioning prior to age three years in at least one of the following areas:
 - (a) Social interaction;
 - (b) Language as used in social interaction;
 - (c) Communication; or
 - (d) Symbolic or imaginative play.
- (2) Eligible scores in adaptive functioning per WAC 388-823-0420 (1)(d) and subject to all of WAC 388-823-0420.

ANOTHER NEUROLOGICAL CONDITION

NEW SECTION

WAC 388-823-0600 What evidence do I need to substantiate "another neurological condition" as an eligible condition? Evidence of an eligible condition under "another neurological condition" requires a diagnosis by a licensed physician of an impairment of the central nervous system involving the brain and/or spinal cord that meets all of the following:

- (1) Originated before age eighteen;
- (2) Results in both physical disability and cognitive impairment;
- (3) Is expected to continue indefinitely; and
- (4) Is not attributable to a mental illness or psychiatric disorder.

NEW SECTION

WAC 388-823-0610 If I have another neurological condition, how do I meet the definition of substantial limitations to adaptive functioning? Substantial limitations to adaptive functioning for the condition of another neurological condition require both cognitive impairment and the need for direct physical assistance with activities of daily living per WAC 388-823-0615 (1) and (2) below.

NEW SECTION

WAC 388-823-0615 What evidence do I need to substantiate adaptive functioning limitations for another neurological condition? Evidence of substantial limitations to adaptive functioning for another neurological condition is all of the following:

- (1) You must have an FSIQ score of 1.5 or more standard deviations below the mean on one of the following acceptable assessments in addition to the other criteria in this section. The acceptable assessments, the standard deviation and the qualifying scores are contained in the following table:

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ASSESSMENT	STANDARD DEVIATION	QUALIFYING SCORE
Stanford-Binet	16	76 or less
Wechsler	15	78 or less
Differential Abilities Scale (DAS)	15	78 or less
Kaufman Assessment Battery for Children (K-ABC)	15	78 or less
Leiter-R [for persons with significant hearing impairments or when English is not primary language]	15	78 or less

(2) You must have evidence of need for direct physical assistance on a daily basis with two or more of the following activities: Toileting, bathing, eating, dressing, mobility, or communication as a result of your condition as defined in WAC 388-823-0320 and WAC 388-823-0330.

(3) The cognitive impairment and physical assistance needs must be the result of the central nervous system impairment and not due to another condition or diagnosis.

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

"OTHER CONDITION" SIMILAR TO MENTAL RETARDATION

NEW SECTION

WAC 388-823-0700 How do I meet the definition for an "other condition" similar to mental retardation? You will need evidence in (1) or (2) below to substantiate that you have an "other condition" similar to mental retardation.

(1) You have a diagnosis of a condition or disorder that by definition results in both cognitive and adaptive skills deficits; and

(a) The diagnosis must be made by a licensed physician or licensed psychologist;

(b) The diagnosis must be due to a neurological condition, central nervous system disorder involving the brain or spinal column, or chromosomal disorder;

(c) The diagnosis or condition is not attributable to or is itself a mental illness, or emotional, social or behavior disorder;

(d) The condition must have originated before age eighteen; and

(e) The condition must be expected to continue indefinitely.

(2) You are under the age of eighteen and are eligible for DSHS-paid in-home nursing through the medically intensive program, defined in WAC 388-551-3000.

NEW SECTION

WAC 388-823-0710 What evidence do I need to meet the definition of substantial limitations to adaptive functioning under an "other condition" similar to mental retardation? (1) Evidence of substantial limitation in both (a) and (b) below is required for an "other condition" similar to mental retardation.

(a) Evidence of cognitive impairment requires documentation of either (i) or (ii) or (iii) below:

(i) An FSIQ of 1.5 or more standard deviations below the mean as described in WAC 388-823-0615(1) for another neurological condition; or

(ii) Significant academic delays resulting in delay of at least twenty-five percent below the chronological age or age equivalent academic functioning in at least two academic areas or grade placement; or

(iii) In the absence of school records to substantiate (ii) above, DDD may review other information about your academic progress sufficient to validate your cognitive deficits.

(b) If there is no evidence of other conditions or impairments unrelated to the eligible condition currently affecting adaptive functioning, the following evidence will determine if the eligible condition or disorder results in a substantial limitation in adaptive functioning:

(i) A score of more than two standard deviations below the mean on a VABS or SIB-R current within the past two years, or in the absence of a VABS or SIB-R, an ICAP administered by DDD.

(ii) The qualifying scores for these tests are listed in WAC 388-823-0420 (1)(d).

(2) You do not need the additional evidence of your substantial limitations to adaptive functioning in (1)(a) and (b) above if your eligible condition is solely due to your eligibility and participation in the medically intensive program offered through DDD, defined in WAC 388-551-3000.

EFFECT OF AGE ON ELIGIBILITY

NEW SECTION

WAC 388-823-0800 Which eligible developmental disability conditions apply at what age? (1) Children under the age of six must meet the definition of having a developmental disability by meeting the requirements listed in WAC 388-823-0810 through WAC 388-823-0850.

(2) Children at least age six but under the age of ten can meet the definition of developmental disability by:

(a) Meeting the requirements listed in WAC 388-823-0200 through WAC 388-823-0710; or

(b) Meeting the requirements listed in WAC 388-823-0810 through WAC 388-823-0850.

(3) Children age ten and older must meet the requirements in WAC 388-823-0200 through WAC 388-823-0710.

(4) The following chart summarizes the applicable eligibility conditions by age.

Eligible Conditions	Age 0-5	Age 6-9	Age 10-17	Age 18 and older
Developmental Delays	X	X		
Down Syndrome	X	X		

Eligible Conditions	Age 0-5	Age 6-9	Age 10-17	Age 18 and older
Too severe to be assessed	X	X		
Medically Intensive	X	X	X	
Mental Retardation (MR)		X	X	X
Cerebral Palsy		X	X	X
Epilepsy		X	X	X
Autism		X	X	X
Another Neurological		X	X	X
Other condition similar to MR		X	X	X

NEW SECTION

WAC 388-823-0810 If I am a child under age ten, what evidence do I need to meet the definition for an "other condition" similar to mental retardation? If you are a child under age ten, evidence of one of the following substantiates that you have an eligible "other condition" similar to mental retardation:

- (1) Developmental delay measured by developmental assessment tools administered by qualified professionals as described in WAC 388-823-0850.
- (2) A diagnosis of Down syndrome by a licensed physician;
- (3) A determination of eligibility for the DSHS medically intensive program;
- (4) A diagnosis by a licensed physician or licensed psychologist of a condition that is so severe the child is unable to demonstrate the minimal skills required to complete a developmental evaluation or assessment.

NEW SECTION

WAC 388-823-0820 If I am a child under age ten with an eligible condition under the medically intensive program, Down syndrome, or a diagnosed condition that is too severe for developmental testing, how do I meet the definition of substantial limitations to adaptive functioning? You do not need additional evidence of substantial limitations if you are a child under the age of ten with an eligible condition based on the medically intensive program, Down syndrome, or a diagnosed condition that is too severe for developmental testing.

NEW SECTION

WAC 388-823-0830 If I am a child under age ten with an eligible condition based on developmental delays, how do I meet the definition of substantial limitations to adaptive functioning? (1) If you are a child under age ten with an eligible condition based on developmental delays, evidence of substantial handicap requires developmental delays of at least 1.5 standard deviations or twenty-five percent of the chronological age in the following developmental areas:

- (a) Physical skills (fine or gross motor);
- (b) Self help/adaptive skills;
- (c) Expressive or receptive communication, including American Sign Language;

- (d) Social/emotional skills; and
 - (e) Cognitive, academic, or problem solving skills.
- (2) The number of areas in which you are required to have delays to meet the evidence is specific to your age.

NEW SECTION

WAC 388-823-0840 If I am a child under age ten, how many areas of developmental delays meet the definition of substantial limitations to adaptive functioning? If you are a child under the age ten, eligible based on developmental delays, the number of delays required for substantial limitations to adaptive functioning is specific to your age.

- (1) A child from birth but under age three must have a developmental delay in one or more developmental areas.
- (2) A child age three but under age ten must have developmental delays in three or more developmental areas.

AGE	NUMBER OF AREAS OF DELAY
Birth but under age three	One or more
Age three but under age ten	Three or more

NEW SECTION

WAC 388-823-0850 What developmental evaluations or assessments will be acceptable for determining developmental delay? DDD will accept any standardized developmental evaluation test of procedures to assess developmental delays if:

- (1) The results of the evaluation/assessment are reasonably reliable and valid by professional standards.
 - (a) If you are under age three, there is an evaluation of developmental areas that is current within the past twelve months. Evaluations determine eligibility for services and need to address each of the five developmental areas.
 - (b) If you are age three or older, there is an assessment of developmental areas. Assessments are more detailed than evaluations and are needed for determining types of services, method, intensity, and funding. Assessments are also the way to document the ongoing status of child's development, progress and recommended steps to meet outcomes.
- (2) The evaluation/assessment is administered by one of the following professionals qualified to administer the evaluation or assessment of developmental areas:

- (a) Licensed physician;
- (b) Licensed psychologist or certified school psychologist;
- (c) Speech language pathologist;
- (d) Audiologist;
- (e) Registered occupational therapist;
- (f) Licensed physical therapist;
- (g) Registered nurse;
- (h) Certified teacher;
- (i) Masters level social worker; or
- (j) Orientation and mobility specialist.

PROPOSED

**INVENTORY FOR CLIENT
AND AGENCY PLANNING (ICAP)**

NEW SECTION

WAC 388-823-0900 What are the qualifying scores for inventory of client and agency planning broad independence for each age? When the ICAP is administered to determine eligibility under substantial handicap for a developmental disability, the qualifying score must be at or below the three digit broad domain independence score specific to the age of the applicant at the time of the administration of the ICAP. The score specific to age follows:

AGE	SCORE (at or below)
6	449
7	456
8	463
9	469
10	476
11	482
12	487
13	492
14	497
15	501
16	505
17 and older	509

NEW SECTION

WAC 388-823-0910 What is the purpose of ICAP? The purpose of the ICAP is to assess your adaptive skills in the areas of motor skills, personal living skills, social and communication skills, and community living skills.

NEW SECTION

WAC 388-823-0920 What sections of the ICAP does DDD complete and score? (1) DDD completes the adaptive behavior portion of the ICAP.

(2) There is a computer generated broad independence score of your motor skills, personal living skills, social and communication skills, and community living skills, based on your age.

NEW SECTION

WAC 388-823-0930 How does DDD administer the ICAP? (1) DDD completes the adaptive section of the ICAP by interviewing a qualified respondent who has known you for at least three months and who sees you on a day-to-day basis. You cannot be the respondent for your own ICAP.

(2) DDD will choose the respondent and may interview more than one respondent to ensure that information is complete and accurate.

(3) DDD will ask you to demonstrate some of the skills in order to evaluate what skills you are able to perform. DDD

cannot administer the ICAP if no respondent is identified and available.

NEW SECTION

WAC 388-823-0940 What happens if DDD cannot identify a qualified respondent? If you and DDD cannot identify a qualified respondent for the ICAP, DDD will not be able to administer the ICAP or determine you eligible under any conditions that require an ICAP.

**ELIGIBILITY EXPIRATION, REVIEWS,
AND REAPPLICATION**

NEW SECTION

WAC 388-823-1000 Once I become an eligible DDD client, is there a time limit to my eligibility? While DDD has the authority to review your eligibility at any time, your eligibility as a DDD client will expire or have required reviews as indicated in WAC 388-823-1005 and WAC 388-823-1010.

NEW SECTION

WAC 388-823-1005 When does my eligibility as a DDD client expire? (1) If you are determined eligible prior to age four, your eligibility expires on your fourth birthday.

(a) DDD will notify you at least ninety days before your eligibility expiration date.

(b) You must reapply for eligibility with DDD.

(2) If you are determined eligible at age four but under age ten per WAC 388-823-0810 through WAC 388-823-0850, your eligibility expires on your tenth birthday.

(a) DDD will notify you at least ninety days before your eligibility expiration date.

(b) You must reapply for eligibility with DDD.

(3) If your eligibility determination was prior to July 2005 under developmental delays, Down syndrome, or medically intensive program and you are age four or older, your eligibility expires on your tenth birthday.

(a) DDD will notify you at least ninety days before of your eligibility expiration date.

(b) You must reapply for eligibility with DDD.

(4) If your eligibility determination was made after July 2005 and is solely due to your need for continuous nursing through the medically intensive program, your eligibility expires when you are no longer eligible for the program but no later than your eighteenth birthday.

(a) DDD will notify you at least ninety days before your eighteenth birthday.

(b) You must reapply for eligibility with DDD.

NEW SECTION

WAC 388-823-1010 When will DDD review my eligibility to determine if I continue to have a developmental disability? (1) Your eligibility can be reviewed at any time if your eligibility effective date is prior to July 2005 and you are age ten or older and were eligible under a condition of developmental delay or Down syndrome.

PROPOSED

(2) Your eligibility will be reviewed at age seventeen with termination occurring no sooner than your eighteenth birthday if your most current eligibility determination was at sixteen or younger under mental retardation, cerebral palsy, epilepsy, autism, another neurological condition, or other condition similar to mental retardation.

(3) DDD will review your eligibility prior to the initial authorization of any paid service from DDD when you are not currently receiving paid services and:

(a) You are age eighteen or older and your most current eligibility determination is more than twenty-four months old; or

(b) You are age four but under age eighteen and your eligibility was established under the eligible conditions of developmental delay or Down syndrome and your eligibility effective date is prior to July 2005.

(4) DDD will review your eligibility if DDD discovers:

(a) The evidence used to make your most recent eligibility determination is insufficient, in error, or fraudulent; or

(b) New information becomes available that does not support your current eligibility.

NEW SECTION

WAC 388-823-1015 What is the definition of "DDD paid services" in WAC 388-823-1010(3) that requires or exempts me from an eligibility review after the age of eighteen? If you are age eighteen or older, your requirement or exemption from eligibility review is based on receipt of DDD paid services as defined by one or more of the following:

(1) Authorization of a paid service within the last ninety days as evidenced by a social services payment system (SSPS) authorization, a county authorization for day program services, an A-19 payment, a Waiver Plan of Care approving a DDD paid service, or residence in a SOLA, RHC, or IMR;

(2) Authorization of family support services within the last twelve months.

(3) Documentation of DDD approval of your absence from DDD paid services for more than ninety days with available funding for your planned return to services.

NEW SECTION

WAC 388-823-1020 Can DDD terminate my eligibility if I no longer am a resident of the state of Washington? DDD will terminate your eligibility if you lose residency in the state of Washington as defined in WAC 388-823-0050.

NEW SECTION

WAC 388-823-1030 How will I know that my eligibility is expiring or is due for review? If your eligibility has a required expiration or review date, DDD will send you prior written notification with reapplication or review information.

NEW SECTION

WAC 388-823-1040 What happens if I do not reapply for eligibility before my eligibility expiration date? (1) If you fail to reapply before your eligibility expires on your

fourth or tenth birthday, DDD eligibility will expire and your DDD paid services will stop.

(2) This expiration of eligibility takes effect even if DDD is unable to locate you to provide written notification that eligibility is expiring.

(3) There is no appeal right to an expired eligibility determination.

(4) Your appeal rights to the termination of services resulting from your expired eligibility are in WAC 388-825-120.

NEW SECTION

WAC 388-823-1050 What happens if I do not respond to a request for information to review my eligibility? If you do not provide DDD with the information required to review and redetermine your eligibility, DDD will terminate your eligibility and any DDD services you might be receiving.

NEW SECTION

WAC 388-823-1060 How will DDD notify me of its decision? DDD will notify you and your legal representative or one other responsible party in writing of its determination of eligibility, ineligibility, or expiration of eligibility per WAC 388-825-100.

NEW SECTION

WAC 388-823-1070 What are my appeal rights to a department decision that I do not have a developmental disability? Your appeal rights to a department decision that you are not eligible to be a DDD client because you do not have a developmental disability are limited to those described in WAC 388-825-120 through WAC 388-825-165.

NEW SECTION

WAC 388-823-1080 If DDD decides that I do not have a developmental disability, how soon can I reapply for another decision? If DDD decides that you do not have a developmental disability as defined in this chapter, you may reapply only if:

(1) Your eligibility was terminated because DDD could not locate you;

(2) Your eligibility was terminated because you lost residency in the state of Washington and you have reestablished residency;

(3) You have additional or new information relevant to the determination that DDD did not review for the previous determination of eligibility; or

(4) DDD denied or terminated your eligibility based solely on your ICAP score and it has been more than twenty-four months since your last ICAP; or

(5) DDD denied or terminated your eligibility based solely on your SIB-R or VABS score and the assessment used to determine your eligibility is more than twenty-four months old and you have a new SIB-R or VABS score.

NEW SECTION

WAC 388-823-1090 If I am already eligible, how do these new rules affect me? If you are an eligible DDD client on the effective date of these rules, you continue to be an eligible DDD client but you are subject to the expiration and required eligibility reviews per WAC 388-823-1000 through WAC 388-823-1050.

NEW SECTION

WAC 388-823-1095 What are my rights as a DDD client? As a DDD client, you have the following rights:

(1) The right to be free from any kind of abuse or punishment (verbal, mental, physical, and/or sexual); or being sent to a place by yourself, if you do not choose to be alone.

(2) The right to appeal any decision by DDD that denies, reduces, or terminates your eligibility, your services or your choice of provider.

(3) The right to receive only those services you agree to.

(4) The right to meet with and talk privately with your friends and family.

(5) The right to personal privacy and confidentiality of your personal and other records.

(6) The right to choose activities, schedules, and health care that meet your needs.

(7) The right to be free from discrimination because of your race, color, creed, national origin, religion, age, disability, marital status, or sexual orientation.

(8) The right to set your own rules in your home and to know what rules your providers have when you are living in their house or working in their facility.

(9) The right to request information regarding services that may be available from DDD.

(10) The right to know what your doctor wants you to do or take and to help plan how that will happen.

(11) The right to be free from unnecessary medication, restraints and restrictions.

(12) The right to vote and help people get elected to office.

(13) The right to complain and not to have someone "get even".

(14) The right to have your provider listen to your concerns including those about the behavior of other people where you live.

(15) The right to receive help from an advocate.

(16) The right to manage your money or choose other persons to assist you.

(17) The right to be part of the community.

(18) The right to make choices about your life.

(19) The right to wear your clothes and hair the way you want.

(20) The right to work and be paid for the work you do.

(21) The right to decide whether or not to participate in research after the research has been explained to you, and after you or your guardian gives written consent for you to participate in the research.

NEW SECTION

WAC 388-823-1100 How do I complain to DDD about my services or treatment? If you have a complaint or grievance about your services or treatment, follow these steps in this order:

(1) First, contact your case resource manager or social worker by phone, in writing, email, or in person and explain your problem.

(2) If you are not happy with the results from speaking with your case resource manager or social worker, you may ask to speak with their supervisor.

(3) If steps (1) and (2) do not solve your problem, you submit your complaint in writing to the regional office.

(4) If you do not reach a solution with the regional office, you can request that your complaint be forwarded to the DDD Headquarters in Olympia.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-825-030 Eligibility for services.

WAC 388-825-035 Determination of eligibility.

WAC 388-825-040 Application for services.

WSR 05-06-004

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed February 18, 2005, 11:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-08-078.

Title of Rule and Other Identifying Information: Chapter 18.170 RCW, chapter 308-18 WAC, Private security guards.

Hearing Location(s): Department of Licensing, 405 Black Lake Boulevard, Conference Room 209, Olympia, WA 98507, on April 6, 2005, at 1:00 p.m.

Date of Intended Adoption: April 8, 2005.

Submit Written Comments to: Mary Haglund, Program Manager, 405 Black Lake Boulevard, Olympia, WA 98507, e-mail mhaglund@dol.wa.gov, fax (360) 664-6624, by April 1, 2005.

Assistance for Persons with Disabilities: Contact Mary Haglund, Program Manager, by April 1, 2005, TTY (360) 664-8885 or (360) 664-6624.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule establishes training and testing requirements for security guards. The anticipated effects are that security guard companies will implement new training topics to be taught during the additional training hours as required under chapter 18.170 RCW. See rule shown below for specific training topics and implementation procedures.

Reasons Supporting Proposal: Chapter 18.170 RCW sections on training hours and training requirements was amended in the 2004 legislative session. The proposed rule is revised to reflect the new training requirements resulting from the legislation.

Statutory Authority for Adoption: Chapter 18.170 RCW.

Statute Being Implemented: Chapter 18.170 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, Implementation and Enforcement: Mary Haglund, 405 Black Lake Boulevard, Olympia, WA 98507, (360) 664-6624.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Chapter 19.85 RCW does not apply to the Department of Licensing.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to the Department of Licensing.

February 16, 2005
Andrea C. Archer
Assistant Director

AMENDATORY SECTION (Amending WSR 97-17-050, filed 8/15/97, effective 9/15/97)

WAC 308-18-020 Organization. The principal location of the private security guard licensing program is at 405 Black Lake Boulevard S.W., Olympia, Washington 98504. The department of licensing administers the Washington private security guard license law, chapter 18.170 RCW. Submissions and requests for information regarding private security guard company licenses, private security guard licenses, and armed private security guard licenses may be sent in writing to the Private Security Guard Program, Department of Licensing, P.O. Box ((9045)) 9649, Olympia, Washington 98507-((9045))9649.

AMENDATORY SECTION (Amending WSR 02-24-026, filed 11/27/02, effective 1/1/03)

WAC 308-18-240 Required records. The minimum records the principal of a private security guard company shall be required to keep are:

- (1) Preassignment and postassignment training and testing records for each private security guard.
- (2) Private security guard temporary registration card ledger showing the department-supplied registration number, applicant's name, date of issue, date of expiration and date card was forwarded to the director.
- (3) The company principal shall maintain proof of annual shooting requirements for each armed security guard employed by the security guard company in the armed security guard's training files or employee's files.

These records shall be retained and available for inspection by the director or the director's authorized representative for a minimum of three years.

PART D PREASSIGNMENT AND POSTASSIGNMENT TRAINING AND EXAMINATION REQUIREMENTS

AMENDATORY SECTION (Amending WSR 97-17-050, filed 8/15/97, effective 9/15/97)

WAC 308-18-300 Minimum preassignment training and testing requirements. ~~((1))~~ The preassignment training required by RCW 18.170.100, shall include as a minimum:

- (a) Basic security.
 - (i) Role of the security officer.
 - (ii) Typical assignments and tasks.
 - (iii) Observation.
 - (iv) Patrol.
 - (v) Proper actions.
- (b) Legal powers and limitations.
 - (i) Citizens arrest.
 - (ii) Authority to detain, question, or search a private citizen.
 - (iii) Authority to search or seize private property.
 - (iv) Use of force.
 - (v) Relationship with law enforcement.
 - (vi) Avoiding liability.
- (c) Emergency response.
 - (i) How to contact police, fire, and medical response services.
 - (ii) How to define what is or is not an emergency situation.
 - (iii) Response to fires.
 - (iv) Response to medical emergencies.
 - (v) Response to criminal acts.
 - (vi) Assisting emergency services personnel.
 - (vii) Bomb threats.
- (d) Safety and accident prevention.
 - (i) Observation and reporting of unsafe conditions.
 - (ii) Accident hazards.
 - (iii) Fire hazards.
 - (iv) Hazardous materials.
 - (v) Safety rules and regulations.
 - (vi) Accident reporting.
 - (e) Report writing.
 - (i) Why write a report.
 - (ii) Elements of a report.
 - (iii) Proper times, names, and location descriptions.
 - (iv) Giving physical descriptions.
 - (v) Fact versus opinion or assumption.
 - (vi) Penmanship.
 - (vii) Changes to a report.
 - (viii) Reports as legal documents.
 - (f) Public relations.
 - (i) Public relations skills.
 - (ii) Principles of good communication.
 - (iii) Proper telephone procedure.
 - (iv) Listening.
 - (v) Avoiding confrontation.
 - (vi) Dealing with the media.
- (2) The minimum time each private security guard candidate must spend in preassignment training is at least four hours. The time spent on each required topic may vary pro-

PROPOSED

viding the time for all required topics totals four hours and the four hours is devoted solely to the topics designated.

~~(3) All private security guard applicants, after receiving preassignment training and prior to receiving their license, must successfully complete a test designed to demonstrate their understanding and retention of the information learned in the training course. This test shall consist of a minimum of thirty multiple choice questions based on the training topics outlined above. Test results must be verified and signed by a certified trainer. All applicants must answer all questions correctly on the private security guard preassignment training test. Questions incorrectly answered initially must be reviewed to insure the applicant's understanding and then initialed by both the applicant and the certified trainer verifying knowledge of the correct answer(s).) (1) Except as provided under RCW 18.170.100 (1)(b)(ii), beginning July 1, 2005, all security guards licensed on or after July 1, 2005, must complete at least eight hours of preassignment training. Four hours of the preassignment training classroom and/or on-the-job training shall be in subjects determined by the security guard company principal developed to fit the specific type of duty required by the post. The additional four hours of the preassignment training classroom instruction shall be in the following listed subjects and shall be the contents of the pre-assignment exam developed by the department:~~

~~(a) **Basic principles.**~~

~~(i) **Basic role of the security guard;**~~

~~(ii) **Washington state licensing laws;**~~

~~(iii) **Observation;**~~

~~(iv) **Proper actions, reactions;**~~

~~(v) **Homeland security - terrorism and surveillance.**~~

~~(b) **Legal powers and limitations.**~~

~~(i) **Citizens arrest;**~~

~~(ii) **Authority to detain, question, or search a private citizen;**~~

~~(iii) **Authority to search or seize private property;**~~

~~(iv) **Use of force;**~~

~~(v) **Avoiding liability.**~~

~~(c) **Emergency response.**~~

~~(i) **How to define what is or is not an emergency situation;**~~

~~(ii) **Response to fires;**~~

~~(iii) **Response to medical emergencies;**~~

~~(iv) **Response to criminal acts;**~~

~~(v) **Bomb threats.**~~

~~(d) **Safety and accident prevention.**~~

~~(i) **Hazardous materials including MSDS;**~~

~~(ii) **Accident reporting.**~~

~~(e) **Report writing.**~~

~~Elements and characteristics of a report.~~

~~(2) All private security guard applicants, after receiving preassignment training and prior to receiving their license or temporary registration card, must successfully complete an exam designed and provided by the department to demonstrate understanding and retention of the information learned in the training course on the subjects listed in WAC 308-18-300. The exam shall consist of multiple choice questions. All applicants must answer all questions correctly on the pre-assignment training exam or questions incorrectly answered must be reviewed to ensure the applicant's understanding and~~

then initialed by both the applicant and the trainer verifying knowledge of the correct answer(s).

NEW SECTION

WAC 308-18-305 Minimum postassignment and on-the-job training requirements and training topics. (1) Beginning July 1, 2005, all security guards must complete at least eight hours of postassignment or on-the-job training.

(a) Security guards licensed on or after July 1, 2005, are required to complete four hours of postassignment training within the first six months of employment and the remaining four hours completed within the following six months.

(b) Security guards licensed prior to July 1, 2005, are required to complete four hours of postassignment training by December 31, 2005, and the remaining four hours must be completed by July 1, 2006.

(c) Beginning January 1, 2006, the number of required postassignment training hours must be increased by one hour every year until January 1, 2012. The number of postassignment training hours required of a security guard is the number required on the date the security guard is initially licensed by the department. The additional hours of training must be completed within eighteen months after the date a security guard is hired.

(2) The topic areas that must be used for postassignment training are as follows and may also include the subject topics listed under WAC 308-18-300:

(a) **Basic role of private security guards.**

(i) Security awareness;

(ii) Private security guards and the criminal justice system;

(iii) Information sharing;

(iv) Crime and loss prevention.

(b) **Legal aspects of private security.**

(i) Evidence and evidence handling;

(ii) Use of force;

(iii) Court testimony;

(iv) Incident scene preservation;

(v) Equal employment opportunity (EEO) and diversity;

(vi) State and local laws.

(c) **Security officer conduct.**

(i) Ethics;

(ii) Honesty;

(iii) Professional image.

(d) **Observation and incident reporting.**

(i) Observation techniques;

(ii) Note taking;

(iii) Report writing.

(e) **Principles of communications.**

(i) Interpersonal skills;

(ii) Verbal communication skills;

(iii) Building relationships with law enforcement;

(iv) Customer services and public relations;

(v) Workplace violence.

(f) **Principles of access control.**

(i) Enter and exit control procedures;

(ii) Electronic security systems.

(g) **Principles of safeguarding information.**

Proprietary and confidential.

(h) Emergency response procedures.

Critical incident response (e.g., natural disasters, accidents, human caused events).

(i) Evacuation processes.**(j) Life safety awareness.**

(i) Safety hazards in the workplace/surroundings;

(ii) Emergency equipment placement;

(iii) Fire prevention skills;

(iv) Hazardous materials;

(v) Occupational safety and health requirements (e.g., OSHA related training, bloodborne pathogens, etc.).

(k) Job assignment and postorders.

(i) Assignments and tasks;

(ii) Patrol.

(3) The required postassignment training records must be attested to by a licensed certified trainer and retained by the company. The postassignment training records must include the following information:

(a) Security guard name and signature;

(b) Training topics covered;

(c) Number of training hours received;

(d) Date training was completed;

(e) Certified trainer attesting to the training.

(4) Electronic records and signatures are permitted. The postassignment training records are not required to be submitted to the department, but must be available upon request from the company for three years.

WSR 05-06-018**PROPOSED RULES****DEPARTMENT OF REVENUE**

[Filed February 22, 2005, 2:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-11-048.

Title of Rule and Other Identifying Information: WAC 458-20-177 Sales of motor vehicles, campers, and trailers to nonresidents.

Hearing Location(s): Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on April 11, 2005, at 10:00 a.m.

Date of Intended Adoption: April 17, 2005.

Submit Written Comments to: Gilbert W. Brewer, P.O. Box 47453, Olympia, WA 98504-7453, e-mail gilb@dor.wa.gov, fax (360) 596-5534, by April 11, 2005.

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 458-20-177 describes the application of the B&O and retail sales taxes to sales of motor vehicles, campers, and trailers to nonresident consumers. The rule describes the application of the retail sales tax exemption provided by RCW 82.08.0264 for the sale of motor vehicles, campers, and trailers delivered to nonresidents in Washington, including military personnel temporarily stationed in Washington. It also describes the tax con-

sequences of a sale to a nonresident when the vehicle, camper, or trailer is delivered outside the state.

The department is proposing to amend this rule to update the documentation forms that are provided in the rule. The department proposes to change the "Buyer's certificate—Out-of-state delivery" and "Seller's certificate—Out-of-state delivery" to require that statements regarding the accuracy and completion of the information on the certificates be initialized by the buyer and person delivering the vehicle to the buyer. Information about the sales tax exemptions provided by RCW 82.08.0269 and 82.08.0273 has been added. Specific factual examples of sales of motor vehicles and their respective tax results have also been added to the rule. The information in this rule has been reorganized to make it easier for readers to understand and use.

Reasons Supporting Proposal: To add information to the rule to improve the ability of department personnel and taxpayers to understand how retail sales tax exemptions apply to the sale of motor vehicles, campers, and trailer to nonresidents.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: RCW 82.08.0264.

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: Gilbert W. Brewer, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6133; 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. This rule does not impose more than minor costs upon sellers of motor vehicles, campers, and trailers.

A cost-benefit analysis is not required under RCW 34.05.328. This is not a significant legislative rule as defined in RCW 34.05.328.

February 22, 2005

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending Order ET 83-1, filed 3/30/83)

WAC 458-20-177 Sales of motor vehicles, campers, and trailers to nonresident((s)) consumers. ~~((The scope of this rule is limited to sales by dealers in this state of motor vehicles, campers, and trailers to nonresidents of the state for use outside the state.~~

~~For the purposes of this rule, members of the armed services (but not including civilian military employees) who are temporarily stationed in the State of Washington pursuant to military orders will be presumed to be nonresidents unless such persons were residents of this state at the time of their induction; the term "vehicle" as used herein refers to motor vehicles, campers, and trailers.~~

Business and Occupation Tax

In computing the tax liability of persons engaged in the business of selling vehicles no deduction is allowed by reason of sales made to nonresidents for use outside this state but who take delivery in Washington, and irrespective of the fact that such buyers may be entitled to a statutory exemption from the retail sales tax.

A deduction from gross proceeds of sales will be allowed when, as a necessary incident of the contract of sale, the seller agrees to, and does, deliver the vehicle to the buyer at a point outside the state, or delivers the same to a common carrier consigned to the purchaser outside the state.

The foregoing deduction, however, will be allowed only when the seller has secured and retains in his files satisfactory proof:

(a) That under the terms of the sales agreement the seller was required to deliver the vehicle to the buyer at a point outside this state; and

(b) That such out of state delivery was actually made by the seller or by a common carrier acting as his agent.

For forms of proof acceptable to the department of revenue see below under retail sales tax out of state delivery. For "interstate commerce" deductions, generally, refer to WAC 458-20-193A.

Retail Sales Tax

(1) Sales to nonresidents. Under RCW 82.08.0264 the retail sales tax does not apply to sales of vehicles to nonresidents of Washington for use outside this state, even though delivery be made within this state, but only when either one of the following conditions is met:

(a) Said vehicle will be taken from the point of delivery in this state directly to a point outside this state under the authority of a trip permit issued by the department of licensing pursuant to the provisions of RCW 46.16.160; or

(b) Said vehicle will be registered and licensed immediately (at the time of delivery) under the laws of the state of the purchaser's residence, will not be used in this state more than three months, and will not be required to be registered and licensed under the laws of this state.

Thus, in determining whether or not this particular exemption from the retail sales tax is applicable the dealer must establish the facts, first, that the purchaser is a bona fide nonresident of Washington and that the vehicle is for use outside this state and, second, that the vehicle is to be driven from his premises under the authority of either (a) a trip permit, or (b) valid license plates issued to that vehicle by the state of the purchaser's residence, with such plates actually affixed to the vehicle at the time of final delivery.

As evidence of the exempt nature of the sales transaction the seller, at the time of sale, is required to take an affidavit from the buyer giving his name, the state of his residence, his address in that state, the name, year and motor or serial number of the vehicle purchased, the date of sale, his declaration that the described vehicle is being purchased for use outside this state and, finally, that the vehicle will be driven from the premises of the dealer under the authority of a trip permit (giving the number) or that the vehicle has been registered and licensed by the state of his residence and will be driven

from the premises of the dealer with valid license plates (giving the number) issued by that state affixed thereto. If the vehicle being sold is already licensed with valid Washington plates and the nonresident purchaser wishes to qualify for exemption by transporting the vehicle out of state under authority of a trip permit, the dealer is required to remove the Washington plates prior to delivery of the vehicle and retain evidence of such removal to avoid liability for collection and payment of the retail sales tax. The seller must himself certify by appending a certification to the affidavit, to the fact that the vehicle left his premises under the authority of a trip permit or with valid license plates issued by the state of the buyer's residence affixed thereto. The buyer's affidavit and the dealer's certificate must be in the following form:

Affidavit

For use by a nonresident buyer of a vehicle transporting the same outside this state under the authority of

- (a) Trip permit
(b) Nonresident license plates (check appropriate box)

state of washington
county of

(Purchaser) being first duly sworn on oath, deposes and says:

That he is a bona fide resident of the State of and that his address is (street and number or rural route), (city, town or post office), (state); That on this date he has purchased from (dealer) the following described vehicle, to wit:

Make Model
Year (Motor Number)
(Serial No.)

and that said vehicle is being purchased for use outside this state and that the same will be driven from the premises of the dealer under the authority of (a) a trip permit numbered which has been issued to him authorizing the transit of said vehicle, or, (b) that said vehicle is being purchased for use outside this state and will not be used in the State of Washington for more than three months; and That the affiant has licensed said vehicle in the state of and has had issued to him by that state license plates numbered which are valid until (expiration date of license) and that said plates have been affixed to said vehicle prior to the time it has left the premises of the dealer.

Dated at, Washington, this day of, 19.

(Signature)

Service No. if Member of Armed Services

Subscribed and sworn to before me this day of, 19.

Notary Public in and for the State of Washington, residing at

PROPOSED

Certificate of Dealer

I hereby certify that before final delivery of the vehicle described in the foregoing affidavit (a) I have examined trip permit No. which authorizes transit of the vehicle described, or (b) that license plates numbered., issued to said vehicle by the state of and expiring, were affixed thereto. I further certify that I have personally examined two or more of the following items of documentary evidence showing the purchaser's residency in the state of:

- Driver's license
- Voter's registration
- Fishing or hunting license
- Income tax returns
- Other (specify)

I further certify that if the vehicle sold was already licensed with valid Washington plates, they were physically removed by, agent of the seller.

.....
 (Signature of dealer
 or representative)

(Title Officer or Agent)

Failure to take this affidavit and to complete the dealer's certification, in full, at the time of delivery of the vehicle will negate any exemption from the buyer's duty to pay and the dealer's duty to collect the retail sales tax under RCW 82.08.0264. Furthermore, a copy of the completed affidavit and certification must be attached to the dealer's excise tax report submitted for the reporting period in which any such vehicles were sold. Such filing is a procedural requirement and does not conclusively establish the buyer's or seller's right to exemption.

The foregoing affidavit will be prima facie evidence that sales of vehicles to nonresidents have qualified for the sales tax exemption provided in RCW 82.08.0264 when there are no contrary facts which would negate the presumption that the seller relied thereon in complete good faith. The burden rests upon the seller to exercise a reasonable degree of prudence in accepting statements relative to the nonresidence of buyers. Lack of good faith on the part of the seller or lack of the exercise of the degree of care required would be indicated, for example, if the seller has knowledge that the buyer is living or is employed in Washington, if for the purpose of financing the purchase of the vehicle the buyer gives a local address, if at the time of sale arrangements are made for future servicing of the vehicle in the seller's shop and a local address is shown for the shop customer, or if the seller has ready access to any other information which discloses that the buyer may not be in fact a resident of the state which he claims. A nonresident permit issued by the department of revenue may be accepted as prima facie evidence of the out of state residence of the buyer, but does not relieve the seller from obtaining the affidavit and completing the certificate required by this rule.

Members of the armed services who are temporarily stationed in Washington pursuant to military orders will be pre-

sumed to be nonresidents unless such persons were residents of this state at the time of their induction. This presumption is not applicable in respect to civilian employees of the armed services.

In all other cases where delivery of the vehicle is made to the buyer in this state, the retail sales tax applies and must be collected at the time of sale. The mere fact that the buyer may be or claims to be a nonresident or that he intends to, and actually does, use the vehicle in some other state are not in themselves sufficient to entitle him to the benefit of this exemption. In every instance where the vehicle is licensed or titled in Washington by the purchaser the retail sales tax is applicable.

(2) Out of state deliveries. Out of state deliveries to buyers who are bona fide nonresidents are exempt from the retail sales tax when the seller, as a necessary incident to the contract of sale, delivers possession of vehicles to such buyers at points outside Washington and such vehicles are not licensed or titled in this state. If the vehicle being sold bears valid Washington plates and the nonresident wishes to qualify for exemption by taking delivery from the dealer at a point outside the state, the dealer is required to remove the Washington plates prior to delivery and retain evidence of such removal to avoid liability for collection and payment of the retail sales tax.

In such cases, as evidence of the exempt nature of the transaction, the seller must take from the buyer a certificate of out of state delivery which shall give the purchaser's name and address, the name, model, year and motor number of the vehicle purchased, and contain the buyer's statement that he is a bona fide resident of the named state, that the vehicle was purchased for use outside Washington state and that under the terms of the sales agreement the dealer was required to and did deliver the vehicle to a named point outside the state of Washington. The certificate shall be signed by the buyer at the place of delivery. Attached to this certificate and made a part thereof shall be a certification by the seller that he delivered the vehicle to the purchaser named at the named place of delivery.

These certificates shall be substantially in the following form:

Certificate of Out of State Delivery

(To be obtained from the purchaser at the time delivery is made to him at a point outside Washington)

The undersigned hereby certifies that he is a bona fide resident of the State of and that his address is (street and number or rural route) , (city, town or post office) , (state) ; That on the day of, 19, he purchased from (Dealer) the following described vehicle to wit:

Make Model
 Year (Motor Number)
 (Serial No.)

and that said vehicle was purchased for use outside Washington state;

PROPOSED

That under the terms of the sales agreement the dealer was required to, and did on this day, deliver said vehicle to him at ~~(Place of delivery)~~.

Dated at, this ... day of, 19...

(Signature)

Service No. if Member of Armed Services

Certification of Dealer

I hereby certify that I have this day delivered the vehicle hereinabove described to (Name of purchaser), at (Place of delivery).

Dated

(Signature of dealer or representative)

(Title Officer or Agent)

When such out of state delivery is made by a common carrier acting as agent of the seller then, as evidence of the exempt nature of the transaction, the seller shall retain in his files a signed copy of the bill of lading issued by the carrier in which the seller is shown as the consignor and by which the carrier agrees to transport the vehicle to a point outside the state.

The retail sales tax applies upon sales at retail made by local dealers to local residents for use by them in this state, even though delivery may be taken by the purchaser at the factory or other point outside this state, or that shipment may be made direct from outside this state to the purchaser in this state. However, where delivery is taken by local residents in foreign countries the vehicles will be deemed not to be for use in this state and local dealers will not be required to collect the retail sales tax.

(3) Records to be retained by seller. The affidavits and certificates referred to in this rule must be retained by the seller in his files as a part of his permanent records subject to audit by the department of revenue. In the absence of such proof, claims that transactions were exempt from tax will be disallowed. (1) Introduction. This rule applies to any sale of a vehicle to a consumer who is not a resident of the state, including nonresident military personnel temporarily stationed in Washington. The rule describes the different business and occupation (B&O) and retail sales tax consequences that result from vehicle sales to nonresidents, particularly the sales tax exemption provided by RCW 82.08.0264. It also describes the documentation a seller must retain to demonstrate that a sale is exempt.

For information on use tax liability associated with vehicles, see WAC 458-20-178, Use tax.

For sales of vehicles to Indians or Indian tribes and required documentation, see WAC 458-20-192, Indians—Indian country.

Questions regarding vehicle licensing or registration requirements should be directed to the department of licensing.

(2) What is a "vehicle"? For the purposes of this rule, a "vehicle" is any vehicle of a type that may be lawfully licensed under chapter 46.16 RCW for operation on a public highway in this state, except that the term does not include any machinery and implements for use in conducting a farming activity subject to RCW 82.08.0268. The term "vehicle" includes, but is not limited to, a car, truck, camper, trailer, bus, motorhome, and motorcycles equipped for road use. It does not include farm tractors, bicycles, mopeds, motorized scooters, snowmobiles, or vehicles that are manufactured for exclusively off-road use.

(3) What are the tax consequences when a vehicle sold to a nonresident is delivered in-state? A sale of a vehicle to a nonresident where the vehicle is delivered in-state is exempt from retail sales tax if the sale meets the requirements of RCW 82.08.0264. In all other cases where the vehicle is delivered to the buyer in this state, the retail sales tax applies and must be collected at the time of sale, unless otherwise exempt by law. The mere fact that the buyer may be or claims to be a nonresident or that the buyer intends to, and actually does, use the vehicle in some other state does not, by itself, entitle the buyer to the exemption. In any case where the seller licenses or registers the vehicle in Washington on the buyer's behalf, the retail sales tax applies.

In computing the B&O tax liability of persons engaged in the business of selling vehicles, no deduction is allowed for a sale made to a nonresident for use outside this state if the nonresident buyer takes delivery in Washington. This is true even if the buyer is entitled to an exemption from the retail sales tax.

(a) Exemption requirements. If a vehicle is delivered within this state to a nonresident buyer, retail sales tax does not apply if the vehicle is purchased for use outside this state and, immediately upon delivery, the vehicle:

(i) Is removed from the state under the authority of a trip permit issued by the department of licensing pursuant to RCW 46.16.160; or

(ii) Is registered and licensed in the state of the buyer's residence, will not be used in this state more than three months, and will not be legally required to be registered and licensed in this state.

If the vehicle bears Washington state license plates, the seller must remove the Washington plates before delivering the vehicle and retain evidence of that removal to avoid liability for collection and payment of the retail sales tax.

(b) Seller obligations; documentation. The seller must properly document the following facts:

(i) The buyer is a nonresident of Washington;

(ii) The vehicle is for use outside this state;

(iii) The vehicle is to be removed from the seller's premises under the authority of either:

(A) A trip permit; or

(B) Valid license plates issued for that vehicle by the state of the buyer's residence, with the plates actually affixed to the vehicle upon final delivery; and

(iv) If the vehicle bears Washington state license plates, the seller has removed the Washington plates before delivery.

PROPOSED

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To comply with these requirements, the seller must retain a properly completed buyer's affidavit and seller's certificate (in-state delivery) in substantially the form prescribed in subsection (5) of this rule. The seller must also retain documentation of the buyer's nonresidence, as required in subsection (6) of this rule. If the nonresident buyer is a corporation, the seller must also retain the number of the corporate nonresident permit.

(4) **What are the tax consequences when a vehicle sold to a nonresident is delivered out-of-state?** A sale of a vehicle to a nonresident where the seller delivers the vehicle out-of-state is exempt from retail sales tax. If the vehicle is delivered to the buyer outside the state, the seller may also deduct the sale amount from the gross proceeds of sales for B&O tax purposes. The deductible amount must be included in the gross income reported on the excise tax return and then deducted on the return to determine the amount of taxable income. The deduction must be identified on the deduction detail page of the return as an "interstate and foreign sales" deduction.

(a) **Requirements.** If a vehicle is delivered outside the state to a nonresident buyer, retail sales tax does not apply if:

(i) The seller, as required by the contract of sale, delivers possession of the vehicle to the buyer at a point outside Washington; and

(ii) The vehicle is not licensed or registered in this state. If the vehicle bears Washington state license plates, the seller must remove the Washington plates before delivery and retain evidence of that removal to avoid liability for collection and payment of the retail sales tax.

(b) **Seller obligations; documentation.** The seller must properly document the following facts:

(i) The buyer's out-of-state address;

(ii) The vehicle is not licensed or registered in this state or the Washington state license plates have been removed from the vehicle before delivery;

(iii) Under the terms of the sales agreement, the seller is required to deliver the vehicle to the buyer at a point outside this state; and

(iv) The out-of-state delivery was actually made by the seller or by a common carrier acting as the seller's agent.

To comply with these requirements, the seller must retain a properly completed buyer's certificate and seller's certificate (out-of-state delivery) in substantially the form prescribed in subsection (5) of this rule. The seller's certificate must be signed by the person who actually delivers the vehicle to the buyer at the out-of-state location and may be completed only after delivery occurs.

(c) **Documentation when delivery is made by common carrier.** When a vehicle is delivered outside the state by common carrier acting as the seller's agent, no buyer's certificate or seller's certificate is required. Instead, the seller must retain:

(i) Evidence that the vehicle's license plates (if licensed in Washington) were removed; and

(ii) A signed copy of the bill of lading issued by the carrier. The bill of lading must show the seller as the consignor and indicate that the carrier agrees to transport the vehicle to a point outside the state.

(5) **What forms should be used to document an exempt sale?** The following documents are necessary to substantiate exempt sales to nonresidents. Do not send the documents described in this subsection to the department of revenue, but keep them as part of the seller's permanent records for five years. Without this documentation, claims that a transaction was exempt from tax will be disallowed.

Copies of the forms can be obtained:

• From the department's internet website at <http://dor.wa.gov>

• By facsimile by calling fast fax at (360) 705-6705 or (800) 647-7706 (using menu options)

• By writing to:

Taxpayer Services
Washington State Department of Revenue
P.O. Box 47478
Olympia, Washington 98504-7478

(a) **In-state delivery.** A sale with in-state delivery requires a completed buyer's affidavit and seller's certificate-in-state delivery.

The buyer's affidavit must be substantially in the following form:

Buyer's Affidavit

(TO BE COMPLETED BY THE BUYER WHEN THE VEHICLE IS DELIVERED TO THE BUYER IN WASHINGTON)

I, (Name of buyer), swear that:

I am a resident of the State of I am not a resident of the state of Washington and do not claim to be a resident of Washington for any purpose. My home address is (Street and number or rural route), (City, town or post office), (State), (Zip Code). On (Date), I purchased from (Name of seller) the following vehicle:

Make Model
Year Serial No. (VIN)

I am purchasing this vehicle for use outside Washington state. The vehicle will be removed from Washington state by the following means:

SELECT AND COMPLETE ONE

- A. The vehicle will be driven from the seller's premises under the authority of a trip permit numbered. . . . which has been issued to me by the Washington state department of licensing.
- B. The vehicle will not be used in the state of Washington for more than three months and has been licensed in the state of. That state has issued to me license plates numbered. Those license plates are valid until (Expiration date of license). The plates have been affixed to the vehicle before it has left the seller's premises.

I, the undersigned buyer, understand that by completing and signing this affidavit I am swearing that I qualify for the tax-exempt purchase of the vehicle described above. In addition, I understand that false or erroneous use of this affidavit will

result in liability for unpaid tax with interest and may result in additional penalties.

Dated at, Washington, this day of 20.

(Buyer's signature)

Service No. if member of armed services

Subscribed and sworn to before me this day of , 20. . . .

Notary Public in and for the state of Washington, residing at

The seller's certificate must be substantially in the following form and be attached to the buyer's affidavit:

Seller's Certificate In-State Delivery

I certify that before final delivery of the vehicle described in the buyer's affidavit above: (a) I examined trip permit No. which authorizes the vehicle's transit; or (b) license plates numbered issued for the vehicle by the state of and expiring were affixed to the vehicle.

I further certify that I have examined and retained a copy of the following item(s) of documentary evidence showing the buyer's residency in the state of:

SELECT AT LEAST ONE

- Driver's license #
Other picture identification #
Other (specify) #

(If the vehicle sold was previously licensed with Washington plates) I further certify that the Washington state license plates were removed by agent of the seller.

(Signature of seller or representative)

(Title-officer or agent)

(b) Delivery out-of-state by seller. A sale with out-of-state delivery by a seller requires a completed buyer's certificate and seller's certificate-out-of-state.

The buyer's certificate must be substantially in the following form:

Buyer's Certificate Out-of-State Delivery

(TO BE COMPLETED BY BUYER AT TIME OF DELIVERY OUTSIDE WASHINGTON STATE)

Buyer's name and address

(Name of buyer)
(Street and number or rural route)
(City, town or post office)
(State), (Zip Code)

On the day of, 20. I purchased from (Name of seller) the following vehicle:

Make Model
Year Serial No. (VIN)

Under the terms of the sales agreement the seller was required to, and did on this day, deliver this vehicle to me at (Place of delivery) in (State).

Dated at, this day of , 20. . . .

(Signature)

Service No. if Member of Armed Services

THE FOLLOWING STATEMENTS MUST BE INITIALED BY THE BUYER:

I certify under penalty of perjury under the laws of the State of Washington that all of the information on this certificate is true. I further understand that I may be subject to criminal prosecution or other legal penalties for providing false information on this certificate.

I have completed and signed this certificate after the vehicle was delivered to me at the place and time described above.

The seller's certificate must be substantially in the following form and be attached to the buyer's certificate:

Seller's Certificate Out-of-State Delivery

(TO BE COMPLETED AT TIME OF DELIVERY BY THE PERSON WHO DELIVERS THE VEHICLE TO THE BUYER)

I certify that today I delivered the vehicle described in the buyer's certificate above to (Name of buyer), at (Place of delivery).

(If the vehicle sold was previously licensed with Washington plates) I further certify that the Washington state license plates were removed by agent of the seller.

Dated

(Signature of the person who delivered the vehicle to the buyer)

(Title-Officer or Agent)

PROPOSED

THE FOLLOWING STATEMENTS MUST BE INITIALED BY THE PERSON WHO DELIVERED THE VEHICLE TO THE BUYER:

..... I certify under penalty of perjury under the laws of the State of Washington that all of the information on this certificate is true. I further understand that I may be subject to criminal prosecution or other legal penalties for providing false information on this certificate.

..... I have completed and signed this certificate *after* the vehicle was delivered to the buyer as described above.

(6) What are a seller's obligations to verify a buyer's statements on nonresidency? Completion of a buyer's affidavit documents the exempt nature of a sale under RCW 82.08.0264 unless there are facts that negate the presumption that the seller relied on the buyer's affidavit in good faith. The seller, however, must exercise a reasonable degree of care in accepting statements regarding a buyer's nonresidence. If delivery occurs in-state, the seller must examine and retain a copy of at least one form of documentary evidence showing the buyer's out-of-state residence. Lack of good faith on the part of the seller or lack of the exercise of the degree of care required is indicated, for example, in the following circumstances:

(a) If the seller knows that the buyer is living in Washington;

(b) If the buyer gives a Washington address for the purpose of financing the purchase of the vehicle;

(c) If, at the time of sale, arrangements are made for future servicing of the vehicle in the seller's shop and a Washington address or telephone number is shown for the shop customer; or

(d) If the seller has ready access to any other information that discloses that the buyer may be a resident of Washington.

(7) Do military personnel qualify for the nonresident exemptions? A member of the armed services who is temporarily stationed in Washington is presumed to be a nonresident, unless that person was a resident of this state when inducted. This presumption does not apply to a civilian employee of the armed services. Nonetheless, a sale to a nonresident member of the armed forces must meet all of the statutory requirements for a retail sales tax exemption or B&O tax deduction. If a vehicle sold to a member of the armed forces will remain in Washington for more than three months, retail sales tax is due on the sale, even if the vehicle is registered in the home state of the armed forces member.

(a) Military temporary license. In addition to the exemptions provided under RCW 82.08.0264, a member of the armed forces may alternatively qualify for the retail sales tax and use tax exemptions provided by RCW 46.16.480 if the member obtains a 45-day nonresident military temporary license from the department of licensing under RCW 46.16.-460 and satisfies the requirements of RCW 46.16.480.

(b) Additional documentation required. In addition to the documentation otherwise required by this rule, for a sale to a member of the armed forces a seller must retain a copy of military orders showing that the buyer:

(i) Is temporarily stationed in Washington and will leave within three months of the date of purchase; or

(ii) Is permanently reassigned to a new duty station outside Washington and will leave within three months of the date of purchase.

(c) Military personnel of NATO-member nations. Pursuant to treaty, a member of the armed forces of any NATO-member nation who is stationed in Washington is considered to be a nonresident for purposes of the RCW 82.08.0264 retail sales tax exemption. The buyer must meet all otherwise applicable requirements for exemption. In addition, the seller must retain proof of the buyer's military assignment in Washington as a member of a NATO-member nation's armed forces.

(8) Are sales to residents of noncontiguous states exempt from Washington retail sales tax? RCW 82.08.0269 exempts purchases of tangible personal property from the retail sales tax if the property is purchased for use in states, territories, and possessions of the United States that are not contiguous with any other state. However, the exemption only applies if, as a necessary incident to the contract of sale, the seller delivers the property to the purchaser or the purchaser's designated agent at the usual receiving terminal of the carrier selected to transport the goods, under such circumstances that it is reasonably certain that the goods will be transported directly to a destination in a noncontiguous state, territory, or possession.

RCW 82.08.0269 applies to the sale of motor vehicles when the requirements stated above are met. Therefore, in addition to being exempt from retail sales tax under RCW 82.08.0264 (discussed above), a sale of a motor vehicle to a resident of a noncontiguous state, territory, or possession may qualify for exemption under RCW 82.08.0269. If so, the sale is exempt from retail sales tax but does not qualify for a B&O tax deduction. For more information on the requirements of the RCW 82.08.0269 exemption, including the documentation requirements, see WAC 458-20-193, Inbound and outbound interstate sales of tangible personal property.

(9) Are sales to residents of states with no sales tax exempt from Washington retail sales tax? RCW 82.08.0273 exempts purchases of tangible personal property from the retail sales tax if the purchaser is a resident of another state or possession or a province of Canada that does not impose a retail sales tax or use tax of three percent or more. That statute does not apply to purchases of vehicles. Because RCW 82.08.0264 more specifically applies to the sale of vehicles, it takes precedence over RCW 82.08.0273. A resident of another state or possession or a province of Canada that does not impose a retail sales tax or use tax of three percent or more may purchase and take delivery of a vehicle in Washington free of retail sales tax only if the person meets the requirements of RCW 82.08.0264 or 82.08.-0269.

(10) 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 facts and circumstances.

(a) Buyer purchases a vehicle from Dealer. Buyer provides identification indicating that Buyer is a resident of California and provides California license plates for the vehicle. However, Buyer also states that he intends to use the vehicle

PROPOSED

in the state of Washington for four months before returning to California. Buyer does not qualify for a sales tax exemption because Buyer will use the vehicle for more than three months in the state.

(b) Buyer provides proof of residency in Idaho; there are no contrary facts regarding Buyer's residency. Buyer completes the buyer's affidavit, stating that the vehicle is for use out-of-state. Buyer obtains and uses a trip permit issued under authority of RCW 46.16.160 to remove the vehicle from Washington. The Dealer completes a seller's certificate and certifies that the Dealer removed the Washington license plates before delivering the vehicle to Buyer. This sale qualifies for the retail sales tax exemption but not the B&O tax deduction.

(c) Buyer is a Washington resident, employed by out-of-state Corporation X. On behalf of Corporation X, Buyer purchases and accepts in-state delivery of a vehicle from Dealer. The vehicle will be used as a company car out-of-state and will not be used or garaged in Washington. Payment is made by corporate check. Buyer provides a trip permit for transport of the vehicle out of Washington. This sale qualifies for the retail sales tax exemption (but not for the B&O tax deduction) notwithstanding the Washington residency of its employee. The Dealer must record in its records the number of the corporate nonresident permit.

(d) Buyer is a resident of Alaska and purchases a vehicle from Dealer in Washington. The sales contract requires Dealer to deliver the vehicle to Buyer at Anchorage, Alaska. Before shipping the vehicle, Dealer removes the vehicle's Washington state license plates and retains a photocopy of the plates as evidence of the removal. Seller ships the vehicle to Alaska by common carrier. Seller retains a signed copy of the bill of lading, indicating the Seller as consignor and the Buyer as consignee. This sale qualifies for the retail sales tax exemption and a B&O tax deduction.

(e) Buyer is a resident of Alaska and purchases a vehicle from Dealer in Washington. Dealer delivers the vehicle to the Buyer at dockside in Seattle to be shipped to Anchorage, Alaska by common carrier. Dealer retains the exemption certificate and dock receipt required by WAC 458-20-193. This sale qualifies for the retail sales tax exemption provided by RCW 82.08.0269 but not for a B&O tax deduction.

(f) Buyer is a member of the armed forces and provides a copy of her orders showing that she is temporarily stationed in Washington. Before entering military service, buyer resided in another state. Buyer purchases a vehicle from Dealer and licenses it in her home state, but intends to keep the vehicle in this state for over three months. This sale does not qualify for any exemption or deduction. If the vehicle were to be removed from the state within three months, the sale would qualify for the RCW 82.08.0264 retail sales tax exemption but not for a B&O tax deduction.

(g) Buyer owns homes in Washington and Arizona, spending summers in Washington and winters in Arizona. In October, Buyer purchases a vehicle from Dealer, asserting that he will immediately drive the vehicle to Arizona and license it in that state. Buyer presents an Arizona driver's license for identification and provides a trip permit to remove the vehicle from Washington. Dealer is aware that Buyer lives in Washington for a significant portion of each year. In

such a case, the sale would not qualify for the retail sales tax exemption. Under these facts, Buyer has dual residency in Washington and Arizona for tax purposes and Dealer cannot, in good faith, rely upon a buyer's affidavit from Buyer.

(h) Buyer provides an Oregon driver's license and states that the vehicle will be licensed in Oregon and used out-of-state. However, when Dealer runs a credit check on Buyer, the credit report contains several references to a Washington address for Buyer. In this situation, Dealer cannot rely in good faith on Buyer's single form of identification as proof of nonresidency. The dealer must obtain additional evidence of nonresidency to substantiate a claimed exemption before making a tax-exempt sale in this situation.

(i) Buyer purchases a motorcycle from Dealer in Vancouver, Washington. The motorcycle is equipped for use on public highways. Buyer provides an Oregon driver's license and asserts that the motorcycle will be licensed in Oregon. Buyer also states that the motorcycle will only be used outside of Washington. Buyer places the motorcycle in the back of a truck for transport to Oregon. This sale does not qualify for any exemption or deduction. To qualify for the sales tax exemption, RCW 82.08.0264 requires the Buyer to obtain a trip permit or provide license plates from another state before removing the vehicle from Washington.

WSR 05-06-019

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed February 22, 2005, 2:50 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-13-092.

Title of Rule and Other Identifying Information: WAC 458-20-168 Hospitals, (~~medical care facilities~~) nursing homes, boarding homes, adult family homes, and similar health care facilities.

Hearing Location(s): Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA 98504, on April 6, 2005, at 9:30 a.m.

Date of Intended Adoption: April 13, 2005.

Submit Written Comments to: Allan C. Lau, P.O. Box 47453, Olympia, WA 98504-7453, e-mail AllanL@dor.wa.gov, fax (360) 586-5543, by April 6, 2005.

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 458-20-168 (Rule 168) explains the application of business and occupation (B&O), retail sales, and use taxes to persons operating hospitals, nursing homes, boarding homes, adult family homes, and similar health care facilities. The department proposes to revise Rule 168 to reflect legislative changes and to provide more updated information to taxpayers.

PROPOSED

The proposed changes include the following:

- Removing references to hearing aids and ostomic items and directing readers to WAC 458-20-18801 for more information about these items;
- Incorporating information about the taxability of sales of meals by health care facilities from WAC 458-20-119;
- Explaining that nursing homes and licensed boarding homes are not entitled to exempt any income from B&O tax as a "rental of real estate" (*Lacey Nursing Home, Inc. v. Department of Revenue*, 103 Wn. App. 169, 11 P.3d 839 (2000));
- Explaining the tax consequences when a service provider contracts with a hospital to provide medical services at the hospital, such as when a hospital contracts with another person to operate an emergency room facility (*Pilcher v. Department of Revenue*, 112 Wn. App. 428, 49 P.3d 947 (2002));
- Providing additional information about B&O tax deductions and exemptions available to persons operating health care facilities;
- Providing additional guidance for public and nonprofit hospitals in determining what income is subject to the public and nonprofit hospitals B&O tax or the service and other activities B&O tax;
- Addressing the preferential B&O tax rate and a B&O tax deduction provided to licensed boarding homes (chapter 174, Laws of 2004); and
- Addressing the quality maintenance fee imposed on nursing homes under RCW 82.71.020 (chapter 16, Laws of 2003 1st sp.s.).

Reasons Supporting Proposal: To update the rule to reflect legislative changes and to clarify the application of taxes.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: To the extent the following apply to health care providers: RCW 82.04.260, 82.04.290, 82.04.2908, 82.04.326, 82.04.4282, 82.04.327, 82.04.4289, 82.04.4297, 82.04.4311, 82.04.324, and 82.71.020.

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: Allan C. Lau, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6134; 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 rule is not a significant legislative rule as defined by RCW 34.05.328.

February 22, 2005
Alan R. Lynn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 94-11-097, filed 5/17/94, effective 6/17/94)

WAC 458-20-168 Hospitals, (~~medical care facilities, and~~) nursing homes, boarding homes, adult family homes, and similar health care facilities. (1) Introduction.

~~((This section provides tax reporting information to persons operating hospitals, medical care facilities, and adult family homes. It includes tax reporting changes resulting from the passage of chapter 25, Laws of 1993 sp.s. which affected nonprofit hospitals and hospitals operated by political subdivisions of the state.~~

(2) Definitions.

(a) The term "hospital" means only institutions defined as hospitals in chapter 70.41 RCW. The term includes privately owned and operated hospitals, hospitals operated as nonprofit corporations, hospitals operated by political subdivisions of the state, and hospitals operated by the state but not owned by the state.

(b) The term "nursing home" means only institutions defined as nursing homes in chapter 18.51 RCW.

(c) The term "adult family home" means private homes licensed by the department of social and health services as adult family homes (see WAC 388-76-030(2)), and those which are specifically exempt from licensing under the rules of the department of social and health services. (See WAC 388-76-140.)

(3) Business and occupation (B&O) tax. The sale of tangible personal property which is not part of the medical service being provided to a patient is taxable under the retailing B&O tax classification. There are two B&O tax classifications which can apply to persons providing medical services through the operation of a hospital, with the tax classification dependent on the organizational structure of the hospital. The B&O tax classifications are:

(a) Public or nonprofit hospitals. This B&O tax classification applies to gross income derived from personal and professional services to patients by hospitals that are operated as nonprofit corporations, operated by political subdivisions of the state, or operated but not owned by the state. These hospitals became taxable for hospital services under this B&O tax classification on July 1, 1993. These hospitals were required to report under the service B&O tax classification prior to July 1, 1993, but were entitled to a deduction for services rendered to patients.

(b) Service. The gross income derived from personal and professional services of hospitals (other than hospitals operated as nonprofit corporations or by political subdivisions of the state), nursing homes, convalescent homes, clinics, rest homes, health resorts, and similar health care institutions is subject to business and occupation tax under the service and other activities classification. This classification also applies to nonprofit hospitals for personal or professional services which are performed for persons other than patients and not otherwise tax classified.

(c) Retailing. The retailing business and occupation tax applies to sales by such persons of tangible personal property sold and billed separately from services rendered. However, this does not include charges to patients for tangible personal property which is used in providing medical services to a patient, even if separately billed. Tangible personal property

PROPOSED

which is used in providing medical services is not considered to have been sold separately from the medical services simply because those items are separately invoiced. These charges, even if separately itemized, are for providing medical services and are taxable under either the "public or non-profit hospital" classification or the "service and other business activities" classification, depending on the type of organization making the sale. However, making copies of medical records is considered to be a separate activity from that of providing medical services and any income from this activity is subject to the retailing tax and the retail sales tax.

(d) ~~Research and development.~~ There is a separate tax classification which applies to nonprofit corporations and nonprofit associations for income received in performing research and development. See RCW 82.04.260(6).

(4) ~~Exemptions and deductions.~~ The following exemptions and deductions apply:

(a) ~~Adult family homes.~~ The gross income derived from personal and professional services of adult family homes which are licensed as such, or which are specifically exempt from licensing under the rules of the department of social and health services, is exempt from the business and occupation tax effective June 9, 1987.

(b) ~~State-owned hospitals.~~ The gross income from a hospital owned by the state of Washington is not subject to B&O tax. (Refer to WAC 458-20-189.) This exemption does not include hospital districts or hospitals which are operated by or for political subdivisions of the state, such as a county government.

(c) ~~Kidney dialysis facilities, certain nursing homes, certain homes for unwed mothers.~~ Nonprofit organizations operating kidney dialysis facilities, homes for unwed mothers where the operating organization is also a religious or charitable organization, and nonprofit nursing homes are exempt from B&O tax on the services they provide to patients or from the sales of prescription drugs. (See WAC 458-20-18801.) However, the exemption applies only if no part of the net earnings received by such an institution inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder. The deduction for income from the operation of kidney dialysis facilities is available to nonprofit hospitals if the hospital accurately identifies and accounts for the income from this activity.

(d) ~~Contributions, donations and endowment funds.~~ Amounts received as contributions, donations and endowment funds may be excluded from gross income, provided that no specific service is performed as a condition for receiving the funds. Amounts received as grants are taxable if specific services are performed as a condition for receiving the grant. (See WAC 458-20-114.)

(e) ~~Health and social welfare services.~~ Refer to WAC 458-20-169 for health and welfare services which may be deductible.

(5) ~~Adjustments to revenues.~~ Many hospitals will perform charity care where medical care is given without charge or some portion of a charge will be cancelled. In other cases, medical care is billed to patients at "standard" rates, but later adjusted to reduce the charges to the rates established by contract with Medicare, Medicaid, or with private insurers. In these situations the hospital must initially include the total

charges as billed to the patient as gross income unless the hospital's records clearly indicate the amount of income to which it will be entitled under its contracts with insurance carriers. Where tax returns are initially filed based on gross charges, an adjustment may be taken at the time of filing future tax returns after the hospital has adjusted its records to reflect the actual amounts collected. In no event may the hospital reduce its current revenue by amounts which were not previously included in the taxable base. If the tax rate changes from the time the B&O tax was first paid on the gross charges and the time of the adjustment, the hospital must file amended tax returns to report the B&O tax on the transaction as finally completed at the rate in effect at the time the service was performed.

(6) ~~Retail sales tax.~~ Retail sales which are subject to retailing business tax, as provided earlier, are also subject to retail sales tax. These businesses are required to pay retail sales tax on purchases of medical supplies, durable equipment, and consumables. (For tax liability of hospitals on sales of meals, see WAC 458-20-119 and 458-20-244.)

(7) ~~Retail sales and use tax exemptions.~~ The following exemptions from the retail sales and use tax apply:

(a) ~~Effective on May 6, 1993, all items which are reasonably necessary for the operation of free hospitals may be purchased without payment of retail sales or use tax. This includes all supplies and equipment. It also includes any items which are used in providing health care. "Free hospitals" means a hospital that does not charge patients for health care provided by the hospital. (Refer to chapter 205, Laws of 1993.)~~

(b) ~~Sales of drugs, medicines, prescription lenses, orthotic devices, medical oxygen, or other substances, prescribed by medical practitioners are exempt of retail sales tax where the written prescription bearing the signature of the issuing medical practitioner and the name of the patient for whom prescribed is retained. Sales of prosthetic devices, hearing aids as defined in RCW 18.35.010(3), and ostomie items whether or not prescribed are also exempt of sales tax. See WAC 458-20-18801.)~~ This rule explains the application of business and occupation (B&O), retail sales, and use taxes to persons operating hospitals as defined in RCW 70.41.020, nursing homes as defined in RCW 18.51.010, boarding homes as defined in RCW 18.20.010, adult family homes as defined in RCW 70.128.010, and similar health care facilities.

The department of revenue (department) has adopted other rules dealing with the taxability of various activities relating to the provision of health care. Readers may want to refer to the following rules for additional information:

(a) WAC 458-20-150 (Optometrists, ophthalmologists, and opticians);

(b) WAC 458-20-151 (Dentists and other health care providers, dental laboratories, and dental technicians);

(c) WAC 458-20-18801 (Prescription drugs, prosthetic and orthotic devices, ostomie items, and medically prescribed oxygen); and

(d) WAC 458-20-233 (Tax liability of medical and hospital service bureaus and associations and similar health care organizations).

(2) Personal and professional services of hospitals, nursing homes, boarding homes, and similar health care facilities. This subsection provides information about the application of B&O tax to the personal and professional services of hospitals, nursing homes, boarding homes, and similar health care facilities. For information regarding B&O tax deductions and exemptions for persons operating health care facilities, readers should refer to subsection (3) of this rule.

(a) Public or nonprofit hospitals. The gross income of public or nonprofit hospitals derived from providing personal or professional services to inpatients, is subject to B&O tax under the public or nonprofit hospitals classification. RCW 82.04.260. For the purpose of this rule, "public or nonprofit hospitals" are hospitals, as defined in RCW 70.41.020, operated as nonprofit corporations, operated by political subdivisions of the state (e.g., a hospital district operated by a county government), or operated but not owned by the state.

Gross income of public or nonprofit hospitals derived from providing personal or professional services for persons other than inpatients is generally subject to B&O tax under the service and other activities classification. RCW 82.04.-290. Thus, for example, amounts received for services provided to outpatients, income received for providing nonmedical services, interest received on patient accounts receivable, and amounts received for providing transcribing services to physicians are subject to service and other activities B&O tax.

(i) Clinics and departments operated by public or nonprofit hospitals. Gross income derived from medical clinics and departments providing services to both inpatients and outpatients and operated by a public or nonprofit hospital is subject to B&O tax under the public or nonprofit hospitals classification where the clinic or department is an integral, interrelated, and essential part of the hospital. Otherwise, the gross income derived from medical clinics and departments providing services to both inpatients and outpatients and operated by a public or nonprofit hospital is subject to B&O tax under the service and other activities classification.

Relevant factors for determining whether a medical clinic or department operated by a public or nonprofit hospital is an integral, interrelated, and essential part of the hospital include whether the clinic or department is located at the hospital facility and whether the clinic or department furnishes the type of services normally provided by hospitals, such as 24-hour intake and emergency services.

The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.

(A) Acme Hospital is a nonprofit hospital. Acme has a medical clinic that is separate but physically located within the hospital. However, the clinic is open only during regular business hours and provides no domiciliary care or overnight facilities to its patients. The clinic is staffed, equipped, administered, and provides the type of medical services that one would expect to receive in the average physician's office. Acme's medical clinic is not an integral, interrelated, and essential part of Acme Hospital. Gross receipts by the medical clinic are subject to service and other activities B&O tax.

(B) Acme Hospital is a nonprofit hospital. Acme has a cancer treatment facility that is physically located within the hospital. The cancer treatment facility provides the type of services normally provided by hospitals to cancer patients. Acme's cancer treatment facility is an integral, interrelated, and essential part of Acme Hospital. Gross receipts by the cancer treatment facility are subject to public or nonprofit hospitals B&O tax.

(ii) Educational programs and services. Amounts received by public or nonprofit hospitals for providing educational programs and services to the general public are subject to B&O tax under the public or nonprofit hospitals classification if they are an integral, interrelated, and essential part of the hospital. Otherwise, such amounts are subject to B&O tax under the service and other activities classification. Educational services are considered an integral, interrelated, and essential part of the hospital only if they are unique and incidental to the provision of hospitalization services (i.e., services that will be, have been, or are currently being provided to the participants). Only those educational programs and services offered by a hospital that would be very difficult or impossible to duplicate by a person other than a hospital because of the specialized body of knowledge, facilities, and equipment required are unique and incidental to the provision of hospitalization services. Amounts derived from educational programs and services are subject to service and other activities B&O tax when the educational programs or services could be provided by any physician, clinic, or trained lay person.

(b) Other hospitals, nursing homes, and similar health care facilities. The gross income derived from personal and professional services of hospitals, clinics, nursing homes, and similar health care facilities, other than public or nonprofit hospitals described above in subsection (2)(a) and hospitals owned by the state, is subject to service and other activities B&O tax. The gross income received by the state of Washington from operating a hospital or other health care facility, whether or not the hospital or other facility is owned by the state, is not subject to B&O tax. Nursing homes should refer to subsection (6) of this rule for information regarding the quality maintenance fee imposed under chapter 82.71 RCW.

The following definitions apply for purposes of this rule:

(i) "Hospital" has the same meaning as in RCW 70.41.-020; and

(ii) "Nursing home" has the same meaning as in RCW 18.51.010.

(c) Boarding homes. Effective July 1, 2004, persons operating boarding homes licensed under chapter 18.20 RCW are entitled to a preferential B&O tax rate. See RCW 82.04.2908. Persons operating licensed boarding homes should report their gross income derived from providing room and domiciliary care to residents under the licensed boarding homes B&O tax classification. Licensed boarding home operators are entitled to a B&O tax deduction for amounts received as compensation for providing adult residential care, enhanced adult residential care, or assisted living services under contract with the department of social and health services authorized by chapter 74.39A RCW to residents who are medicaid recipients.

For the purpose of this rule, "boarding home" and "domiciliary care" have the same meaning as in RCW 18.20.020. "Adult residential care," "enhanced adult residential care," and "assisted living services" have the same meaning as in RCW 74.39A.009.

(d) **Nonprofit corporations and associations performing research and development.** There is a separate B&O tax rate that applies to nonprofit corporations and nonprofit associations for income received in performing research and development within this state, including medical research. See RCW 82.04.260.

(e) **Can a nursing home or boarding home claim a B&O tax exemption for the rental of real estate?** The primary purpose of a nursing home is to provide medical care to its residents. The primary purpose of boarding homes is to assume general responsibility for the safety and well-being of its residents and to provide other services to residents such as housekeeping, meals, laundry, and activities. Boarding homes may also provide residents with assistance with activities of daily living, health support services, and intermittent nursing services. Because the primary purpose of nursing homes and boarding homes is to provide services and not to lease or rent real property, no part of the gross income of a nursing home or boarding home may be exempted from B&O tax as the rental of real estate.

(f) **Adjustments to revenues.** Many hospitals will provide medical care without charge or where some portion of the charge will be canceled. In other cases, medical care is billed to patients at "standard" rates but is later adjusted to reduce the charges to the rates established by contract with Medicare, Medicaid, or private insurers. In these situations the hospital must initially include the total charges as billed to the patient as gross income unless the hospital's records clearly indicate the amount of income to which it will be entitled under its contracts with insurance carriers. Where tax returns are initially filed based on gross charges, an adjustment may be taken on future tax returns after the hospital has adjusted its records to reflect the actual amounts collected. In no event may the hospital reduce the amount of its current gross income by amounts that were not previously reported on its excise tax return. If the tax rate changes from the time the B&O tax was first paid on the gross charges and the time of the adjustment, the hospital must file amended tax returns to report the B&O tax on the transaction as finally completed at the rate in effect when the service was performed.

(g) **What are the tax consequences when a hospital contracts with an independent contractor to provide medical services at the hospital?** When a hospital contracts with an independent contractor (service provider) to provide medical services such as managing and staffing the hospital's emergency department, the hospital may not deduct the amount paid to the service provider from its gross income. If, however, the patients are alone liable for paying the service provider, and the hospital has no personal liability, either primarily or secondarily, for paying the service provider, other than as agent for the patients, then the hospital may deduct from its gross income amounts paid to the service provider.

In addition, the service provider is subject to service and other activities B&O tax on the amount received from the hospital for providing these services for the hospital. If the

service provider subcontracts with third parties, such as physicians or nurses, to help provide medical services as independent contractors, the service provider may not deduct from its gross income amounts paid to the subcontractors where the service provider is personally liable, either primarily or secondarily, for paying the subcontractors. If, however, the hospital is alone liable for paying the subcontractors, and the service provider has no personal liability, either primarily or secondarily, other than as agent for the hospital, then the service provider may deduct from its gross income amounts paid to the subcontractors. For additional information regarding deductible advances and reimbursements, refer to WAC 458-20-111 (Advances and reimbursements).

(3) **B&O tax deductions and exemptions.** This subsection provides information about several B&O tax deductions and exemptions available to persons operating medical or other health care facilities.

(a) **Organ procurement organizations.** Amounts received by a qualified organ procurement organization under 42 U.S.C. Sec. 273(b) in effect as of January 1, 2001, to the extent that the amounts are exempt from federal income tax, are exempt from B&O tax. RCW 82.04.326. This exemption is effective March 22, 2002.

(b) **Contributions, donations, and endowment funds.** A B&O tax deduction is provided by RCW 82.04.4282 for amounts received as contributions, donations, and endowment funds, including grants, which are not in exchange for goods, services, or business benefits. The deductible amounts should be included in the gross income reported on the excise tax return and then deducted on the return to determine the amount of taxable income. Deductions taken must be identified on the appropriate deduction detail page of the excise tax return.

(c) **Adult family homes.** The gross income derived from personal and professional services of adult family homes licensed by the department of social and health services (DSHS), or which are specifically exempt from licensing under the rules of DSHS, is exempt from B&O tax under RCW 82.04.327. The exemption under RCW 82.04.327 does not apply to persons who provide home care services to clients in the clients' own residences.

For the purpose of this rule, "adult family home" has the same meaning as in RCW 70.128.010.

(d) **Nonprofit kidney dialysis facilities, hospice agencies, and certain nursing homes and homes for unwed mothers.** B&O tax does not apply to amounts received as compensation for services rendered to patients or from sales of prescription drugs as defined in RCW 82.08.0281 furnished as an integral part of services rendered to patients by kidney dialysis facilities operated as a nonprofit corporation, nonprofit hospice agencies licensed under chapter 70.127 RCW, and nursing homes and homes for unwed mothers operated as religious or charitable organizations. RCW 82.04.4289. This exemption applies only if no part of the net earnings received by such an institution inures, directly or indirectly, to any person other than the institution entitled to this exemption. This exemption is available to nonprofit hospitals for income from the operation of kidney dialysis facilities if the hospital accurately identifies and accounts for the income from this activity.

(e) Government payments made to health or social welfare organizations. A B&O tax deduction is provided by RCW 82.04.4297 to a health or social welfare organization, as defined in RCW 82.04.431, for amounts received from the United States, any instrumentality of the United States, the state of Washington, or any municipal corporation or political subdivision of the state of Washington as compensation for health or social welfare services. A deduction is not allowed, however, for amounts that are received under an employee benefit plan. The deductible amounts should be included in the gross income reported on the excise tax return and then deducted on the tax return to determine the amount of taxable income. Deductions taken must be identified on the appropriate deduction detail page of the excise tax return. Readers should refer to WAC 458-20-169 (Nonprofit organizations) for additional information regarding this deduction.

For purposes of the deduction provided by RCW 82.04.4297, "employee benefit plan" includes any plan, trust, commingled employee benefit trust, or custodial arrangement that is subject to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in sections 125, 401, 403, 408, 457, and 501 (c)(9) and (17) through (23) of the Internal Revenue Code of 1986, as amended, or a similar plan maintained by a state or local government, or a plan, trust, or custodial arrangement established to self-insure benefits required by federal, state, or local law.

(f) Amounts received under a health service program subsidized by federal or state government. A public hospital that is owned by a municipal corporation or political subdivision, or a nonprofit hospital that qualifies as a health and social welfare organization as defined in RCW 82.04.-431, may deduct from the measure of B&O tax amounts received as compensation for health care services covered under the federal Medicare program authorized under Title XVIII of the federal Social Security Act; medical assistance, children's health, or other program under chapter 74.09 RCW; or for the state of Washington basic health plan under chapter 70.47 RCW. RCW 82.04.4311. This deduction does not apply to amounts received from patient copayments or patient deductibles. The deductible amounts should be included in the gross income reported on the excise tax return and then deducted on the return to determine the amount of taxable income. Deductions taken must be identified on the appropriate deduction detail page of the excise tax return.

(i) Effective date of deduction. This deduction is effective April 2, 2002. Taxpayers who have paid B&O taxes between January 1, 1998, and April 2, 2002, on amounts that would qualify for this deduction are entitled to a refund. In addition, tax liability for accrued but unpaid taxes that would be deductible under this subsection (3)(f) are waived. For information regarding refunds, refer to WAC 458-20-229 (Refunds).

(ii) Example. Acme Hospital is a nonprofit hospital that qualifies as a health and social welfare organization as defined in RCW 82.04.431. Acme receives \$1,000 for providing health care services to Jane, who qualifies for the federal Medicare program authorized under Title XVIII of the federal Social Security Act. Jane is covered in a health care plan that is a combination of Medicare, which is B&O tax

deductible by Acme, and a Medicare plus plan, which is paid for by Jane and is not B&O tax deductible by Acme. Jane pays \$20 to Acme as patient copayments. Medicare pays \$600 to Acme for the health care services, and the Medicare plus plan pays \$380. Acme may only deduct the \$600 received from Medicare.

(g) Blood and tissue banks. Amounts received by a qualifying blood bank, a qualifying tissue bank, or a qualifying blood and tissue bank are exempt from B&O tax to the extent the amounts are exempt from Federal Income Tax. RCW 82.04.324. For the purposes of this exemption, the following definitions apply:

(i) Qualifying blood bank. "Qualifying blood bank" means a blood bank that qualifies as an exempt organization under 26 U.S.C. 501(c)(3) as existing on June 10, 2004, is registered under 21 C.F.R., Part 607 as existing on June 10, 2004, and whose primary business purpose is the collection, preparation, and processing of blood. "Qualifying blood bank" does not include a comprehensive cancer center that is recognized as such by the National Cancer Institute.

(ii) Qualifying tissue bank. "Qualifying tissue bank" means a tissue bank that qualifies as an exempt organization under 26 U.S.C. 501(c)(3) as existing on June 10, 2004, is registered under 21 C.F.R., Part 1271 as existing on June 10, 2004, and whose primary business purpose is the recovery, processing, storage, labeling, packaging, or distribution of human bone tissue, ligament tissue and similar musculoskeletal tissues, skin tissue, heart valve tissue, or human eye tissue. "Qualifying tissue bank" does not include a comprehensive cancer center that is recognized as such by the National Cancer Institute.

(iii) Qualifying blood and tissue bank. "Qualifying blood and tissue bank" is a bank that qualifies as an exempt organization under 26 U.S.C. 501(c)(3) as existing on June 10, 2004, is registered under 21 C.F.R., Part 607 and Part 1271 as existing on June 10, 2004, and whose primary business purpose is the collection, preparation, and processing of blood, and the recovery, processing, storage, labeling, packaging, or distribution of human bone tissue, ligament tissue and similar musculoskeletal tissues, skin tissue, and heart valve tissue. "Qualifying blood and tissue bank" does not include a comprehensive cancer center that is recognized as such by the National Cancer Institute.

(4) Sales of tangible personal property. Retailing B&O tax applies to sales of tangible personal property sold and billed separately from the performance of personal or professional services by hospitals, nursing homes, boarding homes, adult family homes, and similar health care facilities. This includes charges for making copies of medical records. In addition, retail sales tax must be collected from the buyer and remitted to the department unless the sale is specifically exempt by law.

(a) Tangible personal property used in providing medical services to patients. Retailing B&O and retail sales taxes do not apply to charges to a patient for tangible personal property used in providing medical services to the patient, even if separately billed. Tangible personal property used in providing medical services is not considered to have been sold separately from the medical services simply because those items are separately invoiced. These charges, even if

separately itemized, are for providing medical services and are subject to B&O tax under either the public or nonprofit hospital B&O tax classification or the service and other activities classification depending on the person making the charge. For example, charges for drugs physically administered by the seller are subject to B&O tax under either the public or nonprofit hospital classification or the service and other activities classification depending on the person making the charge. On the other hand, charges for drugs sold to patients or their caregivers, either for patient self-administration or administration by a caregiver other than the seller, are subject to retailing B&O tax and retail sales tax unless specifically exempt by law. Readers should refer to WAC 458-20-18801 for detailed information regarding retail sales tax exemptions that apply to sales of prescription drugs and other medical items.

(b) Sales of meals. Although the sale of meals is generally considered to be a retail sale, hospitals, nursing homes, boarding homes, and similar health care facilities that furnish meals to patients or residents as a part of the services provided to those patients or residents are not considered to be making retail sales of meals. Thus amounts received by hospitals, nursing homes, boarding homes, and similar health care facilities for furnishing meals to patients or residents as part of the services provided to those patients or residents are subject to B&O tax under the service and other activities, public or nonprofit hospital, or licensed boarding homes classifications, depending upon the person furnishing the meals.

Hospitals, nursing homes, boarding homes, and similar health care facilities may have restaurants, cafeterias, or other dining facilities where meals are sold for cash or credit to doctors, nurses, other employees, and visitors. Some of these facilities may provide meals to their employees at no charge. Under these circumstances, all sales of meals to such persons are subject to retailing B&O and retail sales taxes, including the value of meals provided at no charge to employees. For additional information regarding the sale of meals, including meals furnished to employees, refer to WAC 458-20-119 (Sales of meals). Hospitals, nursing homes, boarding homes, and similar health care facilities that provide free meals to persons other than employees, such as visitors, should refer to WAC 458-20-124 (Restaurants, cocktail bars, taverns and similar businesses) for information about the taxability of meals given away free of charge.

(5) Equipment and supplies used by health care providers. Hospitals, nursing homes, adult family homes, boarding homes, and similar health care providers are required to pay retail sales tax on purchases of equipment and supplies unless specifically exempt by law. Readers should refer to WAC 458-20-18801 for detailed information regarding exemptions that are available to these health care providers, as well as persons performing medical research and organ procurement organizations.

(a) Purchases for resale. Purchases of tangible personal property for resale without intervening use are not subject to retail sales tax. Persons purchasing tangible personal property for resale must furnish a properly completed resale certificate to the seller to document the wholesale nature of the sale. Resale certificates may be obtained from the department's website at <http://dor.wa.gov>, or by calling the department's taxpayer information center at 1-800-647-7706. For additional information regarding resale certificates, refer to WAC 458-20-102 (Resale certificates).

ment's taxpayer information center at 1-800-647-7706. For additional information regarding resale certificates, refer to WAC 458-20-102 (Resale certificates).

(b) Buyer's responsibility to remit deferred sales or use tax. If the seller does not collect retail sales tax on a retail sale, the buyer must remit the retail sales tax (commonly referred to as "deferred sales tax") or use tax directly to the department unless specifically exempt by law. For detailed information regarding the use tax, refer to WAC 458-20-178 (Use tax).

(i) How do I report deferred sales or use tax? Persons registered with the department and required to file tax returns should report deferred sales or use tax on their excise tax return. The excise tax return does not have a separate line for reporting deferred sales tax. Consequently, deferred sales tax liability should be reported on the use tax line of the buyer's excise tax return. If a deferred sales tax or use tax liability is incurred by a person who is not required to obtain a tax registration endorsement from the department, the person must report the tax on a "Consumer Use Tax Return" and remit the appropriate tax to the department.

(ii) Where can I obtain a Consumer Use Tax Return? The Consumer Use Tax Return may be obtained from the department's website at: <http://dor.wa.gov>, or by calling the department's telephone information center at 1-800-647-7706.

(6) Quality maintenance fee imposed on nursing homes. Beginning July 1, 2003, RCW 82.71.020 imposes a quality maintenance fee on every nursing home in this state not exempt from the fee under RCW 74.46.091. The amount of the quality maintenance fee is six dollars and fifty cents per patient day and is in addition to any other tax imposed upon nursing homes. Nursing homes must report the number of patient days and remit the fee to the department on a monthly basis. Persons with questions about how the quality maintenance fee may affect individual nursing home operators or about the exemption provided by RCW 74.46.091 should contact the department of social and health services.

For purposes of this rule, "patient day" means a calendar day of care provided to a nursing home resident, excluding a Medicare patient day. Patient days include the day of admission and exclude the day of discharge; except that, when admission and discharge occur on the same day, one day of care shall be deemed to exist. "Medicare patient day" means a patient day for Medicare beneficiaries on a Medicare Part A stay and a patient day for persons who have opted for managed care coverage using their Medicare benefit.

WSR 05-06-029

PROPOSED RULES

OLYMPIC COLLEGE

[Filed February 24, 2005, 9:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-01-107.

Title of Rule and Other Identifying Information: Student conduct code.

Hearing Location(s): Olympic College Boardroom, College Service Center Building, CSC5, 1530 Ohio Street, Bremerton, WA 98337, on April 6, 2005, at 3:30 p.m. - 4:30 p.m.

Date of Intended Adoption: April 26, 2005.

Submit Written Comments to: Melinda St. John, 1530 Ohio Avenue, Bremerton, WA 98337, e-mail MSTJOHN@OC.CTC.EDU, fax (360) 475-7473, by April 4, 2005.

Assistance for Persons with Disabilities: Contact Access Services by April 4, 2005, TTY (360) 475-7543 or (360) 475-7540.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Purpose of this proposal is to provide governance of student behaviors on campus. Also, to outline the disciplinary actions and/or hearing process students and the college must follow.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

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

Name of Proponent: Olympic College, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dr. R. MacLennan, Vice-President for Student Services, College Service Center Building, CSC3, (360) 475-7473.

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.

February 22, 2005
Asantewa Antobam
Executive Assistant
to the President

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-015 Freedom of expression. Fundamental to the democratic process are the rights of free speech and peaceful assembly. Students and student organizations shall be free to examine and to discuss all questions of interest to them and to express opinions publicly and privately. They shall always be free to support causes by orderly means which do not disrupt the regular and essential operation of the institution. At the same time, it should be made clear to the academic and the larger community that in their public expressions, students or student organizations speak only for themselves.

Any recognized student organization may invite to the campus any speaker a group wishes to hear, providing suitable space is available and there is no interference with the regular scheduled program of the college and officially sanctioned procedure is followed. It is understood that the appearance of such speakers on the campus implies neither approval nor disapproval of them or their viewpoints by this college, its students, its employees, or the board of trustees. In the case of speakers who are candidates for political office, equal opportunities shall be available to opposing candidates if desired by them. Speakers are subject to normal considerations for law and order ~~((and to the specific limitations~~

~~imposed by the Washington State Constitution which prohibits religious worship, exercise, or instruction on state property)).~~

In order to insure an atmosphere of open exchange and to insure that the educational objectives of the college are not obscured, the president may prescribe reasonable time, place and manner restrictions for the conduct of the meeting, such as requiring a designated member of the faculty as ~~((chairman))~~ chair, or requiring permission for comments and questions from the floor. Likewise, the president may encourage the appearance of one or more additional speakers at the meeting in question or at a subsequent meeting so that other points of view may be expressed.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-040 Distribution of printed material on campus. Publications, handbills, leaflets, statements, and similar materials except those which are commercial, obscene, or unlawful in character may be distributed without review or approval by any enrolled student or recognized group of students enrolled at Olympic College. It is to be understood that such materials do not necessarily represent the views of the college or the board of trustees. Such materials may be distributed from authorized public areas in the student center and at any outdoor area on campus consistent with the maintenance of college property, with the free flow of traffic and persons, and not in a manner which in itself limits the orderly operation of college affairs.

~~((All such materials shall indicate the name of the sponsor.))~~ Distribution of any printed materials by persons not members of the college community shall be prohibited unless approved in advance by the ~~((dean of students))~~ vice-president of student services or designee.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-050 Authority to prohibit trespass. ~~((In the instance of any event that is deemed to impede the movement of persons or vehicles or which is deemed to disrupt or threatens to immediately disrupt the ingress and/or egress of persons from college facilities,))~~ The president or designee, acting through the ~~((dean of students))~~ vice-president of student services or such other designated person shall have authority and power to:

(1) Prohibit the entry of, or withdraw the license or privilege of a person or persons or any group of persons to enter onto or remain upon any portion of a college facility; or

(2) Give notice against trespass to any person, persons, or group of persons against whom the license or privilege has been withdrawn or who have been prohibited from entering onto or remaining upon all or any portion of a college facility; or

(3) Order any person, persons, or group of persons to leave or vacate all or any portion of a college facility.

Such authority and power may be exercised to halt any event that is deemed to be unreasonably disruptive of order or threatens to disrupt the movement of persons from facilities owned and/or operated by the college. Any student or person

who shall disobey a lawful order given by the college president or designee pursuant to the requirements of this rule shall be subject to disciplinary and/or legal action.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-060 Right to demand identification.

For the purpose of determining the identity of a person as a student, where identification as a student is a prerequisite to admission or the charge for admission to any college activity, or where identification as a student is required in a case of alleged violation of this code, any college employee may demand that any person on college property or at a college activity produce evidence of student enrollment at the college. ((Tender of the student identification card will satisfy this requirement. Refusal by a)) Failure of the student to produce identification as required shall subject the student to disciplinary action.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-065 Violations. Any student shall be subject to immediate disciplinary action provided for in this student conduct code who, either as a principal actor or aider or abettor:

(1) Materially and substantially interferes with the personal rights or privileges of others or the educational process of the college;

(2) Violates any provision of the student conduct code;

(3) Commits any of the following acts which are hereby prohibited:

~~((a) All forms of dishonesty including cheating, plagiarism, knowingly furnishing false information to the college, and forgery, alteration or use of college documents or instruments of identification with intent to defraud.~~

~~(b) Failure to comply with lawful directions of faculty, administrators, and other regularly employed personnel acting in performance of their lawful duties.~~

~~(c) Conduct which intentionally and substantially obstructs or disrupts freedom of movement, teaching, administration, disciplinary proceedings, or other lawful activities of the college.~~

~~(d) Physical abuse of any person or conduct which is intended unlawfully to threaten imminent bodily harm or to endanger the health or safety of any person on college owned or controlled property or at college sponsored or supervised functions.~~

~~(e) Malicious damage to or malicious misuse of college property, or the property of any person where such property is located on the college campus.~~

~~(f) Refusal to comply with any lawful order to leave the college campus or any portion thereof.~~

~~(g) Possession or use of firearms, explosives, dangerous chemicals, or other dangerous weapons or instruments on the college campus, except for authorized college purposes; unless prior written approval has been obtained from the dean of students, or any other person designated by the college president.~~

~~(h) Intentionally inciting others to engage in imminent lawless activity, including any conduct prohibited herein.~~

~~(i) Possessing, consuming, or furnishing of alcoholic beverages on college owned or controlled property or at college sponsored or supervised functions where prohibited.~~

~~(j) Disorderly conduct, including disorderly conduct resulting from drunkenness.~~

~~(k) Engaging in lewd, indecent, or obscene behavior on college owned or controlled property or at college sponsored or supervised functions.~~

~~(l) Using, possessing, furnishing, or selling any controlled substance as defined in Washington statutes, except when the use or possession of a drug is specifically prescribed as medication by a licensed health care professional.~~

~~(m) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.~~

~~(n) Theft or conversion of college property or private property.~~

~~(o) Entering any administrative office or any locked or otherwise closed college facility in any manner, at any time, without permission of the college employee or agent in charge thereof.)~~ (a) Assault, reckless endangerment, intimidation, harassment, or interference upon another person.

(b) Disorderly, abusive, or bothersome conduct. Disorderly or abusive behavior that interferes with the rights of others or obstructs or disrupts teaching, research, or administrative functions.

(c) Failure to follow instructions. Inattentiveness, inability, or failure of student to follow the instructions of a college official, thereby infringing upon the rights and privileges of others.

(d) Providing false information to the college, forgery, or alteration of records.

(e) Illegal assembly, disruption, obstruction or other act which materially and substantially interferes with vehicular or pedestrian traffic, classes, hearings, meetings, the educational and administrative functions of the college, or the private rights and privileges of others.

(f) Inciting others. Intentionally encouraging, preparing, or compelling others to engage in any prohibited conduct.

(g) Hazing. Hazing means any method of initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical, mental or emotional harm to any student or other person.

(h) False complaint. Knowingly or recklessly filing a formal complaint falsely accusing another student or college employee with violating a provision of this chapter.

(i) False alarms. Falsely setting off or otherwise tampering with any emergency safety equipment, alarm, or other device established for the safety of individuals and/or college facilities.

(j) Sexual harassment. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where such behavior offends the recipient, causes discomfort or humiliation, or interferes with job or school performance.

(k) Malicious harassment. Malicious harassment involves intimidation or bothersome behavior directed

toward another person because of, or related to that person's race, color, religion, gender, sexual orientation, ancestry, national origin, or mental, physical, or sensory disability.

(l) Theft and robbery. Theft of the property of the district or of another as defined in RCW 9A.56.010 through 9A.56.050 and RCW 9A.56.100 as now law or hereafter amended. Includes theft of the property of the district or of another; actual or attempted theft of property or services belonging to the college, any member of its community or any campus visitor; or knowingly possessing stolen property.

(m) Damage to any college facility or equipment. Intentional or negligent damage to or destruction of any college facility, equipment, or other public or private real or personal property.

(n) Unauthorized use of college or associated students' equipment or supplies. Converting of college equipment, supplies, or computer systems for personal gain or use without proper authority.

(o) Illegal entry. Entering, or remaining in any administrative office or otherwise closed college facility or entering after the closing time of college facilities without permission of an employee in charge.

(p) Possession or use of firearms, explosives, dangerous chemicals, or other dangerous weapons, instruments, or substances that can be used to inflict bodily harm or to damage real or personal property, except for authorized college purposes or law enforcement officers.

(q) Refusal to provide identification (e.g., valid driver's license, student identification, passport, or state identification card) in appropriate circumstances to any college employee in the lawful discharge of the employee's duties.

(r) Smoking. Smoking in any classroom or laboratory, the library, or in any college facility, office, or any other smoking not in compliance with college policy or chapter 70.160 RCW.

(s) Controlled substances. Using, possessing, being demonstrably under the influence of, or selling any narcotic or controlled substance as defined in chapter 69.50 RCW as now law or hereafter amended, except when the use or possession of a drug is specifically prescribed as medication by an authorized medical doctor or dentist. For the purpose of this regulation, "sale" shall include the statutory meaning defined in RCW 69.50.410 as now law or hereafter amended.

(t) Alcoholic beverages. Being demonstrably under the influence of any form of alcoholic beverage. Possessing or consuming any form of alcoholic beverage on college property, with the exception of sanctioned events, approved by the president or his or her designee and in compliance with state law.

(u) Computer, telephone, or electronic technology violation. Conduct that violates the college published acceptable use rules on computer, telephone, or electronic technology use, including electronic mail and the internet.

(v) Computer trespass. Gaining or denying others access, without authorization, to a computer system or network, or electronic data owned, used by, or affiliated with Olympic College.

(w) Ethics violation. The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profes-

sion for which the student is taking courses or is pursuing as an educational goal or major. These ethics codes must be distributed to students as part of an educational program, course, or sequence of courses and the student must be informed that a violation of such ethics codes may subject the student to disciplinary action by the college.

(x) Criminal law violation, illegal behavior, other violations. Students may be accountable to the civil or criminal authorities and the college for acts which constitute violations of federal, state, or local law as well as college rules where the students' behavior is determined to threaten the health, safety, and/or property of the college and its members. The college may refer any such violations to civilian or criminal authorities for disposition.

NEW SECTION

WAC 132C-120-071 Academic dishonesty. Academic dishonesty includes cheating, plagiarism, fabrication, and facilitating academic dishonesty.

(1) Cheating is intentionally using or attempting to use unauthorized materials, information, or study aids in any academic activity.

(2) Plagiarism includes submitting to a faculty member any work product that the student fraudulently represents to the faculty member as the student's work product for the purpose of fulfilling or partially fulfilling any assignment or task required by the faculty member as part of the student's program of instruction.

(3) Fabrication is the intentional and unauthorized falsification or invention of any information or citation in an academic activity.

(4) Facilitating academic dishonesty is intentionally or knowingly helping or attempting to help another to violate a provision of this section of the disciplinary code.

Acts of dishonesty are serious breaches of honor and shall be dealt with in the following manner:

(a) Any student who commits or aids in the accomplishment of an act of academic dishonesty shall be subject to disciplinary action.

(b) In cases of academic dishonesty, the student's final grade may be adjusted. The instructor may also refer the matter to the vice-president of student services for disciplinary action.

NEW SECTION

WAC 132C-120-076 Classroom conduct. Faculty have the authority to take appropriate action to maintain order and proper conduct in the classroom and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

An instructor has the authority to exclude a student from any single class session during which the student is disruptive to the learning environment. The instructor shall report any such exclusion from the class to the vice-president of student services or designee who may summarily suspend the student or initiate conduct proceedings as provided in this procedure. The vice-president of student services may impose a disciplinary probation that restricts the student from the classroom

until the student has met with the vice-president of student services and the student agrees to comply with the specific conditions outlined by the vice-president of student services for conduct in the classroom. The student may appeal the disciplinary sanction according to the disciplinary appeal procedures.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-100 Jurisdiction. Admission to the college carries with it the expectation that the student will obey the law, comply with rules and regulations of the college, and is accountable for his/her conduct.

All rules herein adopted shall apply to every student on any college property or engaged in any college related activity or function. Sanctions for violation of the rules of student conduct herein adopted will be administered by the college in the manner provided by said rules. When violations of the laws of the state of Washington and/or the United States are involved, the college may in addition refer such matters to civil authorities. In the case of minors such conduct may be referred to parents or guardians.

This code is applicable in all matters of discipline, and any disciplinary action imposed upon a student shall be taken in accordance with this code, unless the disciplinary action was imposed according to separate college policy which the student contractually accepted as a condition to participation in a particular course of study.

Disciplinary action, including dismissal from the college, may be imposed on a student for failure to abide by rules of conduct contained herein. The form of disciplinary action imposed will determine whether and under what conditions a violator may continue as a student at the college. Practices in disciplinary cases may vary in formality according to the severity of the case.

~~((Faculty members shall have the authority to take such actions as may be necessary to maintain order and proper conduct in the classroom to insure the cooperation of students in the accomplishment of the objectives of the course of instruction. Such actions may be appealed to the dean of students within five instructional days of such action.))~~

College administrative officers may deny admission to a prospective student or reregistration to a current student if, in their judgment, the student would not be competent to profit from the curricular offerings of the college, or would, by the student's presence or conduct, create a disruptive atmosphere within the college inconsistent with the purpose of the institution.

When reference in this document is made to a college official, that reference shall be read to include the specified college official or designee.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-110 Disciplinary proceedings. Any person shall have the right to request sanctions for violations of the student conduct code.

All disciplinary proceedings will be initiated by the ~~((dean of students))~~ vice-president of student services who

may also establish advisory panels to advise or act for the office in disciplinary proceedings.

Any student accused of violating any provision of the rules of student conduct will be called for an initial conference with the ~~((dean of students))~~ vice-president of student services and will be informed of what provision or provisions of the code of student conduct he/she is charged with violating and what appears to be the range of penalties which might result from consideration of the disciplinary proceeding.

After considering the evidence in the case and interviewing the accused, the ~~((dean of students))~~ vice-president of student services may take any of the following actions:

- (1) Terminate the proceeding, exonerating the accused;
- (2) Dismiss the case after whatever counseling and advice may be appropriate;
- (3) Impose ~~((minor))~~ sanctions directly such as warning, reprimand, restitution, ~~((and/or))~~ disciplinary probation, suspension, and/or expulsion;
- (4) Refer the matter to the student conduct board for a recommendation to the ~~((president of the college))~~ vice-president of student services as to appropriate action(~~;~~);
- (5) ~~Recommend to the president of the college that the accused be dismissed~~).

A student accused of violating any provision of the code of student conduct shall be given written notification of the ~~((dean of students))~~ vice-president of student services' action.

Disciplinary action recommended by the ~~((dean of students))~~ vice-president of student services is final unless the accused exercises his/her right of appeal ~~((within five instructional days))~~ as provided in WAC 132C-120-115.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-115 Appeals. Any disciplinary action may be appealed as provided. Action by the ~~((dean of students))~~ vice-president of student services may be appealed to the student conduct board. Action taken by the student conduct board may be appealed to the president. Action taken by the president shall be final. All appeals by a student must be made in writing and presented to the college president within five instructional days of the disciplinary action/recommendation or the right to appeal is waived and the disciplinary action/recommendation is automatically imposed. Decisions on appeals will be rendered in writing within three instructional days following conclusion of the appeal process.

Time periods referenced in the code may be altered or waived on written agreement of the accused and ~~((dean of students))~~ vice-president of student services.

An appeal of a disciplinary action stays enforcement of the action until the appeal process is exhausted or a final decision reached.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-120 Composition of the student conduct board. The student conduct board shall be composed of seven members on an ad hoc basis as needed. Members shall be selected as follows:

(1) The college president shall appoint three members and an alternate from the faculty.

(2) The president shall appoint one member from the college administration and an alternate.

(3) ~~(Three student members and an alternate appointed by the president of the associated students of Olympic College.)~~ The college president shall appoint two members from the student body. The president may consult the president of the associate students of Olympic College for a recommendation of student members.

(4) The president of the college shall designate a ~~((chairman))~~ chair from the membership who shall preside at all meetings and hearings. The ~~((chairman))~~ chair shall not vote except to break a tie vote.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-125 Procedures for student conduct board hearing. The student conduct board will hear and make recommendations to the president of the college on all disciplinary cases referred/appealed to it.

The accused has a right to a fair and impartial hearing before the student conduct board on any charge of violating rules of student conduct. The accused's failure to cooperate with hearing procedures shall not prevent the student conduct board from making its findings of fact, conclusions, and recommendations. Failure by the accused to cooperate may be taken into consideration by the student conduct board in recommending appropriate disciplinary action to the president.

The accused shall be given written notice of the time and place of the hearing before the student conduct board and afforded not less than five instructional days notice thereof. Said notice shall contain:

(1) A statement of the time, place, and nature of the disciplinary hearing.

(2) A statement of allegations and reference to relevant sections of the student conduct code involved.

The accused shall be entitled to hear and examine evidence against him/her and be informed of the identity of its source, shall be entitled to present evidence or witnesses in his/her own behalf and cross-examine adverse witnesses as to relevant factual matters.

Only those matters presented at the hearing in the presence of the accused will be considered by the student conduct board in determining whether there is sufficient evidence to cause it to believe the accused violated the student conduct code.

The student may be represented by counsel of choice at the disciplinary hearing. If the student elects to choose a duly licensed attorney admitted to practice in any state as counsel, he/she may do so provided that not less than three instructional days notice of the same is given the ~~((dean of students))~~ vice-president of student services.

In all disciplinary proceedings, the college may be represented by the ~~((dean of students))~~ vice-president of student services, designee, and/or assistant attorney general who shall present the college's case against the student accused of violating rules of the student conduct code.

The ~~((chairman))~~ chair of the student conduct board shall preside at the disciplinary hearing and may establish organizational or operational procedures necessary to the conduct of the hearing. The ~~((chairman))~~ chair may rule on all questions before the student conduct board and may limit repetitious testimony and exclude immaterial or irrelevant evidence. Strict rules of evidence shall not be applied.

The proceedings of the hearing shall be recorded and copies of presented materials retained. Such shall be kept in the ~~((dean of students))~~ vice-president of student services office after use by the student conduct board.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-130 Conduct of disciplinary hearings. Hearings conducted by the student conduct board will be held in closed session except when the accused requests that students and staff other than those directly involved be invited to attend. If at any time during the conduct of a hearing invited guests are disruptive of the proceedings, the ~~((chairman))~~ chair of the student conduct board may exclude such persons from the hearing room.

Any student or staff member attending the student conduct board hearing as an invited guest who continues to disrupt said proceedings after the ~~((chairman))~~ chair of the student conduct board has asked him/her to cease and desist therefrom shall be subject to disciplinary action.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-135 Decision by the student conduct board. Upon conclusion of the disciplinary hearing, the student conduct board shall in closed session consider the evidence therein presented. By majority the board shall reach its conclusions and recommended disciplinary action. The board shall issue in written form its conclusions and recommended disciplinary action within three instructional days of the conclusion of the hearing to the student, the ~~((dean of students))~~ vice-president of student services, and the president. The disciplinary recommendations of the board shall be limited to the following:

(1) That the student or students be exonerated and the proceedings terminated.

(2) That any disciplinary action provided in WAC 132C-120-145 be imposed on the student or students.

Disciplinary action recommended by the student conduct board shall be automatically imposed unless the accused exercises his/her right of appeal to the president as provided in WAC 132C-120-115.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-140 Final decision on disciplinary appeals. The president of the college or any representative designated except the ~~((dean of students))~~ vice-president of student services shall on appeal review the record of the proceedings, the recommended action of the student conduct board, and any written statements of appeal filed by the

accused student. Following review of all submitted materials, the president or designee will, within three instructional days, issue in writing to the accused, student conduct board, and ~~((dean of students))~~ vice-president of student services approval of the recommendations of the student conduct board or shall specify what other action shall be taken.

No hearing shall be held at this stage and the decision of the president shall be final.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-145 Disciplinary actions. The following disciplinary actions are hereby established and shall be usual sanctions imposed upon violators of the code of student conduct:

Disciplinary warnings: Notice to a student either verbally or in writing that he/she has been in violation of the rules of student conduct or has otherwise failed to satisfy the college's expectations regarding conduct. Such warnings imply that continuation or repetition of the specific conduct involved or other misconduct will result in one of the more serious disciplinary actions described below.

Reprimand: Formal action censuring a student for violation of the rules of student conduct. Reprimands are always made in writing. A reprimand indicates to the student that continuation or repetition of the specific conduct involved or other misconduct will result in one of the more serious disciplinary actions described below.

Disciplinary probation: Formal action placing conditions upon the student's continued attendance for violation of the code of student conduct. The action will specify, in writing, the period of probation and any conditions such as limiting the student's participation in extracurricular activities. Disciplinary probation may be for a specified term or for an indefinite period which may extend to graduation or other termination of the student's enrollment in the college.

Dismissal: Termination of student status for violation of the code of student conduct. ~~((A student may be dismissed only with the approval of the president of the college.))~~ Dismissal may be for a stated or for an indefinite period. The notification dismissing a student will indicate, in writing, the term of the dismissal and any special conditions which must be met before readmission. There is no refund of tuition and fees for the quarter in which action is taken but tuition and fees paid in advance for a subsequent quarter are to be refunded.

Restitution: The college may demand restitution from individual students for destruction or damage of property. Failure to make arrangements for restitution promptly will result in the cancellation of the student's registration and will prevent the student from reregistration.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-150 Readmission after dismissal. Any student dismissed from the college for disciplinary reasons may be readmitted only on written petition to the ~~((dean of students))~~ vice-president of student services. Such petitions must indicate how specified conditions have been met

and, if the term of the dismissal has not expired, any reasons which support a reconsideration of the matter. ~~((Because the president of the college participates in all disciplinary actions dismissing students from the college, the president shall approve readmission of any student who has been formerly dismissed from the college for disciplinary reasons.))~~

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-210 Notice of summary suspension. If the college president or designee desires to exercise the authority to summarily suspend a student, the president or designee shall cause notice thereof to be served on that student by registered or certified mail at the student's last known address, or by personal service of such notice to the student. The notice shall be entitled *Notice of Summary Suspension* and shall state:

(1) The charges against the student including reference to provisions of the student conduct code and/or law.

(2) That the student charged must appear before the ~~((dean of students))~~ vice-president of student services for a summary suspension hearing at a time specified in the notice.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-215 Permission to enter or remain on campus. During the period of summary suspension, the student shall not enter any college property or attend any college function other than to meet with the ~~((dean of students))~~ vice-president of student services or attend a summary suspension hearing. However, the ~~((dean of students))~~ vice-president of student services may grant the student special permission to enter the campus for express purposes such as meeting with staff or students in preparation for a hearing.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-220 Procedures for summary suspension hearing. At the summary suspension hearing, the student against whom the violation or violations are alleged shall have the opportunity of proving to the ~~((dean of students))~~ vice-president of student services that there is no cause to believe that the violations cited on the notice of summary suspension did occur, and that summary suspension is not necessary or justifiable pursuant to WAC 132C-120-200 through 132C-120-220.

The student may offer oral testimony, present witnesses, submit any statement or affidavit, examine any affidavit or cross-examine any witness who may appear against him/her and submit any matter in extenuation or mitigation of the offense or offenses charged.

The ~~((dean of students))~~ vice-president of student services shall at the time of the summary suspension hearing determine whether there is probable cause to believe that a violation of law or of the code of student conduct has occurred and whether there is cause to believe summary suspension continues to be necessary pursuant to WAC 132C-120-200 through 132C-120-220. In the course of making

PROPOSED

such decisions the ((~~dean~~)) vice-president of student services may consider only the affidavits and oral testimony of persons who alleged that the student charged has committed a violation of law or the student conduct code and the oral testimony and affidavits submitted by the student charged.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-225 Decision by ((~~dean of students~~)) vice-president of student services. On conclusion of the summary suspension hearing and review of evidence and testimony presented therein, the ((~~dean of students~~)) vice-president of student services or designee may exercise a range of actions including but not limited to the following:

(1) Sustain the summary suspension for its duration or portion thereof, subject to disciplinary actions which may be brought under the code of student conduct rules following the suspension.

(2) Stay the summary suspension and impose any disciplinary action(s) enumerated in WAC 132C-120-110 Disciplinary proceedings of the code of student conduct.

Following the summary suspension hearing, the student shall be provided written notification of findings, conclusions, and disciplinary actions, if any. Notification and any attendant instructions or information will be provided through personal service or sent the student by registered or certified mail at the student's last known address.

AMENDATORY SECTION (Amending Order 24, Resolution No. 52-0585, filed 6/18/85)

WAC 132C-120-230 Failure to appear for summary suspension hearing. If a student who has been summarily suspended fails to appear for a summary suspension hearing with the ((~~dean of students~~)) vice-president of student services as required by WAC 132C-120-210, the suspension will automatically stand for its specified duration, after which the ((~~dean of students~~)) vice-president of student services or designee may initiate further disciplinary proceedings against the student as provided in the code of student conduct.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132C-120-030 Student records.

**WSR 05-06-038
PROPOSED RULES
BOARD OF ACCOUNTANCY**
[Filed February 25, 2005, 1:47 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-02-051.

Title of Rule and Other Identifying Information: WAC 4-25-530 Fees.

Hearing Location(s): Hilton Seattle Airport and Conference Center, 17620 Pacific Highway South, SeaTac, WA, on April 29, 2005, at 9:00 a.m.

Date of Intended Adoption: April 20, 2005.

Submit Written Comments to: Dana M. McInturff, Executive Director, P.O. Box 9131, Olympia, WA 98507-9131, e-mail webmaster@cpaboard.wa.gov, fax (360) 664-9190, by April 20, 2005.

Assistance for Persons with Disabilities: Contact Cheryl Sexton by April 20, 2005, TTY (800) 833-6384 or (360) 664-9194.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To increase the section fees charged to candidates applying to take the uniform certified public accountant (CPA) examination.

Reasons Supporting Proposal: Prometric, the testing centers used to administer the computer based CPA exam, has notified the board of its intent to increase the per hour seat charge from \$17 to \$22.50 effective with ATTs (authorizations to test) submitted July 1, 2005.

Statutory Authority for Adoption: RCW 18.04.065, 18.04.105(3).

Statute Being Implemented: RCW 18.04.065, 18.04.105 (3).

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

Name of Proponent: The Washington State Board of Accountancy, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dana M. McInturff, CPA, P.O. Box 9131, Olympia, WA, (360) 586-0163.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule will not have more than minor economic impact on business.

A cost-benefit analysis is not required under RCW 34.05.328. The Board of Accountancy is not one of the agencies required to submit to the requirements of RCW 34.05.-328.

February 7, 2005

Dana M. McInturff

Executive Director

AMENDATORY SECTION (Amending WSR 05-01-136, filed 12/16/04, effective 1/31/05)

WAC 4-25-530 Fees. The board shall charge the following fees:

- (1) Initial application for individual license, practice privilege, individual license through reciprocity, CPA firm license (sole proprietorships with no employees are exempt from the fee), or registration as a resident nonlicensee firm owner \$330

PROPOSED

- (2) Renewal of individual license, CPA-Inactive certificate, practice privilege, CPA firm license (sole proprietorships with no employees are exempt from the fee), or registration as a resident nonlicensee firm owner \$230
- (3) Application for CPA-Inactive certificateholder to convert to a license \$0
- (4) Application for reinstatement of license, practice privilege, CPA-Inactive certificate, or registration as a resident nonlicensee owner .. \$480
- (5) Quality assurance review (QAR) program fee (includes monitoring reviews for up to two years)
Firm submits reports for review \$400
Firm submits a peer review report for review \$60
Firm is exempted from the QAR program because the firm did not issue attest reports \$0
- (6) Late fee \$100
- (7) Amendment to firm license except for a change of firm address (there is no fee for filing a change of address) \$35
- (8) Copies of records, per page exceeding fifty pages \$0.15
- (9) Computer diskette listing of licensees, CPA-Inactive certificateholders, grants of practice privilege, registered resident nonlicensee firm owners, or firms \$75
- (10) Replacement CPA wall document \$50
- (11) Process transfer of grades \$35
- (12) Dishonored check fee (including, but not limited to, insufficient funds or closed accounts) \$35
- (13) CPA examination. Exam fees are comprised of section fees plus administrative fees. **The total fee is contingent upon which section(s) is/are being applied for and the number of sections being applied for at the same time.** The total fee is the section fee(s) for each section(s) applied for added to the administrative fee for the number of section(s) applied for.

- (a) Section fees:
 - (i) Auditing and attestation ~~\$(134.50)~~ 159.25
 - (ii) Financial accounting and reporting ~~\$(126.00)~~ 148.00
 - (iii) Regulation ~~\$(109.00)~~ 125.50
 - (iv) Business environment and concepts ~~\$(100.50)~~ 114.25
- (b) Administrative fees:

	1/1/04 -	After
	12/31/06	1/1/07

 - (i) First-time candidate - Four sections \$124.50 \$132.95
 - (ii) First-time candidate - Three sections \$111.00 \$119.10
 - (iii) First-time candidate - Two sections \$97.00 \$104.70
 - (iv) First-time candidate - One section \$83.00 \$90.30
 - (v) Reexam candidate - Four sections \$122.50 \$130.75
 - (vi) Reexam candidate - Three sections \$104.00 \$111.40
 - (vii) Reexam candidate - Two sections \$85.00 \$91.50
 - (viii) Reexam candidate - One section \$66.00 \$71.60
- National Association of State Boards of Accountancy candidate data base investigation fee for exam applications submitted without the applicant's Social Security number \$70 \$70

Note: The board may waive late filing fees for individual hardship including, but not limited to, financial hardship, critical illness, or active military deployment.

WSR 05-06-054
WITHDRAWAL OF PROPOSED RULES
OFFICE OF
INSURANCE COMMISSIONER
 (By the Code Reviser's Office)

[Filed March 1, 2005, 8:55 a.m.]

WAC 284-24A-005, 284-24A-010, 284-24A-033, 284-24A-045, 284-24A-050, 284-24A-055 and 284-24A-065, proposed by the Office of Insurance Commissioner in WSR 04-17-127 appearing in issue 04-17 of the State Register, which was distributed on September 1, 2004, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 05-06-055
WITHDRAWAL OF PROPOSED RULES
BUILDING CODE COUNCIL
 (By the Code Reviser's Office)
 [Filed March 1, 2005, 8:55 a.m.]

WAC 51-50-1707, proposed by the Building Code Council in WSR 04-17-019 appearing in issue 04-17 of the State Register, which was distributed on September 1, 2004, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 05-06-056
WITHDRAWAL OF PROPOSED RULES
BUILDING CODE COUNCIL
 (By the Code Reviser's Office)
 [Filed March 1, 2005, 8:55 a.m.]

WAC 51-11-1437, proposed by the Building Code Council in WSR 04-17-120 appearing in issue 04-17 of the State Register, which was distributed on September 1, 2004, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 05-06-057
WITHDRAWAL OF PROPOSED RULES
BUILDING CODE COUNCIL
 (By the Code Reviser's Office)
 [Filed March 1, 2005, 8:56 a.m.]

WAC 365-110-035, proposed by the Building Code Council in WSR 04-17-139 appearing in issue 04-17 of the State Register, which was distributed on September 1, 2004, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 05-06-058
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 (By the Code Reviser's Office)
 [Filed March 1, 2005, 8:56 a.m.]

WAC 296-30-090, proposed by the Department of Labor and Industries in WSR 04-17-093 appearing in issue 04-17 of the State Register, which was distributed on September 1, 2004,

is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
 Washington State Register

WSR 05-06-062
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed March 1, 2005, 12:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-16-093.

Title of Rule and Other Identifying Information: WAC 296-400A-025 What definitions do I need to know to understand these rules?, 296-400A-021 How do I obtain a medical gas piping installer endorsement?, 296-400A-045 What fees will I have to pay?, and 296-400A-022 What procedure is required for renewal of a journeyman medical gas endorsement?

Hearing Location(s): Department of Labor and Industries, 901 North Monroe Street, Suite 100, Spokane, WA, on April 26, 2005, at 1:00 p.m.; and at the Department of Labor and Industries, 7273 Linderson Way S.W., Room S117, Tumwater, WA, on April 29, 2005, at 10:00 a.m.

Date of Intended Adoption: May 17, 2005.

Submit Written Comments to: Sally Elliott, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, e-mail yous235@lni.wa.gov, fax (360) 902-5292, by April 29, 2005.

Assistance for Persons with Disabilities: Contact Sally Elliott by March 31, 2005, at yous235@lni.wa.gov 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 update the requirements for medical gas piping in order to be consistent with national and industry standards. This will alleviate the inconsistencies between the national and state standards.

The department is also proposing a 3.03% fee increase, which is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 2005. This fee increase is necessary to maintain the financial health and operational effectiveness of the plumbers program.

Reasons Supporting Proposal: The proposed rules will provide consistency between the national and industry standards with the state rules. The plumber rules will therefore be easier for the industry to use.

Statutory Authority for Adoption: RCW 18.106.040, 18.106.140.

Statute Being Implemented: Chapter 18.106 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: Pete Schmidt, Tumwater, Washington, (360) 902-5571; Implementation and Enforcement: Patrick Woods, Tumwater, Washington, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered whether the proposed rules relating to medical gas are subject to the Regulatory Fairness Act and has determined that they do not require a small business economic impact statement because the costs associated with the proposed changes are exempted by law (see RCW 19.85.025 referencing RCW 34.05.310(4)) from the small business economic impact requirements and/or do not impose a more than minor impact on business.

A small business economic impact statement was not prepared for the fee increase because of the exemption under RCW 34.05.328 (5)(b)(vi), since the changes in this rule making set or adjust fees pursuant to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. The department determined the medical gas rules do not require a cost-benefit analysis because the costs associated with the proposed changes are exempted by law (see RCW 19.85.025 referencing RCW 34.05.310(4)) and/or do not impose a more than minor impact on business.

A cost-benefit analysis was not prepared for the fee increase because of the exemption under RCW 34.05.328 (5)(b)(vi), since the changes in this rule making set or adjust fees pursuant to legislative standards.

March 1, 2005

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 04-12-046, filed 5/28/04, effective 6/30/04)

WAC 296-400A-005 What definitions do I need to know to understand these rules? Unless a different meaning is clearly required by the context, the following terms and definitions are important:

"Advisory board" is the state advisory board of plumbers.

"Audit" means an assessment, evaluation, examination or investigation of, contractor's accounts, books and records for the purpose of verifying the contractor's compliance with RCW 18.106.320.

"Backflow assembly" or **"backflow prevention assembly"** or **"backflow preventer"** is a device as described in the Uniform Plumbing Code used to prevent the undesired reversal of flow of water or other substances through a cross-connection into the public water system or consumer's potable water system.

"Backflow assembly tester" is an individual certified by the department of health to perform tests to backflow assemblies.

"Continuing education" is approved plumbing and electrical courses for journeyman and residential specialty plumbers, to meet the requirements to maintain their plumbing certification and for trainees or individuals to become certified plumbers in Washington.

"Continuing education course provider" is an entity approved by the department, in consultation with the state advisory board of plumbers, to provide continuing education training for journeyman, specialty residential plumbers and trainees. All training course providers must comply with the requirements in WAC 296-400A-028.

"Continuity affidavit" is a form developed by the department that is used to verify whether medical gas pipe installation work (brazing process) has been performed biannually. This form is provided to the department annually by the person holding the medical gas piping installer endorsement and requires the signature of the employer of the medical gas piping installer. Continuity is a visual examination by the employer of the brazing that was performed.

"Contractor" means any person, corporate or otherwise, who engages in, or offers or advertises to engage in, any work covered by the provisions of chapter 18.106 RCW by way of trade or business, or any person, corporate or otherwise, who employs anyone, or offers or advertises to employ anyone, to engage in any work covered by the provisions of chapter 18.106 RCW and is registered as a contractor under chapter 18.27 RCW.

"Dispatcher" means the contractor's employee who authorized the work assignment of the person employed in violation of chapter 18.106 RCW.

"Department" is the department of labor and industries.

"Director" is the director of the department of labor and industries.

"Journeyman plumber" is anyone who has learned the commercial plumbing trade and has been issued a journeyman certificate of competency by the department. A journeyman plumber may work on plumbing projects including residential, commercial and industrial worksite locations.

"Medical gas piping installer" is anyone who has been issued a medical gas piping installer endorsement of competency by the department.

"Medical gas piping systems" are piping systems that convey or involve oxygen, nitrous oxide, high pressure nitrogen, medical compressed air (~~and~~), or medical vacuum systems.

"Plumbing" is that craft involved in installing, altering, repairing and renovating potable water systems, liquid waste systems and medical gas piping systems within a building. The installation of water softening or water treatment equipment into a water system is not considered plumbing.

"Records" include, but are not limited to, all bids, invoices, billing receipts, time cards and payroll records that show the work was performed, advertised, or bid.

"Specialty plumber" is anyone who has been issued a specialty plumbers certificate of competency by the department limited to:

(a) Installation, maintenance and repair of plumbing for single-family dwellings, duplexes and apartment buildings which do not exceed three stories; or

(b) Maintenance and repair of backflow assemblies located within a residential or commercial building or structure. For the purposes of this subsection, "maintenance and repair" includes cleaning and replacing internal parts of an assembly, but does not include installing or replacing backflow assemblies.

"Supervision" for the purpose of these rules means within sight or sound. Supervision requirements are met when the supervising plumber is on the premises and within sight or sound of the individual who is being trained.

"Training course provider" is an entity approved by the department, in consultation with the state advisory board of plumbers, to provide medical gas piping installer training. All training course providers must comply with the requirements in WAC 296-400A-026.

"Trainee plumber" is anyone who has been issued a trainee certificate and is learning or being trained in the plumbing trade with direct supervision of either a journeyman plumber or specialty plumber working in their specialty.

AMENDATORY SECTION (Amending WSR 04-12-046, filed 5/28/04, effective 6/30/04)

WAC 296-400A-021 How do I obtain a medical gas piping installer endorsement? (Only journeyman plumbers holding active state of Washington certification may apply for this endorsement.)

You can obtain a medical gas piping installer endorsement by completing the following requirements:

- (1) Submit an application to the department; and
- (2) Pay the examination application fee shown in WAC 296-400A-045; and
- (3) Submit the required evidence of approved training to the department; and
- (4) Pass the written and practical competency examination;*and
- (5) Pay the endorsement issuance fee shown in WAC 296-400A-045 to the department.

~~((At the effective date of these medical gas piping installer rules, you may apply for the state of Washington medical gas piping installer endorsement in lieu of taking the medical gas piping installer examination, if you hold a current medical gas piping installers certificate issued by a department recognized training course provider. This oppor-~~

~~tunity to obtain your endorsement without taking the examination will expire one year from the effective date of these medical gas piping installer rules.))~~

*The written and practical competency examination is performed under contract with a nationally recognized testing agency. The results of the competency examination will be forwarded to the department for processing.

NEW SECTION

WAC 296-400A-022 What procedure is required for renewal of a journeyman medical gas endorsement? (1) Maintain an active Washington state journeyman certification;

- (2) Submit affidavit of continuity;
- (3) Submit affidavit of review of current medical gas code adopted by the Washington state building code council;
- (4) Pay the appropriate fee: If renewal occurs before expiration of current endorsement, the renewal fee shown in WAC 296-400A-045; if renewal occurs within ninety days of expiration of current endorsement, you must pay a double renewal fee; if the current endorsement has been expired for ninety-one days or more, you must take an examination relating to medical gas installation administered by the department and pay the examination application fee shown in WAC 296-400A-045; and
- (5) Contractors shall accurately verify and attest to brazing performed by the journeyman by sending an affidavit to the department.

AMENDATORY SECTION (Amending WSR 04-12-046, filed 5/28/04, effective 6/30/04)

WAC 296-400A-045 What fees will I have to pay? The following are the department's plumbers fees:

(1) Fees related to journeyman and specialty plumber certification:

<u>Type of Fee</u>	<u>Period Covered by Fee</u>	<u>Dollar Amount of Fee</u>
Examination application	Per examination	\$((115.30)) <u>118.70</u>
Reciprocity application*	Per application	\$((115.30)) <u>118.70</u>
Trainee certificate**	One year	\$((34.50)) <u>35.50</u>
Temporary permit (not applicable for backflow assembly maintenance and repair specialty)	90 days	\$((57.40)) <u>59.10</u>
Journeyman or residential specialty certificate***	Two years (fee may be prorated based on months)	\$((92.40)) <u>95.10</u>
Backflow assembly maintenance and repair specialty certificate	Two years (fee may be prorated based on months)	\$((63.80)) <u>65.70</u>
Medical gas endorsement ((examination)) application	Per application	\$((42.60)) <u>43.80</u>
Medical gas endorsement***	One year	\$((31.80)) <u>32.70</u>
Medical gas endorsement examination fee****		See note below.
Medical gas endorsement training course fee*****		See note below.
Reinstatement fee for residential and journeyman certificates		\$((184.90)) <u>190.50</u>

PROPOSED

Reinstatement fee for backflow assembly maintenance and repair specialty certificates	\$((+106.50)) <u>190.70</u>
Replacement fee for all certificates	\$((+15.80)) <u>16.20</u>
Refund processing fee	\$((+25.00)) <u>25.70</u>
Unsupervised trainee endorsement	\$((+25.00)) <u>25.70</u>
Inactive status fee	\$((+25.00)) <u>25.70</u>
Certified letter fee	\$((+25.00)) <u>25.70</u>
Continuing education new course fee*****	\$((+150.00)) <u>154.50</u>
Continuing education renewal course fee*****	\$((+75.00)) <u>77.20</u>
Continuing education classes provided by the department	\$12 per continuing education training hour \$8 per continuing education training hour for correspondence and internet courses

* Reciprocity application is only allowed for applicants that are applying work experience toward certification that was obtained in state(s) with which the department has a reciprocity agreement.

** The trainee certificate shall expire one year from the date of issuance and must be renewed on or before the date of expiration.

*** This fee applies to either the original issuance or a renewal of a certificate. If you have passed the plumbers certificate of competency examination or the medical gas piping installer endorsement examination and paid the certificate fee, you will be issued a plumber certificate of competency or a medical gas endorsement that will expire on your birth date.

The annual renewal of a Medical Gas Piping Installer Endorsement shall include a continuity affidavit verifying that brazing work has been performed (~~within the past year~~) biannually.

**** This fee is paid directly to a nationally recognized testing agency under contract with the department. It covers the cost of preparing and administering the written competency examination and the materials necessary to conduct the practical competency examination required for the medical gas piping system installers endorsement. **This fee is not paid to the department.**

***** This fee is paid directly to a training course provider approved by the department, in consultation with the state advisory board of plumbers. It covers the cost of providing training courses required for the medical gas piping system installer endorsement. **This fee is not paid to the department.**

***** This fee is for a three-year period or code cycle.

(2) If your birth year is:

(a) In an even-numbered year, your certificate will expire on your birth date in the next even-numbered year.

(b) In an odd-numbered year, your certificate will expire on your birth date in the next odd-numbered year.

WSR 05-06-063
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed March 1, 2005, 12:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-20-077.

Title of Rule and Other Identifying Information: Electrical safety standards, administration, and installation (chapter 296-46B WAC).

Hearing Location(s): Department of Labor and Industries, 15 West Yakima Avenue, Suite 100, Yakima, WA, on April 5, 2005, at 11:00 a.m.; and at the Department of Labor and Industries, 7273 Linderson Way S.W., Room S117, Tumwater, WA, on April 6, 2005, at 10:00 a.m.

Date of Intended Adoption: April 19, 2005.

Submit Written Comments to: Sally Elliott, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, e-mail yous235@lni.wa.gov, fax (360) 902-5292, by April 6, 2005.

Assistance for Persons with Disabilities: Contact Sally Elliott by March 21, 2005, at yous235@lni.wa.gov or (360) 902-6411.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The primary purpose of this rule making is to update the electrical rules to adopt the current American National Standard Institute (ANSI) standards and the 2005 National Electrical Code (NEC), which are national consensus standards that the industry is already using. Changes will also make the electrical rule easier to use and understand, correcting some typographical errors and reformatting for usability. The rule also allowed the electrical industry to make proposals to improve code interpretations and align rules with industry practices.

The rule making will:

- Update references to the National Electrical Code (NEC) and National Fire Protection Association (NFPA) throughout the rule.
- Update the wording to be consistent with the ANSI and NEC, which will clarify the wording for ease of use and understanding.
- Make minor technical changes that will align the rules with industry installation practices.
- Update the rule for the creation of an open window for accepting previous work experience for appliance repair workers seeking approval for certification.
- Make necessary housekeeping changes.
- Make substantive and clarifying changes based on recommendations from stakeholder groups and the Electrical Board.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 19.28.006, 19.28.010, 19.28.031, 19.28.041, 19.28.061, 19.28.101, 19.28.131, 19.28.161, 19.28.171, 19.28.191, 19.28.201, 19.28.211, 19.28.241, 19.28.251, 19.28.281, 19.28.311, 19.28.321, 19.28.400, 19.28.420, 19.28.490, 19.28.551.

Statute Being Implemented: Chapter 19.28 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: Ron Fuller, Tumwater, (360) 902-5249; Implementation and Enforcement: Patrick Woods, Tumwater, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered whether these proposed rules are subject to the Regulatory Fairness Act and has determined that they do not require a small business economic impact statement because the costs associated with the proposed changes are exempted by law since the proposed changes are updating the rule based upon national consensus standards and clarifying the rule for ease of use and understanding (see RCW 19.85.025 referencing RCW 34.05.310(4)). Therefore, the department is exempt from the small business economic impact requirements because the proposed changes do not impose a more than minor economic impact on business.

A cost-benefit analysis is not required under RCW 34.05.328. The department determined the proposed changes do not require a cost-benefit analysis because the costs associated with the proposed changes are exempted by law since the proposed changes are updating the rule based upon national consensus standards and clarify the rule for ease of use and understanding (see RCW 19.85.025 referencing RCW 34.05.310(4)).

March 1, 2005

Paul Trause

Director

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

WAC 296-46B-010 General. Adopted standards - inspectors - city inspection - variance.

(1) The ~~((2002))~~ 2005 edition of the National Electrical Code (NFPA 70 - ~~((2002))~~ 2005) including Annex A, B, and C ~~((, but excluding Article 80))~~; the ~~((1999))~~ 2003 edition of ~~((Centrifugal Fire Pumps))~~ standard for the Installation of Stationary Pumps for Fire Protection (NFPA 20 - ~~((1999))~~ 2003); the 2002 edition of standard for Emergency and Standby Power Systems (NFPA 110 - 2002); Commercial Building Telecommunications Cabling Standard (ANSI/TIA/EIA 568-B.1-May 2001 including Annex 1 through 5); Commercial Building Standard for Telecommunications Pathway and Spaces (ANSI/TIA/EIA 569-A-7 December 2001 including Annex 1 through 4); Commercial Building Grounding and Bonding Requirements for Telecommunications (ANSI/TIA/EIA 607 - A - ~~((1994))~~ 2002); Residential Telecommunications Cable Standard (ANSI/TIA/EIA 570-A-~~((1999))~~ December 2001); and the National Electrical Safety Code (NESC C2-2002 excluding Appendixes A and B) are hereby

adopted by reference as part of this chapter. Other codes, manuals, and reference works referred to in this chapter are available for inspection and review in the Olympia office of the electrical section of the department during business hours.

The requirements of this chapter will be observed where there is any conflict between this chapter and the National Electrical Code (NFPA 70), Centrifugal Fire Pumps (NFPA 20), the Emergency and Standby Power Systems (NFPA 110), ANSI/TIA/EIA 568-~~((A))~~ B, ANSI/TIA/EIA 569-A, ANSI/TIA/EIA 607, ANSI/TIA/EIA 570, or the NESC C2-2002.

The National Electrical Code will be followed where there is any conflict between ~~((Centrifugal Fire Pumps))~~ standard for Installation of Stationary Pumps for Fire Protection (NFPA 20), standard for Emergency and Standby Power Systems (NFPA 110), ANSI/TIA/EIA 568-~~((A))~~ B, ANSI/TIA/EIA 569-A, ANSI/TIA/EIA 607, ANSI/TIA/EIA 570, or the NESC C2-2002 and the National Electrical Code (NFPA 70).

(2) Electrical inspectors will give information as to the interpretation or application of the standards in this chapter, but will not lay out work or act as consultants for contractors, owners, or users.

(3) The department may enforce city electrical ordinances where those governmental agencies do not make electrical inspections under an established program.

(4) A variance from the electrical installation requirements of chapter 19.28 RCW or this chapter may be granted by the department when it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

(a) Any electrical permit holder may request a variance.

(b) The permit holder must make the request in writing, using a form provided by the department, to the chief electrical inspector. The request must include:

(i) A description of the installation as installed or proposed;

(ii) A detailed list of the applicable code violations;

(iii) A detailed list of safety violations;

(iv) A description of the proposal for meeting equivalent objectives for code and/or safety violations; and

(v) Appropriate variance application fee as listed in WAC 296-46B-905.

Inspection.

(5) Electrical wiring or equipment subject to this chapter must be sufficiently accessible, at the time of inspection, to ~~((permit))~~ allow the inspector to visually inspect the installation to verify conformance with the NEC and any other electrical requirements of this chapter.

(6) Cables or raceways, fished according to the NEC, do not require visual inspection.

(7) ~~((Wires pulled into conduit systems are not considered concealed.))~~ All required equipment grounding conductors installed in concealed ~~((raceway))~~ cable~~((s))~~ or flexible conduit systems must be completely installed and made up at the time of the rough-in cover inspection.

(8) The installation of all structural elements and mechanical systems (e.g., framing, plumbing, ducting, etc.) must be complete in the area(s) where electrical inspection is requested. Prior to completion of an exterior wall cover inspection, either:

(a) The exterior shear panel/sheathing nail inspection must be completed by the building code inspector; or

(b) All wiring and device boxes must be a minimum of 63 mm (2 1/2") from the exterior surface of the framing member; or

(c) All wiring and device boxes must be protected by a steel plate a minimum of 1.6 mm (1/16") thick and of appropriate width and height installed to cover the area of the wiring or box.

(9) In order to meet the minimum electrical safety standards for installations, all materials, devices, appliances, and equipment, not exempted in chapter 19.28 RCW, must conform to applicable standards recognized by the department, be listed, or field evaluated. Other than as allowed in WAC 296-46B-030(3), equipment must not be energized until such standards are met unless specific permission has been granted by the chief electrical inspector.

(10) The department will recognize the state department of transportation as the inspection authority for telecommunications systems installation within the rights of way of state highways provided the department of transportation maintains and enforces an equal, higher or better standard of construction and of materials, devices, appliances and equipment than is required for telecommunications systems installations by chapter 19.28 RCW and this chapter.

Inspection - move on buildings and structures.

(11) All buildings or structures relocated into or within the state:

(a) Other than residential, wired inside the United States (U.S.) must be inspected to ensure compliance with current requirements of chapter 19.28 RCW and the rules developed by the department.

(b) Wired outside the U.S. or Canada must be inspected to ensure compliance with all current requirements of chapter 19.28 RCW and the rules developed by the department.

(12) Residential buildings or structures wired in the U.S., to NEC requirements, and moved into or within a county, city, or town must be inspected to ensure compliance with the NEC requirements in effect at the time and place the original wiring was made. The building or structure must be inspected to ensure compliance with all current requirements of chapter 19.28 RCW and the rules developed by the department if:

(a) The original occupancy classification of the building or structure is changed as a result of the move; or

(b) The building or structure has been substantially remodeled or rehabilitated as a result of the move.

(13) Residential buildings or structures wired in Canada to Canadian Electrical Code (CEC) standards and moved into or within a county, city, or town, must be inspected to ensure compliance with the following minimum safety requirements:

(a) Service, service grounding, and service bonding must comply with the current chapter 19.28 RCW and rules adopted by the department.

(b) Canadian Standards Association (CSA) listed Type NMD cable is allowed with the following qualifications:

(i) CSA listed Type NMD cable, American Wire Gauge #10 and smaller installed after 1964 utilizing an equipment grounding conductor smaller than the phase conductors, must be:

(A) Replaced with a cable utilizing a full-size equipment grounding conductor; or

(B) Protected by a ground fault circuit interrupter protection device.

(ii) CSA listed Type NMD cable, #8 AWG and larger, must:

(A) Utilize an equipment grounding conductor sized according to the requirements of the NEC in effect at the time of the installation;

(B) Be protected by a ground fault circuit interrupter protection device; or

(C) Be replaced.

(c) Other types of wiring and cable must be:

(i) Replaced with wiring listed or field evaluated in accordance with U.S. standards by a laboratory approved by the department; or

(ii) Protected by a ground fault circuit interrupter protection device and arc fault circuit protection device.

(d) Equipment, other than wiring or panelboards, manufactured and installed prior to 1997 must be listed and identified by laboratory labels approved by the department or CSA labels.

(e) All panelboards must be listed and identified by testing laboratory labels approved by the department with the following qualifications:

(i) CSA listed panelboards labeled "Suitable for Use as Service Equipment" will be considered to be approved as "Suitable for Use only as Service Equipment."

(ii) CSA listed panelboards must be limited to a maximum of 42 circuits.

(iii) CSA listed panelboards used as lighting and appliance panelboards as described in the NEC, must meet all current requirements of the NEC and this chapter.

(f) Any wiring or panelboards replaced or changed as a result of the move must meet current requirements of chapter 19.28 RCW and this chapter.

(g) The location, type, and ground fault circuit interrupter protection of receptacles and equipment in a bathroom, kitchen, basement, garage, or outdoor area must meet the Washington requirements in effect at the time the wiring was installed.

(h) 4, 15-ampere, kitchen small appliance circuits will be accepted in lieu of 2, 20-ampere, kitchen small appliance circuits. Receptacles will not be required to be added on kitchen peninsular or island counters.

(i) Spacing requirements for all other receptacles must meet the Washington requirements in effect at the time the wiring was installed.

(j) Receptacles installed above baseboard or fixed wall space heaters must be removed and the outlet box covered with a blank cover. The receptacle is required to be relocated as closely as possible to the existing location.

(k) Lighting outlet and switch locations must meet the Washington requirements in effect at the time the wiring was installed.

(l) Dedicated 20-ampere small appliance circuits are not required in dining rooms.

(m) Electric water heater branch circuits must be adequate for the load.

(n) The location, type, and circuit protection of feeders must meet the Washington requirements in effect at the time the wiring was installed.

Classification or definition of occupancies.

(14) Occupancies are classified and defined as follows:

(a) Educational facility refers to a building or portion of a building used primarily for educational purposes by six or more persons at one time for twelve hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade twelve), colleges, academies, universities, and trade schools.

(b) Institutional facility refers to a building or portion of a building used primarily for detention and correctional occupancies where some degree of restraint or security is required for a time period of twenty-four or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails, detention centers, correctional centers, and residential-restrained care.

(c) Health or personal care facility. Health or personal care facility refers to buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated.

(i) "Hospital" means any institution, place, building, or agency providing accommodations, facilities and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis.

(ii) "Nursing home," "nursing home unit" or "long-term care unit" means a group of beds for the accommodation of patients who, because of chronic illness or physical infirmities, require skilled nursing care and related medical services but are not acutely ill and not in need of the highly technical or specialized services ordinarily a part of hospital care.

(iii) "Boarding home" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing board and domiciliary care to seven or more aged persons not related by blood or marriage to the operator. It must not include any home, institution, or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution, or section thereof.

(iv) "Private alcoholism hospital" means an institution, facility, building, or equivalent designed, organized, maintained, and operated to provide diagnosis, treatment, and care of individuals demonstrating signs or symptoms of alcoholism, including the complications of associated substance use

and other medical diseases that can be appropriately treated and cared for in the facility and providing accommodations, medical services, and other necessary services over a continuous period of twenty-four hours or more for two or more individuals unrelated to the operator, provided that this chapter will not apply to any facility, agency, or other entity which is owned and operated by a public or governmental body.

(v) "Alcoholism treatment facility" means a private place or establishment, other than a licensed hospital, operated primarily for the treatment of alcoholism.

(vi) "Private psychiatric hospital" means a privately owned and operated establishment or institution which: Provides accommodations and services over a continuous period of twenty-four hours or more, and is expressly and exclusively for observing, diagnosing, or caring for two or more individuals with signs or symptoms of mental illness, who are not related to the licensee.

(vii) "Maternity home" means any home, place, hospital, or institution in which facilities are maintained for the care of four or more women, not related by blood or marriage to the operator, during pregnancy or during or within ten days after delivery: Provided, however, that this definition will not apply to any hospital approved by the American College of Surgeons, American Osteopathic Association or its successor.

(viii) "Birth center" or "childbirth center" means a type of maternity home which is a house, building, or equivalent organized to provide facilities and staff to support a birth service, provided that the birth service is limited to low-risk maternal clients during the intrapartum period.

(ix) "Ambulatory surgical facility" means a facility, not a part of a hospital, providing surgical treatment to patients not requiring inpatient care in a hospital. This term does not include a facility in the offices of private physicians or dentists, whether for individual or group practice, if the privilege of using such facility is not extended to physicians or dentists outside the individual or group practice. (NEC; Ambulatory Health Care Center.)

(x) "Hospice care center" means any building, facility, place, or equivalent, organized, maintained, and operated specifically to provide beds, accommodations, facilities, and services over a continuous period of twenty-four hours or more for palliative care of two or more individuals, not related to the operator, who are diagnosed as being in the latter stages of an advanced disease which is expected to lead to death.

(xi) "Renal hemodialysis clinic" means a facility in a building or part of a building which is approved to furnish the full spectrum of diagnostic, therapeutic, and rehabilitative services required for the care of renal dialysis patients (including inpatient dialysis furnished directly or under arrangement). (NEC; Ambulatory Health Care Center.)

(xii) "Medical, dental, and chiropractic clinic" means any clinic or physicians' office where patients are not regularly kept as bed patients for twenty-four hours or more. Electrical plan review not required.

(xiii) "Residential treatment facility for psychiatrically impaired children and youth" means a residence, place, or facility designed and organized to provide twenty-four-hour residential care and long-term individualized, active treat-

ment for clients who have been diagnosed or evaluated as psychiatrically impaired.

(xiv) "Adult residential rehabilitation center" means a residence, place, or facility designed and organized primarily to provide twenty-four-hour residential care, crisis and short-term care and/or long-term individualized active treatment and rehabilitation for clients diagnosed or evaluated as psychiatrically impaired or chronically mentally ill as defined herein or in chapter 71.24 RCW.

(xv) "Group care facility" means a facility other than a foster-family home maintained and operated for the care of a group of children on a twenty-four-hour basis.

(d) Licensed day care centers.

(i) "Child day care center" means a facility providing regularly scheduled care for a group of children one month of age through twelve years of age for periods less than twenty-four hours; except, a program meeting the definition of a family child care home will not be licensed as a day care center without meeting the requirements of WAC 388-150-020(5).

(ii) "School-age child care center" means a program operating in a facility other than a private residence accountable for school-age children when school is not in session. The facility must meet department of licensing requirements and provide adult supervised care and a variety of developmentally appropriate activities.

(iii) "Family child day care home" means the same as "family child care home" and "a child day care facility" licensed by the state, located in the family abode of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home. Electrical plan review not required.

Plan review for educational, institutional or health care facilities and other buildings.

(15) Plan review is a part of the electrical inspection process; its primary purpose is to determine:

(a) That ((loads and)) service/feeder conductors are calculated and sized according to the proper NEC or WAC article or section;

(b) The classification of hazardous locations; and

(c) The proper design of emergency and standby systems.

(16) ((All electrical plans for new or altered electrical installations in educational, institutional, and health or personal care occupancies classified or defined in this chapter must be reviewed and approved before the electrical installation or alteration is started. Approved plans must be available on the job site for use during the electrical installation or alteration and for use by the electrical inspector. Plans are not required to be on the job site for a preliminary electrical inspection if:

(a) Completed electrical plans have been submitted and conditionally accepted by the department for review; and

(b) The permit holder has requested the inspection in writing to the department noting that the preliminary electrical inspection is conditional and subject to any changes required from the plan review process. No other inspections will be allowed until the department has approved all submitted plans and the approved plans are on the job site.

(17) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting electrical engineer registered under chapter 18.43 RCW, and chapters 246B-320, 180-29, and 388-97 WAC and stamped with the engineer's mark and signature.

(18) Plans for these electrical installations within cities that perform electrical inspections within their jurisdiction, and provide an electrical plan review program that equals or exceeds the department's program in plans examiner minimum qualifications per chapter 19.28 RCW, must be submitted to that city for review rather than to the department, unless the agency licensing or regulating the installation specifically requires review by the department.

(19) Refer plans for department review to the Electrical Section, Department of Labor and Industries, P.O. Box 44460, Olympia, Washington 98504-4460.

(20) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panelboard schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department. Plan review fees are not required to be paid until the review is completed. Plans will not be returned until all fees are paid.

(21) Plan review for new or altered electrical installations of other types of construction may be voluntarily requested by the owner or electrical contractor.

(22) For existing structures where additions or alterations to feeders and services are proposed, Article 220.35(1) NEC may be used. If Article 220.35(1) NEC is used, the following is required:

(a) The date of the measurements.

(b) A statement attesting to the validity of the demand data, signed by a professional electrical engineer or the electrical administrator of the electrical contractor performing the work.

(c) A diagram of the electrical system identifying the point(s) of measurement.

(d) Building demand measured continuously on the highest loaded phase of the feeder or service over a thirty day period, with demand peak clearly identified. (Demand peak is defined as the maximum average demand over a fifteen-minute interval.)

(23) Due to their minimal load requirements, plan review of the following limited energy systems will not be required: Fire alarm, nurse call, intrusion or security alarm, intercom, public address, music, energy management, programmed clock, or telecommunications.

(24) When the service or feeder load calculation is affected five percent or less by the addition or alteration of five or less branch circuits, plan review for the branch circuits

may be requested from the department's local inspection office. Permission for such small project plan review may be granted at the discretion of the electrical inspection field supervisor, the plans examiner supervisor, or the chief electrical inspector.)) Electrical plan review.

(a) Electrical plan review is not required for:

(i) Lighting specific projects that result in an electrical load reduction on each feeder involved in the project;

(ii) Low voltage systems;

(iii) Projects where the:

Service and feeder load calculation is affected by five percent or less;

Work does not involve critical branch circuits or feeders as defined in NEC 517.2; and

Affected service or feeder does not exceed 250 volts, 400 amperes;

(iv) Stand-alone utility fed services that do not exceed 250 volts, 400 amperes where the project's distribution system does not include:

Emergency systems other than listed unit equipment per NEC 700.12(E);

Critical branch circuits or feeders as defined in NEC 517.2; or

A required fire pump system.

(b) Electrical plan review is required for all other new or altered electrical projects in educational, institutional, or health care occupancies classified or defined in this chapter.

(c) If a review is required, the electrical plan must be submitted for review and approval before the electrical work is begun.

(d) Electrical plans.

(i) The plan must be submitted for plan review prior to beginning any electrical inspection. If a plan is rejected during the plan review process, no electrical inspection(s) may proceed until the plan is resubmitted and a conditional acceptance is granted.

(ii) The submitted plan will receive a preliminary review within seven business days after receipt by the department.

(iii) If the submitted plan:

Is rejected at the preliminary review, no inspection(s) will be made on the project.

Receives conditional acceptance, the permit holder may request a preliminary inspection(s) in writing to the department. The request must note that the preliminary inspection(s) is conditional and subject to any alterations required from the final plan review process.

(iv) Once the submitted plan has plan review approval, the approved plan must be available on the job site for use by the electrical inspector.

(v) The approved plan must be available on the job site, for use by the electrical inspector, prior to the final electrical inspection.

(vi) If the approved plan requires changes from the conditionally accepted plan, alterations to the project may be required to make the project comply with the approved plan.

(e) All electrical plans for educational facilities, hospitals and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW, and chapters 246-320, 180-29, and 388-97 WAC and stamped with the engineer's mark and signature.

(f) Refer plans for department review to the Electrical Section, Department of Labor and Industries, P.O. Box 44460, Olympia, Washington 98504-4460.

(g) Plans for projects within cities that perform electrical inspections within their jurisdiction, and provide an electrical plan review program that equals or exceeds the department's program in plans examiner minimum qualifications per chapter 19.28 RCW, must be submitted to that city for review, unless the agency regulating the installation specifically requires review by the department.

(h) Plans to be reviewed by the department must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include switchboard and/or panelboard schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department. Plan review fees are not required to be paid until the review is completed. Plans will not be returned until all fees are paid. Fees will be calculated based on the date the plans are received by the department.

(i) The department may perform the plan review for new or altered electrical installations of other types of construction when the owner or electrical contractor makes a voluntary request for review.

(j) For existing structures where additions or alterations to feeders and services are proposed, Article 220.35(1) NEC may be used. If Article 220.35(1) NEC is used, the following is required:

(i) The date of the measurements.

(ii) A statement attesting to the validity of the demand data, signed by a professional electrical engineer or the electrical administrator of the electrical contractor performing the work.

(iii) A diagram of the electrical system identifying the point(s) of measurement.

(iv) Building demand measured continuously on the highest-loaded phase of the feeder or service over a thirty-day period, with demand peak clearly identified. (Demand peak is defined as the maximum average demand over a fifteen-minute interval.)

Wiring methods for designated building occupancies.

((25)) (17) Wiring methods, equipment and devices for health or personal care, educational and institutional facilities as defined or classified in this chapter and for places of assembly for one hundred or more persons must comply with Tables 010-1 and 010-2 of this chapter and the notes thereto. The local building authority will determine the occupant load of places of assembly.

((26)) (18) Listed tamper-resistant receptacles or listed tamper-resistant receptacle cover plates are required in all licensed day care centers, all licensed children group care facilities and psychiatric patient care facilities where accessible to children five years of age and under. Listed tamper-

resistant receptacles are required in psychiatric patient care facilities where accessible to psychiatric patients over five years of age.

Notes to Tables 010-1 and 010-2.

1. Wiring methods in accordance with the NEC unless otherwise noted.
2. Metallic or nonmetallic raceways, MI, MC, or AC cable, except that metallic raceway or cable is required in places of assembly.
3. Limited energy system may use wiring methods in accordance with the NEC.

Table 010-1 Health or Personal Care Facilities

Health or Personal Care Facility Type ⁽¹⁾	Plan Review Required
Hospital	YES
Nursing home unit or long-term care unit	YES
Boarding home or assisted living facility	YES
Private alcoholism hospital	YES
Alcoholism treatment facility	YES
Private psychiatric hospital	YES
Maternity home	YES
Birth center or childbirth center	NO
Ambulatory surgery facility	YES
Hospice care center	NO
Renal hemodialysis clinic	YES
Medical, dental, and chiropractic clinic	NO
Residential treatment facility for psychiatrically impaired children and youth	YES
Adult residential rehabilitation center	YES
Group care facility	NO

Table 010-2 Educational and Institutional Facilities, Places of Assembly or Other Facilities

Educational, Institutional or Other Facility Type	Plan Review Required
Educational ⁽²⁾⁽³⁾	YES
Institutional ⁽²⁾⁽³⁾	YES
Places of assembly for 100 or more persons ⁽¹⁾	NO
Child day care center ⁽¹⁾	NO
School-age child care center ⁽¹⁾	NO
Family child day care home, family child care home, or child day care facility ⁽¹⁾	NO

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

WAC 296-46B-020 General definitions. (1) All definitions listed in the National Electrical Code and chapter 19.28 RCW are recognized in this chapter unless other specific definitions are given in this chapter.

(2) **"Accreditation"** is a determination by the department that a laboratory meets the requirements of this chapter and is therefore authorized to evaluate electrical products that are for sale in the state of Washington.

(3) **"Administrative law judge"** means an administrative law judge (ALJ) appointed pursuant to chapter 34.12 RCW and serving in board proceedings pursuant to chapter 19.28 RCW and this chapter.

(4) **"ANSI"** means American National Standards Institute. Copies of ANSI standards are available from the National Conference of States on Building Codes and Standards, Inc.

(5) **"Appeal"** is a request for review of a department action by the board as authorized by chapter 19.28 RCW.

(6) **"Appellant"** means any person, firm, partnership, corporation, or other entity that has filed an appeal or request for board review.

(7) **"ASTM"** means the American Society for Testing and Materials. Copies of ASTM documents are available from ASTM International.

(8) **"AWG"** means American Wire Gauge.

(9) **"Basement"** means that portion of a building that is partly or completely below grade plane. A basement shall be considered as a story above grade plane and not a basement where the finished surface of the floor above the basement is:

(a) More than 1829 mm (six feet) above grade plane;

(b) More than 1829 mm (six feet) above the finished ground level for more than 50% of the total building perimeter; or

(c) More than 3658 mm (twelve feet) above the finished ground level at any point.

Also see "mezzanine" and "story."

(10) **"Board"** means the electrical board established and authorized under chapter 19.28 RCW.

~~((10))~~ (11) **"Chapter"** means chapter 296-46B WAC unless expressly used for separate reference.

~~((11))~~ (12) **"Category list"** is a list of nonspecific product types determined by the department.

~~((12))~~ (13) A **"certified electrical product"** is an electrical product to which a laboratory, accredited by the state of Washington, has the laboratory's certification mark attached.

~~((13))~~ (14) A **"certification mark"** is a specified laboratory label, symbol, or other identifying mark that indicates the manufacturer produced the product in compliance with appropriate standards or that the product has been tested for specific end uses.

~~((14))~~ (15) **"Certificate of competency"** includes the certificates of competency for master journeyman electrician, master specialty electrician, journeyman, and specialty electrician.

~~((15))~~ (16) A laboratory **"certification program"** is a specified set of testing, inspection, and quality assurance procedures, including appropriate implementing authority, regulating the evaluation of electrical products for certification marking by an electrical products certification laboratory.

~~((16))~~ (17) A **"complete application"** includes the submission of all appropriate fees, documentation, and forms.

~~((17))~~ (18) **"Construction," for the purposes of chapter 19.28 RCW, means electrical construction.**

(19) **"Department"** means the department of labor and industries of the state of Washington.

~~((18))~~ (20) **"Director"** means the director of the department, or the director's designee.

~~((19))~~ (21) **"Electrical equipment"** includes electrical conductors, conduit, raceway, apparatus, materials, components, and other electrical equipment not exempted by RCW 19.28.006(9). Any conduit/raceway of a type listed for elec-

PROPOSED

trical use is considered to be electrical equipment even if no wiring is installed in the conduit/raceway at the time of the conduit/raceway installation.

((20)) (22) An "electrical products certification laboratory" is a laboratory or firm accredited by the state of Washington to perform certification of electrical products.

((21)) (23) An "electrical products evaluation laboratory" is a laboratory or firm accredited by the state of Washington to perform on-site field evaluation of electrical products for safety.

((22)) (24) "Field evaluated" means an electrical product to which a field evaluation mark is attached. Field evaluation must include job site inspection unless waived by the department, and may include component sampling and/or laboratory testing.

((23)) (25) "Field evaluation mark" is a specified laboratory label, symbol, or other identifying mark indicating the manufacturer produced the product in essential compliance with appropriate standards or that the product has been evaluated for specific end uses.

((24)) (26) A "field evaluation program" is a specified set of testing, inspection, and quality assurance procedures, including appropriate implementing authority regulating the testing and evaluation of electrical products for field evaluation marking.

((25)) (27) The "filing" is the date the document is actually received in the office of the chief electrical inspector.

((26)) (28) "Final judgment" means any money that is owed to the department under this chapter, including fees and penalties, or any money that is owed to the department as a result of an individual's or contractor's unsuccessful appeal of a citation.

((27)) (29) "Fished wiring" is when cable or conduit is installed within the finished surfaces of an existing building or building structure (e.g., wall, floor or ceiling cavity).

((28)) (30) HVAC/refrigeration specific definitions:

(a) "HVAC/refrigeration" means heating, ventilation, air conditioning, and refrigeration.

(b) "HVAC/refrigeration component" means electrical power and limited energy components within the "HVAC/refrigeration system," including, but not limited to: Pumps, compressors, motors, heating coils, controls, switches, thermostats, humidistats, low-voltage damper controls, outdoor sensing controls, outside air dampers, stand-alone duct smoke detectors, air monitoring devices, zone control valves and equipment for monitoring of HVAC/refrigeration control panels and low-voltage connections. This definition excludes equipment and components of non-"HVAC/refrigeration control systems."

(c) "HVAC/refrigeration control panel" means an enclosed, manufactured assembly of electrical components designed specifically for the control of a HVAC/refrigeration system. Line voltage equipment that has low voltage, NEC Class 2 control or monitoring components incidental to the designed purpose of the equipment is not an HVAC/refrigeration control panel (e.g., combination starters).

(d) "HVAC/refrigeration control system" means a network system regulating and/or monitoring a HVAC/refrigeration system. Equipment of a HVAC/refrigeration control system includes, but is not limited to: Control panels,

data centers, relays, contactors, sensors, and cables related to the monitoring and control of a HVAC/refrigeration system(s).

(e) "HVAC/refrigeration equipment" means the central unit primary to the function of the "HVAC/refrigeration system." HVAC/refrigeration includes, but is not limited to: Heat pumps, swamp coolers, furnaces, compressor packages, and boilers.

(f) "HVAC/refrigeration system" means a system of HVAC/refrigeration: Wiring, equipment, and components integrated to generate, deliver, or control heated, cooled, filtered, refrigerated, or conditioned air. This definition excludes non-HVAC/refrigeration control systems (e.g., fire alarm systems, intercom systems, building energy management systems, and similar non-HVAC/refrigeration systems) (see Figure 920-1 and Figure 920-2).

((29)) (31) "IBC" means the International Building Code. Copies of the IBC are available from the International Code Council.

(32) An "individual" or "party" or "person" means an individual, firm, partnership, corporation, association, government subdivision or unit thereof, or other entity.

((30)) (33) An "installation" includes the act of installing, connecting, repairing, modifying, or otherwise performing work on an electrical system, component, equipment, or wire except as exempted by WAC 296-46B-925.

((31)) (34) An "identification plate" is a phenolic or metallic plate or other similar material engraved in block letters at least 1/4" (6 mm) high unless specifically required to be larger by this chapter, suitable for the environment and application. The letters and the background must be in contrasting colors. Screws, rivets, or methods specifically described in this chapter must be used to affix an identification plate to the equipment or enclosure.

((32)) (35) "License" means a license required under chapter 19.28 RCW.

((33)) (36) "Labeled" means an electrical product that bears a certification mark issued by a laboratory accredited by the state of Washington.

((34)) (37) A "laboratory" may be either an electrical product(s) certification laboratory or an electrical product(s) evaluation laboratory.

((35)) (38) A "laboratory operations control manual" is a document to establish laboratory operation procedures and may include a laboratory quality control manual.

((36)) (39) "Like-in-kind" means having similar characteristics such as voltage requirement, current draw, circuit overcurrent and short circuit characteristics, and function within the system and being in the same location. Like-in-kind also includes any equipment component authorized by the manufacturer as a suitable component replacement part.

((37)) (40) "Lineman" is a person employed by a serving electrical utility or employed by a licensed general electrical contractor who carries, on their person, evidence that they:

(a) Have graduated from a department-approved lineman's apprenticeship course; or

(b) Are currently registered in a department-approved lineman's apprenticeship course and are working under the direct one hundred percent supervision of a journeyman elec-

trician or a graduate of a lineman's apprenticeship course approved by the department. The training received in the lineman's apprenticeship program must include training in applicable articles of the currently adopted National Electrical Code.

((38)) (41) "**Listed**" means equipment has been listed and identified by a laboratory approved by the state of Washington for the appropriate equipment standard per this chapter.

((39)) (42) "**Low voltage**" means:

(a) NEC, Class 1 power limited circuits at 30 volts maximum.

(b) NEC, Class 2 circuits powered by a Class 2 power supply as defined in NEC 725.41(A).

(c) NEC, Class 3 circuits powered by a Class 3 power supply as defined in NEC 725.41(A).

(d) Circuits of telecommunications systems as defined in chapter 19.28 RCW.

((40)) (43) "**Mezzanine**" is the intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third of the area of the room or space in which the level or levels are located. Also see "basement" and "story."

((44)) (44) "**NEC**" means National Electrical Code. Copies of the NEC are available from the National Fire Protection Association.

((41)) (45) "**NEMA**" means National Electrical Manufacturer's Association. Copies of NEMA standards are available from the National Electrical Manufacturer's Association.

((42)) (46) "**NESC**" means National Electrical Safety Code. Copies of the NESC are available from the Institute of Electrical and Electronics Engineers, Inc.

((43)) (47) "**NETA**" means International Electrical Testing Association, Inc. Copies of the NETA standards and information are available from the International Electrical Testing Association, Inc.

((44)) (48) "**NFPA**" means the National Fire Protection Association. Copies of NFPA documents are available from the National Fire Protection Association.

((45)) (49) "**NRTL**" means Nationally Recognized Testing Laboratory accredited by the federal Occupational Safety and Health Administration (OSHA) after meeting the requirements of 29 CFR 1910.7.

((46)) (50) "**Point of contact**" for utility work, means the point at which a customer's electrical system connects to the serving utility system.

((47)) (51) "**Proceeding**" means any matter regarding an appeal before the board including hearings before an administrative law judge.

((48)) (52) "**Public area or square**" is an area where the public has general, clear, and unrestricted access.

((49)) (53) A "**quality control manual**" is a document to maintain the quality control of the laboratory's method of operation. It consists of specified procedures and information for each test method responding to the requirements of the product standard. Specific information must be provided for portions of individual test methods when needed to comply with the standard's criteria or otherwise support the laboratory's operation.

((50)) (54) "**RCW**" means the Revised Code of Washington. Copies of electrical RCWs are available from the department and the office of the code reviser.

((51)) (55) A "**stand-alone amplified sound or public address system**" is a system that has distinct wiring and equipment for audio signal generation, recording, processing, amplification, and reproduction. This definition does not apply to telecommunications installations.

((52)) (56) "**Service**" or "**served**" means that as defined in RCW 34.05.010(19) when used in relation to department actions or proceedings.

((53)) (57) "**Story**" is that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. Next above means vertically and not necessarily directly above. Also see "basement" and "mezzanine."

((58)) (58) "**Structure**," for the purposes of this chapter and in addition to the definition in the NEC, means something constructed either in the field or factory that is used or intended for supporting or sheltering any use or occupancy as defined by the IBC.

((59) A "**telecommunications local service provider**" is a regulated or unregulated (e.g., by the Federal Communications Commission or the utilities and transportation commission as a telephone or telecommunications provider) firm providing telecommunications service ahead of the telecommunications network demarcation point to an end-user's facilities.

((54)) (60) "**Telecommunications network demarcation point**" is as defined in RCW 19.28.400 for both regulated carriers and unregulated local service providers.

((55)) (61) "**TIA/EIA**" means the Telecommunications Industries Association/Electronic Industries Association which publishes the *TIA/EIA Telecommunications Building Wiring Standards*. Standards and publications are adopted by TIA/EIA in accordance with the American National Standards Institute (ANSI) patent policy.

((56)) (62) A "**training school**" is a public community or technical college or not-for-profit nationally accredited technical or trade school licensed by the work force training and education coordinating board under chapter 28C.10 RCW.

((57)) (63) "**Under the control of a utility**" for the purposes of RCW 19.28.091 and 19.28.101 is when electrical equipment is not owned by a utility and:

(a) Is located in a vault, room, closet, or similar enclosure that is secured by a lock or seal so that access is restricted to the utility's personnel; or

(b) The utility is obligated by contract to maintain the equipment and the contract provides that access to the equipment is restricted to the utility's personnel or other qualified personnel.

((58)) (64) "**UL**" means Underwriters Laboratory.

((59)) (65) "**Utility**" means an electrical utility.

((60)) (66) "**Utility system**" means electrical equipment owned by or under the control of a serving utility that is used for the transmission or distribution of electricity from the source of supply to the point of contact.

((61)) (67) "**Utilization voltage**" means the voltage level employed by the utility's customer for connection to

lighting fixtures, motors, heaters, or other electrically operated equipment other than power transformers.

((62)) (68) "**Variance**" is a modification of the electrical requirements as adopted in chapter 19.28 RCW or any other requirements of this chapter that may be approved by the chief electrical inspector if assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

((63)) (69) "**WAC**" means the Washington Administrative Code. Copies of this chapter of the WACs are available from the department and the office of the code reviser.

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

WAC 296-46B-030 Industrial control panel and industrial utilization equipment inspection. Specific definitions.

(1) Specific definitions for this section:

(a) "**Department evaluation**" means a review in accordance with subsection (2)(c) of this section.

(b) "**Food processing plants**" include buildings or facilities used in a manufacturing process, but do not include:

- (i) Municipal or other government facilities;
- (ii) Educational facilities or portions thereof;
- (iii) Institutional facilities or portions thereof;
- (iv) Restaurants;
- (v) Farming, ranching, or dairy farming operations;
- (vi) Residential uses; or
- (vii) Other installations not used for direct manufacturing purposes.

(c) In RCW 19.28.010, "**industrial control panel**" means a factory or user wired assembly of industrial control equipment such as motor controllers, switches, relays, power supplies, computers, cathode ray tubes, transducers, and auxiliary devices used in the manufacturing process to control industrial utilization equipment. The panel may include disconnecting means and motor branch circuit protective devices. Industrial control panels include only those used in a manufacturing process in a food processing or industrial plant.

(d) "**Industrial plants**" include buildings or facilities used in a manufacturing process, but do not include:

- (i) Municipal or other government facilities;
- (ii) Educational facilities or portions thereof;
- (iii) Institutional facilities or portions thereof;
- (iv) Restaurants;
- (v) Farming, ranching, or dairy farming operations;
- (vi) Residential uses; or
- (vii) Other installations not used for direct manufacturing purposes.

(e) "**Industrial utilization equipment**" means equipment directly used in a manufacturing process in a food processing or industrial plant, in particular the processing, treatment, moving, or packaging of a material. Industrial utilization equipment does not include: Cold storage, warehousing, or similar storage equipment.

(f) "**Manufacturing process**" means to make or process a raw material or part into a finished product for sale using industrial utilization equipment. A manufacturing process

does not include the storage of a product for future distribution (e.g., cold storage, warehousing, and similar storage activity).

(g) "**Normal department inspection**" is a part of the department electrical inspection process included with the general wiring inspection of a building, structure, or other electrical installation. Normal department inspection will only be made for equipment solely using listed or field evaluated components and wired to the requirements of the NEC. Fees for the normal department inspections required under this chapter are included in the electrical work permit fee calculated for the installation and are not a separate inspection fee. However, inspection time associated with such equipment is subject to the progress inspection rates in WAC 296-46B-905.

(h) For the purposes of this section, "**panel**" means a single box or enclosure containing the components comprising an industrial control panel. A panel does not include any wiring methods connecting multiple panels or connecting a panel(s) and other electrical equipment.

Safety standards.

(2) Industrial control panels and industrial utilization equipment will be determined to meet the minimum electrical safety standards for installations by:

(a) Listing, or field evaluation of the entire panel or equipment;

(b) Normal department inspection for compliance with codes and rules adopted under this chapter; or

(c) By department evaluation showing compliance with appropriate standards. Appropriate standards are NEMA, ANSI, NFPA 79, UL 508A or International Electrotechnical Commission 60204 or their equivalent. Industrial utilization equipment is required to conform to a nationally or internationally recognized standard applicable for the particular industrial utilization equipment. Compliance must be shown as follows:

(i) The equipment's manufacturer must document, by letter to the equipment owner, the equipment's conformity to an appropriate standard(s). The letter must state:

- (A) The equipment manufacturer's name;
- (B) The type of equipment;
- (C) The equipment model number;
- (D) The equipment serial number;
- (E) The equipment supply voltage, amperes, phasing;
- (F) The standard(s) used to manufacture the equipment.

Except for the reference of construction requirements to ensure the product can be installed in accordance with the National Electrical Code, the National Electrical Code is not considered a standard for the purposes of this section;

(G) Fault current interrupting rating of the equipment or the owner may provide documentation showing that the fault current available at the point where the building wiring connects to the equipment is less than ((10,000)) 5,000 AIC; and

(H) The date the equipment was manufactured. Equipment that was manufactured prior to January 1, 1985, is not required to meet (c)(i)(F) of this subsection.

(ii) The equipment owner must document, by letter to the chief electrical inspector, the equipment's usage as industrial utilization equipment as described in this section and provide a copy of the equipment manufacturer's letter described in

(c)(i) of this subsection. The owner's letter must be accompanied by the fee required in WAC 296-46B-905(14).

For the purposes of this section, the owner must be a food processing or industrial plant as described in this section.

(iii) The chief electrical inspector will evaluate the equipment manufacturer's letter, equipment owner's letter, and the individual equipment.

If the equipment is determined to have had electrical modifications since the date of manufacture, the chief electrical inspector will not approve equipment using this method.

(iv) If required by the chief electrical inspector, the owner must provide the department with a copy, in English, of the standard(s) used and any documentation required by the chief electrical inspector to support the claims made in the equipment manufacturer's or owner's letter. At the request of the owner, the department will obtain a copy of any necessary standard to complete the review. If, per the owner's request, the department obtains the copy of the standard, the owner will be billed for all costs associated with obtaining the standard.

If the industrial utilization equipment has been determined to be manufactured to a standard(s) appropriate for industrial utilization equipment as determined by the chief electrical inspector per RCW 19.28.010(1), the equipment will be marked with a department label.

The department will charge a marking fee as required in WAC 296-46B-905(14). Once marked by the department, the equipment is suitable for installation anywhere within the state without modification so long as the equipment is being used as industrial utilization equipment. If payment for marking is not received by the department within thirty days of marking the equipment, the department's mark(s) will be removed and the equipment ordered removed from service.

(v) If the equipment usage is changed to other than industrial utilization equipment or electrical modifications are made to the equipment, the equipment must be successfully listed or field evaluated by a laboratory approved by the department.

(vi) The equipment must be permanently installed at the owner's facility and inspected per the requirements of RCW 19.28.101.

(3) The department may authorize, on a case-by-case basis, use of the industrial control panel or equipment, for a period not to exceed six months or as approved by the chief electrical inspector after use is begun, before its final inspection, listing, or evaluation.

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

WAC 296-46B-110 General—Requirements for electrical installations.

012 Mechanical execution of work.

(1) **Unused openings.** Unused openings in boxes, raceways, auxiliary gutters, cabinets, cutout boxes, meter socket enclosures, equipment cases, or housings shall be effectively closed to afford protection substantially equivalent to the wall of the equipment. Where metallic plugs or plates are used with nonmetallic enclosures, they shall be recessed at

least 6 mm (1/4") from the outer surface of the enclosure. Unused openings do not include weep holes, unused mounting holes, or any other opening with less than .15 square inches of open area.

016 Flash protection.

(2) The flash protection marking required by NEC 110.16 must be an identification plate or label approved by the electrical inspector and may be installed either in the field or in the factory. The plate or label may be mounted using adhesive.

022 Identification of disconnecting means.

(3) For the purposes of legibly marking a disconnecting means, as required in NEC 110.22, an identification plate is required unless the disconnect is a circuit breaker/fused switch installed within a panelboard and the circuit breaker/fused switch is identified by a panelboard schedule. In other than dwelling units, the identification plate must include the identification designation of the circuit source panelboard that supplies the disconnect.

(4) Where electrical equipment is installed to obtain a series combination rating, the identification as required by NEC 110.22, must be in the form of an identification plate that is substantially yellow in color. The words "CAUTION - SERIES COMBINATION RATED SYSTEM" must be on the label in letters at least 13 mm (1/2") high.

030 Over 600 volts - general.

(5) Each cable operating at over 600 volts and installed on customer-owned systems must be legibly marked in a permanent manner at each termination point and at each point the cable is accessible. The required marking must use phase designation, operating voltage, and circuit number if applicable.

(6) Only licensed electrical contractors can use the Class B basic electrical inspection - random inspection process. Health care, large commercial, or industrial facilities using an employee who is a certified electrician(s) can use the Class B basic electrical inspection - random inspection process after permission from the chief electrical inspector.

(7) If the Class B basic electrical inspection - random inspection process is used, the following requirements must be met:

(a) The certified electrician performing the installation must affix a Class B installation label on the cover of the panelboard or overcurrent device supplying power to the circuit or equipment prior to beginning the work.

(b) The job site portion of the label must include the following:

- (i) Date of the work;
- (ii) Electrical contractor's name;
- (iii) Electrical contractor's license number;
- (iv) Installing electrician's certificate number; and
- (v) Short description of the work.

(c) The contractor portion of the label must include the following:

- (i) Date of the work;
- (ii) Electrical contractor's license number;
- (iii) Installing electrician's certificate number;
- (iv) Job site address;
- (v) Contact telephone number for the job site (to be used to arrange inspection); and

(vi) Short description of the work.

(d) The label must be filled in using sunlight and weather resistant ink.

(e) The electrical contractor must return the contractor's portion of the label to the Department of Labor & Industries, Electrical Section, Chief Electrical Inspector, P.O. 4460, Olympia, WA 98506-4460 within fifteen working days after the job site portion of the Class B installation label is affixed.

(8) Class B basic installation labels will be sold in blocks. Installations where a Class B basic installation label is used will be inspected on a random basis as determined by the department.

(a) If any such random inspection fails, a subsequent installation in the block must be inspected.

(b) If any such subsequent installation fails inspection, all installations in the block must be inspected.

(9) Any electrical contractor or other entity using the Class B basic electrical inspection - random inspection process may be audited for compliance with the provisions for purchasing, inspection, reporting of installations, and any other requirement of usage.

(10) ~~(Class B basic electrical work is described in RCW 19.28.006 (2)(b). For the purposes of Class B basic electrical work, a device includes: General use snap switches/receptacles, luminaires, thermostats, speakers, etc., but does not include wiring/cabling systems, isolating switches, magnetic contactors, motor controllers, etc. A cover inspection is required for all fire-wall penetrations.~~

~~In addition, Class B basic electrical work includes the like-in-kind replacement in a household of an:~~

~~(a) Electrical/gas/oil furnace not exceeding 240 volts and 100 amps when the furnace is connected to an existing branch circuit; and~~

~~(b) Air conditioning unit or refrigeration unit not exceeding 240 volts, 30 minimum circuit amps when the air conditioning unit or refrigeration unit is connected to an existing branch circuit.~~

~~Class B basic electrical work does not include any work in:~~

~~(e) Areas classified as Class 1, Class 2, Class 3, or Zone locations per the NEC;~~

~~(d) Areas regulated by NEC 517 or 680; or~~

~~(e) Any work where electrical plan review is required.))~~

Class B basic electrical work means work other than Class A basic electrical work. See WAC 296-46B-900(8) for Class A definition. A cover inspection is required for all fire-wall penetrations.

Class B basic electrical work includes the following:

(a) Extension of not more than one branch electrical circuit limited to one hundred twenty volts and twenty amps each where:

(i) No cover inspection is necessary; and

(ii) The extension does not supply more than two devices or outlets as defined by the NEC;

(b) Like-in-kind replacement of a single luminaire not exceeding two hundred seventy-seven volts and twenty amps;

(c) Like-in-kind replacement of a motor larger than ten horsepower;

(d) The following low voltage systems:

(i) Repair and replacement of devices not exceeding one hundred volt-amperes in Class 2, Class 3, or power limited low voltage systems in one- and two-family dwellings;

(ii) Repair and replacement of devices not exceeding one hundred volt-amperes in Class 2, Class 3, or power limited low voltage systems in other buildings, provided the equipment is not for fire alarm or nurse call systems and is not located in an area classified as hazardous by the NEC.

(e) The like-in-kind replacement of an:

(i) Electric/gas/oil furnace not exceeding 240 volts and 100 amps when the furnace is connected to an existing branch circuit. For the purposes of this section, a boiler is not a furnace; or

(ii) Unit heater, air conditioning unit or refrigeration unit not exceeding 240 volts, 30 minimum circuit amps when the unit is connected to an existing branch circuit;

(f) The replacement of not more than ten standard receptacles with GFCI receptacles;

(g) The combination replacement of not more than ten switches or dimmers used for controlling a luminaire(s); and

(h) The installation of a thermostat and/or thermostat cable where the thermostat cable is fished or extended in an existing building.

A device allowed in an extended circuit includes: General use snap switches/receptacles, luminaires, thermostats, speakers, etc., but does not include wiring/cabling systems, isolating switches, magnetic contactors, motor controllers, etc.

Class B basic electrical work does not include any work in:

(a) Areas classified as Class 1, Class 2, Class 3, or Zone locations per the NEC;

(b) Areas regulated by NEC 517 or 680; or

(c) Any work where electrical plan review is required.

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

WAC 296-46B-210 Wiring and protection—Branch circuits. 008B Other than dwelling units - GFCI requirements.

(1) ((For the purposes of NEC 210.8(B), all 125-volt, single-phase, 15- and 20-ampere receptacles must have ground-fault circuit interrupter protection for personnel as required by NEC 210.8(A). Kitchens in other than dwelling units are considered to be any work surface where food and/or beverage preparation occurs and other countertops or islands.)) GFCI requirements.

(a) All 125-volt, 15- and 20-ampere receptacles installed in wet locations must have Class A ground-fault circuit interrupter protections for personnel.

(b) Kitchens in other than dwelling units are considered to be any work surface where food and/or beverage preparation occurs and other countertops or islands.

011 Branch circuits.

(2) Circuits must be taken to all unfinished spaces adaptable to future dwelling unit living areas that are not readily accessible to the service or branch circuit panelboard. The circuits must terminate in a suitable box(es). The box must contain an identification of the intended purpose of the cir-

cuit(s). The branch circuit panelboard must have adequate space and capacity for the intended load(s).

012 Arc-fault circuit-interrupter protection.

(3) For the purpose of NEC 210.12(B), Dwelling Unit Bedroom spaces that:

- (a) Are accessed only through the bedroom;
- (b) Are ancillary to the bedroom's function; and
- (c) Contain branch circuits that supply 125-volt, 15- and 20-ampere, outlets must be protected by an arc-fault circuit interrupter listed to provide protection ~~((of the entire branch circuit))~~ per NEC 210.12.

For the purposes of this section, such spaces will include, but not be limited to, spaces such as closets and sitting areas, but will not include bathrooms.

051(B)(5) Receptacle outlet locations.

(4) Receptacle outlets installed in appliance garages may be counted as a required countertop outlet.

052(A)(2) Dwelling unit receptacle outlets.

(5) For the purpose of NEC 210.52(A)(2)(1), "similar openings" include the following ~~((structures))~~ configurations that are a permanent part of the dwelling ~~((structure))~~ configuration or finish:

- (a) Window seating; and
- (b) Bookcases or cabinets that extend from the floor to a level at least 1.7 meters (five (5) feet six (6) inches) above the floor.

Any outlets eliminated by such window seating, bookcases, or cabinets must be installed elsewhere within the room.

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 5/23/03)

WAC 296-46B-220 Wiring and protection—Branch circuit, feeder, and service calculations.

003 Branch circuit calculations.

Occupancy lighting loads. In determining feeder and service entrance conductor sizes and equipment ratings, the currently adopted Washington state energy code unit lighting power allowance table and footnotes may be used in lieu of NEC ~~((220-3))~~ 220.12.

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 5/23/03)

WAC 296-46B-225 Wiring and protection—Outside branch circuits and feeders.

032 Location of outside feeder disconnecting means.

The building disconnecting means required by NEC 225.32 must be provided to disconnect all ungrounded conductors that supply or pass through a building or structure per the requirements of NEC 225.32 (except for Exceptions 1, 2, 3, or 4) in accordance with subsection (1) or (2) of this section.

(1) Outside location: Except for an outdoor generator set described in a NEC 700, 701, or 702 system, where the feeder disconnecting means is installed outside a building or structure, it must be on the building or structure or within sight and within fifteen feet of the building or structure supplied. The building disconnecting means may supply only one building/structure unless the secondary building(s)/structure(s)

has a separate building disconnecting means meeting the requirements of the NEC and this subsection. The disconnecting means must have an identification plate with at least one-half-inch high letters identifying:

- (a) The building/structure served; and
- (b) Its function as the building/structure main disconnect(s).

(2) Inside location: The feeder disconnecting means may be installed anywhere inside a building or structure when there is a feeder disconnecting means, located elsewhere on the premises, with overcurrent protection sized for the feeder conductors.

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 5/23/03)

WAC 296-46B-230 Wiring and protection—Services.

001 General service requirements.

(1) The owner, the owner's agent, or the electrical contractor making the installation must consult the serving utility regarding the utility's service entrance requirements for equipment location and meter equipment requirements before installing the service and equipment. Provisions for a meter and related equipment, an attachment of a service drop, or an underground service lateral must be made at a location acceptable to the serving utility. The point of contact for a service drop must permit the clearances required by the NEC.

(2) A firewall must have a minimum two-hour rating as defined by the local building official to be considered a building separation in accordance with Article 100 NEC.

(3) The height of the center of the service meter must be as required by the serving utility. Secondary instrument transformer metering conductor(s) are not permitted in the service raceway.

~~((002 Number of services.~~

~~((4) In addition to the items described in NEC 230.2(A), an additional service is permitted to supply a transient voltage surge suppressor. In addition, a service disconnect for a transient voltage surge suppressor is not required to be counted as one of the six service disconnects allowed in NEC 230.71))~~

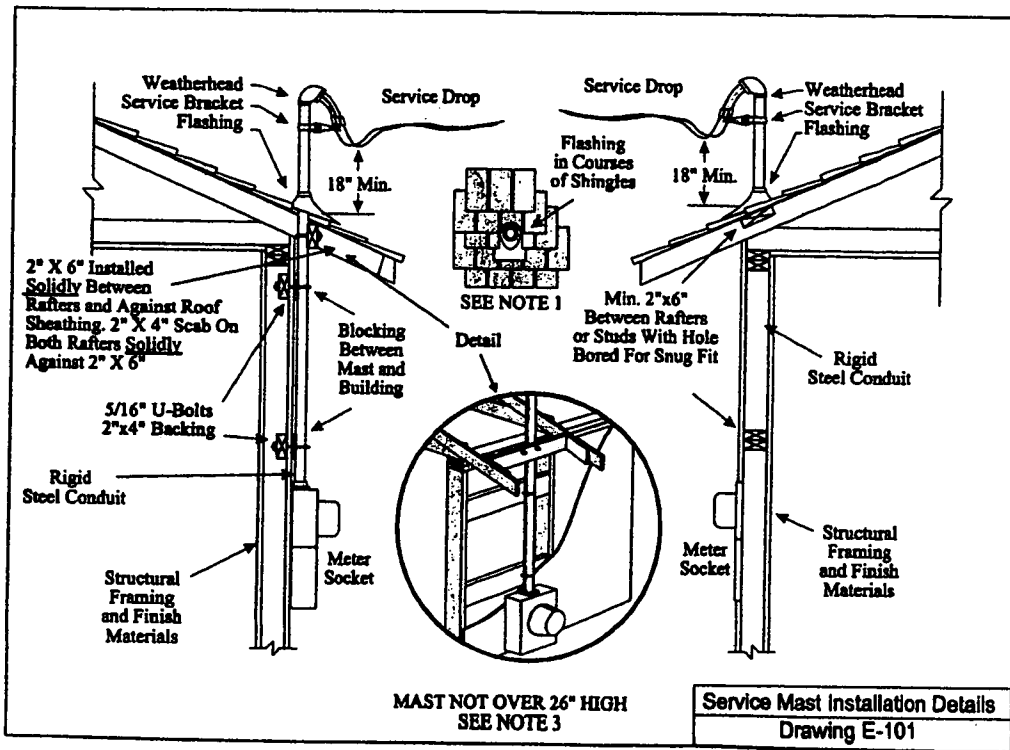
028 Service or other masts.

~~((5))~~ (4) Conduit extended through the roof to provide means of attaching:

(a) All overhead drops for service, feeder, or branch circuits exceeding #1 AWG aluminum or #3 AWG copper must be rigid steel galvanized conduit no smaller than two inches.

(b) All overhead drops for service, feeder or branch circuits not exceeding #1 AWG aluminum or #3 AWG copper must be rigid steel galvanized conduit no smaller than one and one-quarter inch. The installation must comply with drawings E-101 and/or E-102, or must provide equivalent strength by other approved means. Masts for altered or relocated installations will be permitted to comply with drawing E-103.

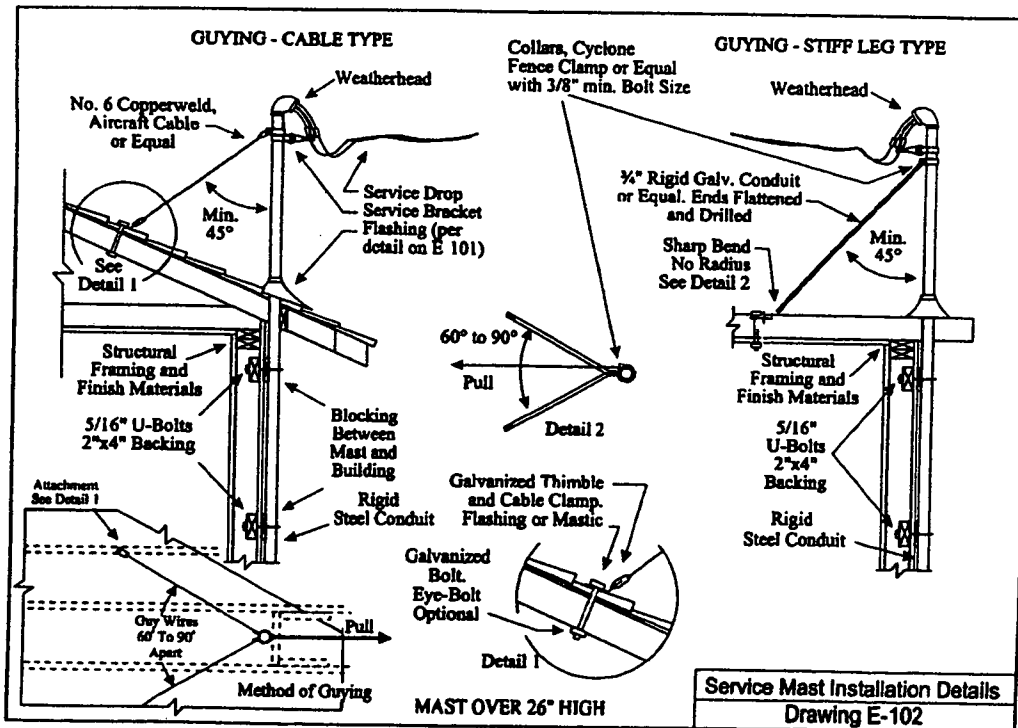
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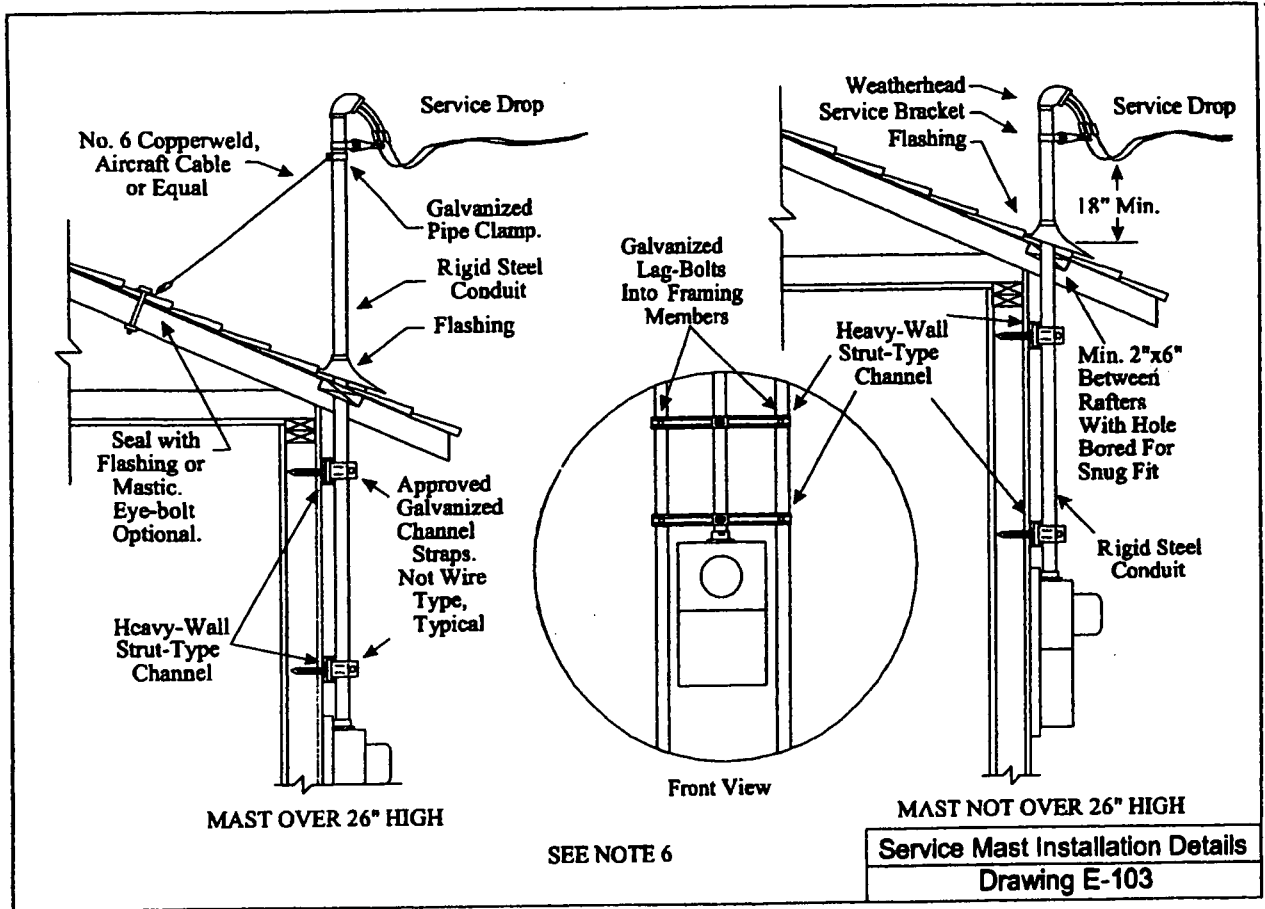
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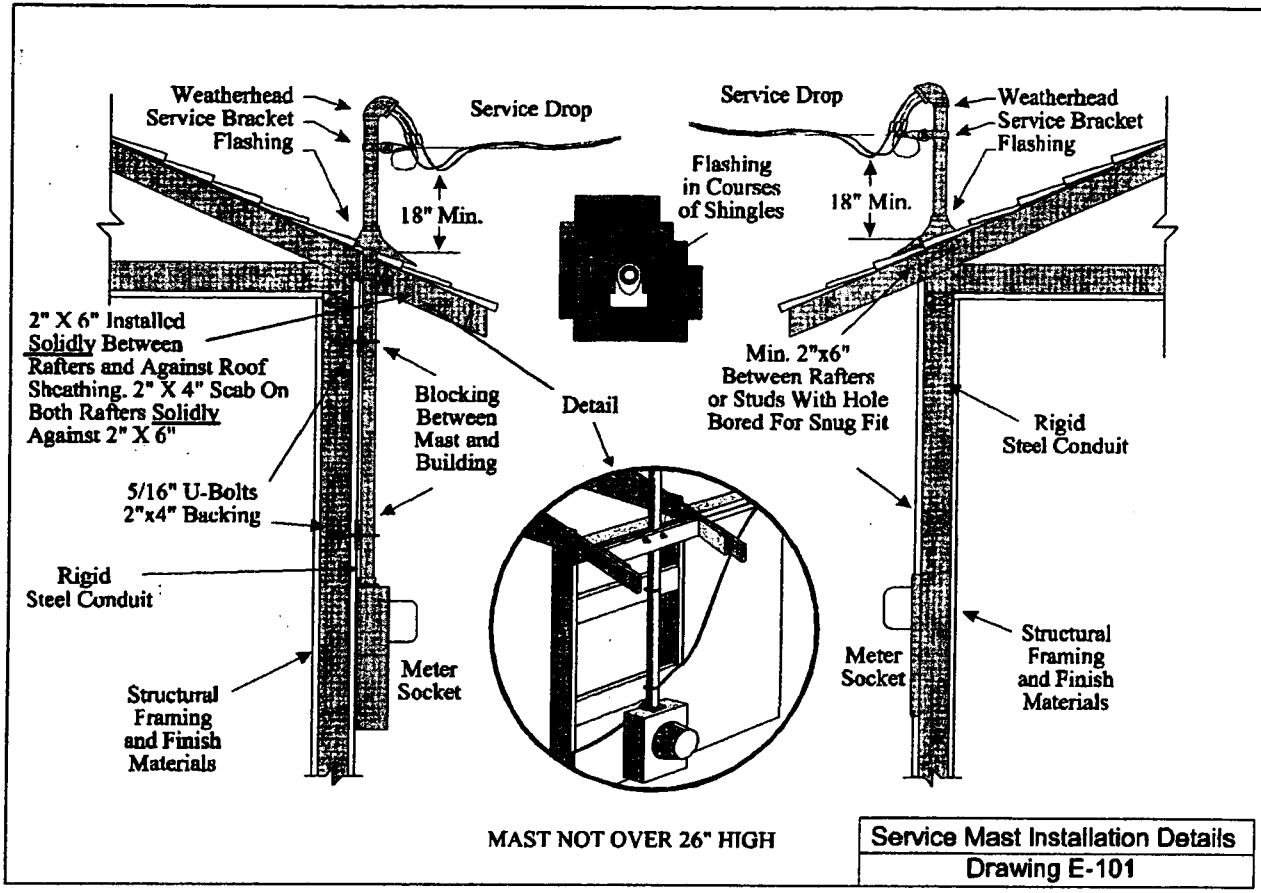
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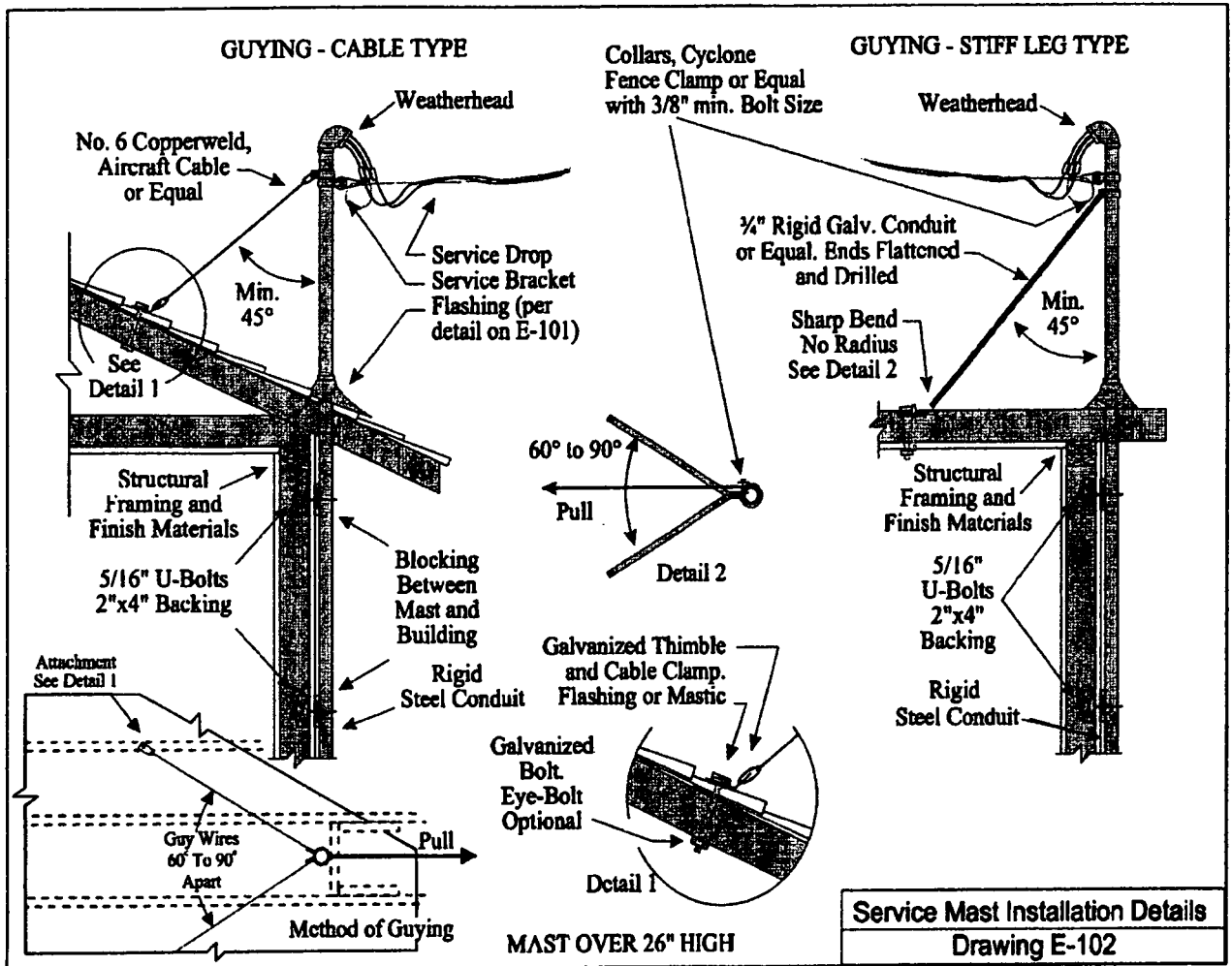
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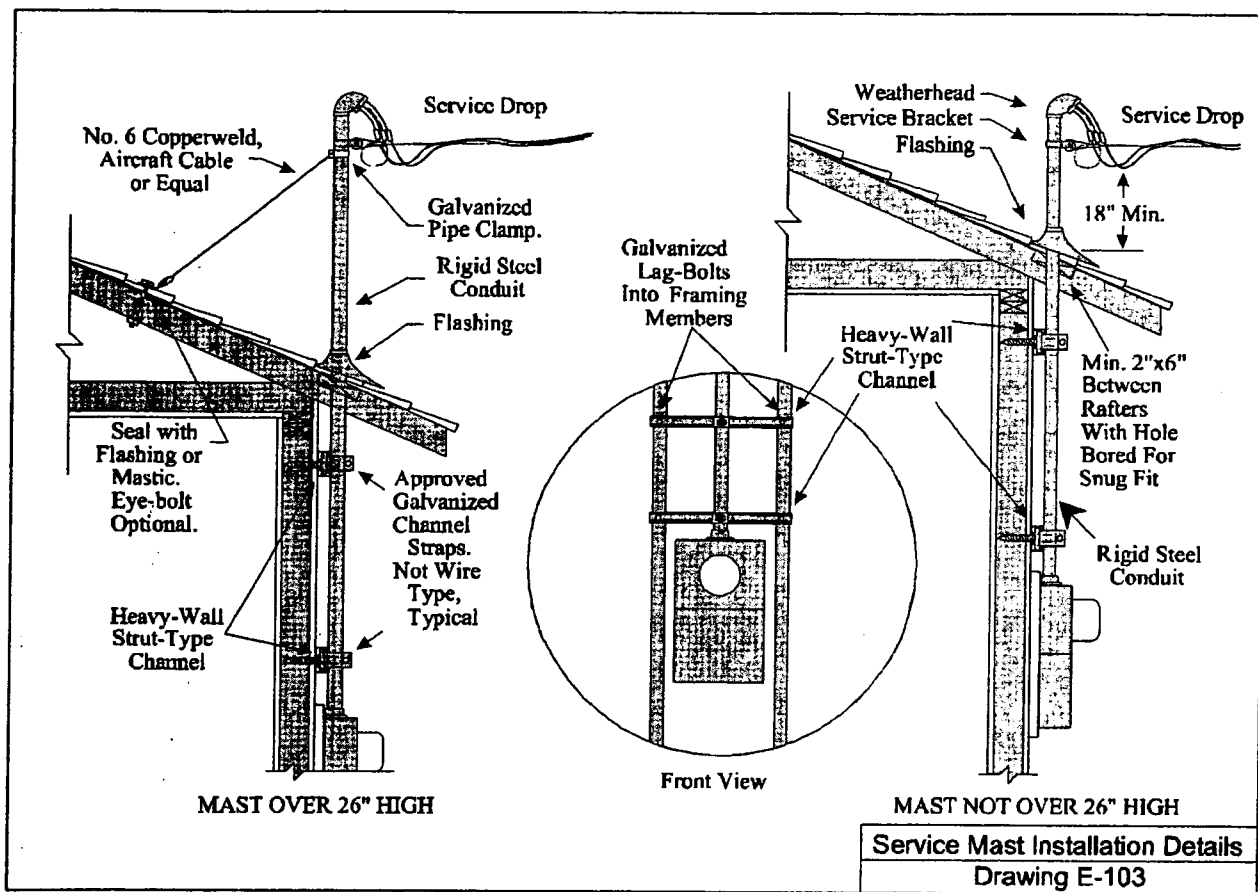
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PROPOSED



PROPOSED





Notes to drawings E-101, E-102, and E-103

- (1) An approved roof flashing must be installed on each mast where it passes through a roof. Plastic, nonhardening mastic must be placed between lead-type flashings and the conduit. Neoprene type flashings will also be permitted to be used.
- (2) Masts must be braced, secured, and supported in such a manner that no pressure from the attached conductors will be exerted on a roof flashing, meter base, or other enclosures.
- (3) Utilization of couplings for a mast are permitted only below the point the mast is braced, secured, or supported.
- (4) Except as otherwise required by the serving utility, service mast support guys must be installed if the service drop attaches to the mast more than twenty-four inches above the roof line or if the service drop is greater than one hundred feet in length from the pole or support. Masts for support of other than service drops must comply with this requirement as well.
- (5) Intermediate support masts must be installed in an approved manner with methods identical or equal to those required for service masts.
- (6) For altered services, where it is impractical to install U bolt mast supports due to interior walls remaining closed, it will be permissible to use other alternate mast support methods such as heavy

gauge, galvanized, electrical channel material that is secured to two or more wooden studs with five-sixteenths inch diameter or larger galvanized lag bolts.

(7) Conductors must extend at least eighteen inches from all mastheads to permit connection to the connecting overhead wiring.

040 Service conductors - two-family and multiple-occupancy buildings.

((6)) (5) Two-family and multiple-occupancy buildings. A second or additional service drop or lateral to a building having more than one occupancy will be permitted to be installed at a location separate from other service drops or laterals to the building provided that all the following conditions are complied with:

- (a) Each service drop or lateral must be sized in accordance with the NEC for the calculated load to be served by the conductors;
- (b) Each service drop or lateral must terminate in listed metering/service equipment;
- (c) Each occupant must have access to the occupant's service disconnecting means;
- (d) No more than six service disconnects may be supplied from a single transformer;
- (e) All service drops or laterals supplying a building must originate at the same transformer or power supply;
- (f) A permanent identification plate must be placed at each service disconnect location that identifies all other ser-

vice disconnect locations in or on the building, the area or units served by each, the total number of service disconnecting means on the building/structure and the area or units served. If a structure consists of multiple buildings (i.e., by virtue of fire separation), all service disconnects in or on the entire structure must be labeled to identify all service disconnects in or on the structure; and

(g) A permanent identification plate must be placed at each feeder disconnecting means identifying the area or units served if the feeder disconnecting means is remote from the area or unit served.

042 Service conductor - size and rating.

((7)) (6) If the service conductors have a lesser ampacity than the overcurrent protection or the equipment rating that they terminate in or on, an identification plate showing the ampacity of the conductors must be installed on the service equipment.

043 Wiring methods for 600 volts, nominal or less.

((8)) (7) The installation of service conductors not exceeding 600 volts, nominal, within a building or structure is limited to the following methods: Galvanized or aluminum rigid metal conduit; galvanized intermediate metal conduit; wireways; busways; auxiliary gutters; rigid nonmetallic conduit; cablebus; or mineral-insulated, metal-sheathed cable (type MI).

((9)) (8) Electrical metallic tubing must not be installed as the wiring method for service entrance conductors inside a building. Existing electrical metallic tubing, installed prior to October 1984, which is properly grounded and used for service entrance conductors may be permitted to remain if the conduit is installed in a nonaccessible location and is the proper size for the installed conductors.

((10)) (9) In addition to methods allowed in the NEC, the grounded service conductor is permitted to be identified with a yellow jacket or with one or more yellow stripes.

062 Service equipment - general.

((11)) (10) Service equipment, subpanels, and similar electrical equipment must be installed so that they are readily accessible and may not be installed in bathrooms, clothes closets, or shower rooms. All indoor service equipment and subpanel equipment must have adequate working space and be adequately illuminated.

((12)) (11) Temporary construction service equipment may only be used for construction purposes and must be disconnected when the permanent service is connected unless the department grants an extension of time.

070 Service disconnecting means.

((13)) (12) The service disconnecting means must be installed at a readily accessible location in accordance with (a) or (b) of this subsection.

(a) Outside location: Service disconnecting means will be permitted on the building or structure or within sight and within fifteen feet of the building or structure served. The building disconnecting means may supply only one building/structure. The service disconnecting means must have an identification plate with one-half-inch high letters identifying:

- (i) The building/structure served; and
- (ii) Its function as the building/structure main service disconnect(s).

(b) Inside location: When the service disconnecting means is installed inside the building or structure, it must be located so that the service raceway extends no more than fifteen feet inside the building/structure.

095 Ground-fault protection of equipment.

((14)) (13) Equipment ground-fault protection systems required by the NEC must be tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. This test or a subsequent test must include all service voltage feeders. A firm having qualified personnel and proper equipment must perform the tests required. A copy of the manufacturer's performance testing instructions and a written performance acceptance test record signed by the person performing the test must be provided for the inspector's records at the time of inspection. The performance acceptance test record must include test details including, but not limited to, all trip settings and measurements taken during the test.

200 Wiring methods exceeding 600 volts.

((15)) (14) The installation of service conductors exceeding 600 volts, nominal, within a building or structure must be limited to the following methods: Galvanized rigid metal conduit, galvanized intermediate metal conduit, schedule 80 rigid nonmetallic conduit, metal-clad cable that is exposed for its entire length, cablebus, or busways.

((16)) (15) In addition to methods allowed in the NEC, the grounded service conductor is permitted to be identified with a yellow jacket or with one or more yellow stripes.

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

WAC 296-46B-250 Wiring and protection—Grounding and bonding.

~~((30(A)(3)(b) Grounding separately derived alternating current systems.~~

~~(1) All tap connections to the common grounding electrode conductor shall be made at an accessible location by a listed connector, an irreversible compression connector listed for the purpose, listed connections to copper busbars not less than 6 mm x 50 mm (1/4 in. x 2 in.), or by exothermic welding process. The tap conductors shall be connected to the common grounding electrode conductor in such a manner that the common grounding electrode conductor remains without a splice or joint.)~~

032 Two or more buildings or structures.

((2)) (1) Effective August 1, 2003, an equipment grounding conductor must be installed with the circuit conductors between buildings and/or structures. A grounded conductor (i.e., neutral) is not permitted to be used in place of a separate equipment grounding conductor between buildings and/or structures.

052 Grounding electrodes.

((3)) (2) If a ground resistance test is not performed to ensure a resistance to ground of twenty-five ohms or less, two or more electrodes as specified in NEC 250.52 must be installed a minimum of six feet apart. However, a temporary construction service is not required to have more than one made electrode.

090 Bonding.

~~((4))~~ ~~(3)~~ Metallic stubs or valves used in nonmetallic plumbing systems are not required to be bonded to the electrical system unless required by an electrical equipment manufacturer's instructions.

~~((5))~~ ~~(4)~~ Hot and cold water plumbing lines are not required to be bonded together if, at the time of inspection, the inspector can determine the lines are mechanically and electrically joined by one or more metallic mixing valves.

184 Solidly grounded neutral systems over 1 kV.

~~((6))~~ ~~(5)~~ In addition to the requirements of NEC 250.184(A), the following applies for:

(a) Existing installations.

(i) The use of a concentric shield will be allowed for use as a neutral conductor for extension, replacement, or repair, if all of the following are complied with:

(A) The existing system uses the concentric shield as a neutral conductor;

(B) Each individual conductor contains a separate concentric shield sized to no less than thirty-three and one-half percent of the ampacity of the phase conductor for three-phase systems or one hundred percent of the ampacity of the phase conductor for single-phase systems;

(C) The new or replacement cable's concentric shield is enclosed inside an outer insulating jacket; and

(D) Existing cable (i.e., existing cable installed directly in the circuit between the work and the circuit's overcurrent device) successfully passes the following tests:

- A cable maintenance high potential dielectric test. The test must be performed in accordance with the cable manufacturer's instruction or the 2001 NETA maintenance test specifications; and

- A resistance test of the cable shield. Resistance must be based on the type, size, and length of the conductor used as the cable shield using the conductor properties described in NEC Table 8 Conductor Properties.

An electrical engineer must provide a specific certification to the electrical plan review supervisor in writing that the test results of the maintenance high potential dielectric test and the resistance test have been reviewed by the electrical engineer and that the cable shield is appropriate for the installation. The electrical engineer must stamp the certification document with the engineer's stamp and signature. The document may be in the form of a letter or electrical plans.

Testing results are valid for a period of seven years from the date of testing. Cable will not be required to be tested at a shorter interval.

(ii) A concentric shield used as a neutral conductor in a multigrounded system fulfills the requirements of an equipment grounding conductor.

(b) New installations.

(i) New installations do not include extensions of existing circuits.

(ii) The use of the concentric shield will not be allowed for use as a neutral conductor for new installations. A listed separate neutral conductor meeting the requirements of NEC 250.184(A) must be installed.

~~((7))~~ ~~(6)~~ Multiple grounding. NEC 250.184~~((B))~~ ~~(C)(1)~~ is replaced with the following:

The neutral of a solidly grounded neutral system may be grounded at more than one point.

(a) Multiple grounding is permitted at the following locations:

(i) Services;

(ii) Underground circuits where the neutral is exposed; and

(iii) Overhead circuits installed outdoors.

(b) Multiple grounding is not allowed:

(i) For new systems where singlepoint and multigrounded circuits form a single system (e.g., where a single-point circuit is derived from a multigrounded circuit); or

(ii) In new single phase (i.e., single phase to ground) installations.

~~((8))~~ ~~(7)~~ Multigrounded neutral conductor. NEC 250.184~~((D))~~ ~~(C)(2) through (5)~~ is replaced with the following:

Where a multigrounded neutral system is used, the following will apply for new balanced phase to phase circuits and extensions, additions, replacements; and repairs to all existing systems of 1 kV and over:

(a) For existing systems:

(i) The cable's concentric shield must be used as the neutral and all the requirements for neutral conductors described in subsection (6) of this section must be met; or

(ii) The cable's concentric shield must be effectively grounded to a separate bare copper neutral conductor at all locations where the shield is exposed to personnel contact.

(b) For new systems:

A separate copper neutral must be installed and the cable's concentric shield is effectively grounded to the separate neutral at all locations where the shield is exposed to personnel contact.

(c) In addition to (a) and (b) of this subsection, the following is required:

(i) A minimum of two made electrodes, separated by at least six feet, must be installed at each existing and new transformer and switching/overcurrent location and connected to the neutral conductor at that location;

(ii) At least one grounding electrode must be installed and connected to the multigrounded neutral every 400 m (1,300'). The maximum distance between adjacent electrodes must not be more than 400 m (1,300');

(iii) In a multigrounded shielded cable system, the shielding must be grounded at each cable joint that is exposed to personnel contact;

(iv) All exposed noncurrent carrying metal parts (e.g., mounting brackets, manhole covers, equipment enclosures, etc.) must be effectively grounded to the neutral conductor; and

(v) An electrical engineer must provide a specific certification to the electrical plan review supervisor in writing that the design of the multiple grounding installation has been reviewed by the electrical engineer and the design is in accordance with the requirements of chapter 19.28 RCW, this chapter, and normal standards of care. The electrical engineer must stamp the certification document with the engineer's stamp and signature. The document may be in the form of a letter or electrical plans.

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

WAC 296-46B-300 Wiring methods and materials—Wiring methods.

001 Wiring methods.

(1) Cables and raceways for telecommunications, power limited, NEC Class 2 and Class 3 conductors must be installed in compliance with Chapter 3 NEC unless other methods are specifically allowed elsewhere in the NEC, chapter 19.28 RCW, or this chapter.

005 Underground installations.

(2) Induction loops.

See WAC 296-46B-040 for induction detection loops that are made in a public roadway and regulated by a governmental agency.

The department will inspect induction loops that are not installed in public roadways regulated by a governmental agency. These induction loops must comply with the following requirements:

(a) General:

(i) A preformed direct burial induction loop is designed to be installed within the road surface base (e.g., concrete or asphalt) or below the road surface of a road with an unpaved surface (e.g., gravel or brick pavers);

(ii) A saw-cut induction detection loop is designed to be installed into a groove saw-cut into an existing paved road surface (e.g., concrete or asphalt);

(iii) The loop system includes the loop and the lead-in conductor;

(iv) The loop system must be:

(A) Tested to assure that at 500 volts DC, the resistance between the conductor and ground equals or exceeds 50 megohms; and

(B) Without splice; or

(C) If spliced, the splice must be soldered and appropriately insulated;

(v) The lead-in conductor must comply with the following:

(A) Must be stranded and have a lay (i.e., twist) of two turns per foot; and

(B) If installed in an electrical raceway;

• Are not required to be listed or suitable for wet locations; and

• Must have a burial cover of at least 6"; or

(C) If direct buried;

• Must be listed for the use; and

• Must have a burial cover of at least 18".

(b) Preformed direct burial induction detection loops must conform with the following:

(i) The loop conductor must be rated for direct burial and be a minimum of No. 16 AWG;

(ii) The loop design must not allow movement of the loop conductor within the outer jacket. The outer jacket containing the loop conductor is not required to be listed;

(iii) The loop yoke casing (i.e., the location where the lead-in conductor is connected to the loop):

(A) Includes any device used to house the "loop to lead-in splice" or to otherwise couple the loop with the lead-in electrical raceway;

(B) Is not required to be listed; and

(C) Must have a coupler that will create a waterproof bond with the electrical raceway, containing the lead-in conductor, or a direct buried lead-in conductor.

(c) Saw-cut induction detection loops:

(i) The loop conductor must be cross-linked ((poly-ethene)) polyethylene or EPR Type USE insulation and be a minimum of No. 18 AWG stranded;

(ii) The saw-cut groove must not cut into rebar installed within the roadway.

011 Support of raceways, cables, or boxes in suspended ceilings.

(3) NEC power limited, Class 2, and Class 3 cables must be secured in compliance with NEC 334.30 and must be secured to boxes in compliance with NEC 314.17.

(4) Telecommunications cables must be secured in a manner that will not cause damage to the cables and at intervals not exceeding five feet. Cables are considered adequately supported when run through holes in building structural elements or other supporting elements. Telecommunications cables may be fished into inaccessible hollow spaces of finished buildings. Clamps or fittings are not required where telecommunications cables enter boxes.

(5) Optical fiber cables must be secured in a manner that will not cause damage to the cables and at intervals not exceeding five feet. Cables are considered adequately supported when run through holes in building structural elements or other supporting elements. Optical fiber cables may be fished into inaccessible hollow spaces of finished buildings. Supports must allow a bending radius that will not cause damage to the cables.

(6) Where not restricted by the building code official or Article 300 NEC, the wires required in NEC 300.11((#)) (A) may support raceways, cables, or boxes under the following conditions:

(a) Raceways and/or cables are not larger than three-quarter-inch trade size;

(b) No more than two raceways or cables are supported by a support wire. The two-cable limitation does not apply to telecommunications cables, Class 2 cables, or Class 3 cables on support wires installed exclusively for such cables. The support wire must be adequate to carry the cable(s) weight and all attached cables must be secured with approved fittings; or

(c) Raceways and cables are secured to the support wires by fittings designed and manufactured for the purpose.

In addition to (a), (b), and (c) of this subsection, the following conditions must be complied with:

(d) The support wires are minimum #12 AWG and are securely fastened to the structural ceiling and to the ceiling grid system; and

(e) The raceways or cables serve equipment that is located within the ceiling cavity or is mounted on or supported by the ceiling grid system. Telecommunications cables, Class 2 cables, or Class 3 cables supported as required by this section, may pass through ceiling cavities without serving equipment mounted on or supported by the ceiling grid system.

017 Conductors in raceway.

(7) Cables will be permitted in all raceway systems if:

(a) The cable is appropriate for the environment; and

(b) The percentage fill does not exceed that allowed in NEC Chapter 9, Table 1.

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

**WAC 296-46B-314 Wiring methods and materials—
Outlet, device, pull and junction boxes.**

001 Boxes and fittings.

(1) ~~((Single conductors, cables, taps, or splices installed in an open bottom junction box or handhole must be suitable for direct burial. However, an open bottom box manufactured specifically for electrical use will be permitted to be used as an electrical junction box to enclose single conductors, cables, taps, or splices rated for wet locations, only under the following conditions:~~

~~(a) In vehicular traffic areas the box must be rated for not less than H-20 loading and be provided with a bolted, hinged, or slide on lid embossed with the identification "electric" or "electrical."~~

~~(b) In incidental vehicular traffic areas (e.g., parks, sports fields, sidewalks, grass lawns, etc.) the box must be rated for not less than H-10 loading and be provided with a bolted, hinged, or slide on lid embossed with the identification "electric" or "electrical."~~

~~(c) In nonvehicular traffic areas (e.g., flower beds, patio decks, etc.) the box must be designed for the purpose and be provided with a lid embossed with the identification "electric" or "electrical."~~

~~(d) All conductors must be installed in approved electrical raceways that enter vertically from the open bottom of the enclosure or horizontally from the sides of the enclosure at least 150 mm (6 in.) from the sand or gravel at the bottom of the enclosure. These raceways must be fitted with a bushing, terminal fitting, or seal incorporating the physical protection characteristics of a bushing, and project not less than 5 cm (2") above the bottom surface material. The bottom surface material must be pea gravel or sand a minimum of 5 cm (2") thick or more if required by the box manufacturer.~~

~~(2)) Conduit bodies, junction, pull, and outlet boxes must be installed so that the wiring contained in them is accessible without removing any part of the building structure, including insulation material.~~

023(H) Flexible cord connection of pendant boxes.

~~(2) The flexible cord and cord connection must comply with NEC 314.23(H) and the following:~~

~~(a) A suspended pendant box must not contain conduit "knockouts" and connection to a suspended box must utilize an integral threaded hub;~~

~~(b) The maximum length of the cord for a suspended pendant drop from a permanently installed junction box to a suitable tension take-up device above the pendant box must not exceed six feet;~~

~~(c) The flexible cord must be supported at each end with an approved cord grip or strain relief connector fitting/device that will eliminate all stress on the conductor connections;~~

~~(d) The flexible cord must be a minimum #14 AWG copper;~~

~~(e) The flexible cord ampacity must be determined using NEC Table 400.5(A) column A; and~~

(f) The flexible cord must be hard or extra hard usage.

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

**WAC 296-46B-334 Wiring methods and materials—
Nonmetallic-sheathed cable.**

010 Nonmetallic-sheathed cable.

(1) The building classification, for subsections (2) ~~((and)), (3), and (4)~~ of this section, will be as determined by the building official. For the purposes of this section, Type III, IV and V may be as defined in the International Building Code adopted in the state of Washington. The installer must provide the inspector documentation substantiating the type of building construction and finish material rating(s) prior to any electrical inspection.

(2) This section replaces NEC 334.10(2). In multifamily dwellings, Type NM, Type NMC, and Type NMS cable(s) may be used in structures of Types III, IV, and V construction except as prohibited in NEC 334.12.

(3) This section replaces NEC 334.10(3). In all other structures, Type NM, Type NMC, and Type NMS cable(s) may be used in structures of Types III, IV, and V construction except as prohibited in NEC 334.12. All cable(s) must be concealed within walls, floors, or ceilings that provide a thermal barrier of material that has at least a 15-minute finish rating as identified in listings of fire-rated assemblies.

(4) This section replaces NEC 334.10(4). Cable trays in structures of Types III, IV, and V construction, where the cable(s) is identified for the use, except as prohibited in NEC 334.12.

015 Exposed work.

(5) Where Type NMC cable is installed in shallow chases in plaster, masonry, concrete, adobe or similar material, the cable must be protected against nails or screws by:

(a) A steel plate at least 1.59 mm (1/16 in.) thick and covered with plaster, adobe, or similar finish; or

(b) Being recessed in a chase at least 6.985 cm (2 3/4 in.) deep, as measured from the finished surface, and covered with plaster, adobe, or similar finish. The cable(s) must be at least 6.35 mm (2 1/2 in.) from the finished surface.

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

**WAC 296-46B-410 Equipment for general use—
Luminaires. 004 Luminaires.**

(1) All luminaires within an enclosed shower area or within five feet of the waterline of a bathtub must be enclosed, unless specifically listed for such use; these luminaires, with exposed metal parts that are grounded, must be ground fault circuit interrupter protected.

018 Exposed luminaire (fixture) parts.

(2) Replacement luminaires that are directly wired or attached to boxes supplied by wiring methods that do not provide a ready means for grounding and that have exposed conductive parts will be permitted only where the luminaires are provided with ground-fault circuit-interrupter protection and marked "no equipment ground."

030 Flexible cord connection (~~((pendant boxes and))~~) of electric discharge luminaires.

(3) ~~((The flexible cord and cord connection must comply))~~ A ground-type attachment plug cap and receptacle connection at the source junction box is not required when the flexible cord complies with NEC 410.30 and the following:

(a) Connection to a ~~((suspended pendant))~~ source junction box must utilize an ~~((integral threaded hub))~~ approved cable connector or clamp;

(b) The maximum length of the cord for a suspended pendant drop from a permanently installed junction box to a suitable tension take-up device above the pendant luminaire must not exceed six feet;

(c) The flexible cord must be supported at each end with an approved cord grip or strain relief connector fitting/device that will eliminate all stress on the conductor connections;

(d) The flexible cord must be a minimum #14 AWG copper;

(e) The flexible cord ampacity must be determined in NEC Table 400.5(A) column A;

(f) The flexible cord must be hard or extra hard usage; and

(g) A vertical flexible cord supplying electric discharge luminaires must be secured to the luminaire support as per NEC 334.30(A).

NEW SECTION**WAC 296-46B-590 Special occupancies—Temporary installations.****001 Temporary installations.**

(1) For the purposes of this section, any circuit used for construction purposes is considered to be temporary.

004 Temporary installations - splices.

(2) A splice or junction box is required for all wiring splice or junction connections in a temporary installation.

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 5/23/03)

WAC 296-46B-700 Special conditions—Emergency systems.**001 Emergency systems - general.**

(1) In all health or personal care facilities defined in this chapter, educational facilities, institutional facilities, hotels, motels, and places of assembly for one hundred or more persons, all exit and emergency lights must be installed in accordance with Article 700 NEC and located as required in standards adopted by the state building code council under chapter 19.27 RCW.

009 Emergency systems - equipment identification.

(2) All exit and emergency lights, whether or not required by the NEC, must be installed in accordance with Article 700 NEC.

(3) ~~((Device and junction boxes for fire alarm systems other than the surface raceway type, must be substantially red in color, both inside and outside. Power limited fire protective signaling circuit conductors must be durably and plainly marked in or on junction boxes or other enclosures to indicate that it is a power limited fire protective signaling circuit.~~

(4)) All boxes and enclosures, for Article 700 NEC systems, larger than six inches by six inches, including transfer switches, generators, and power panels for emergency systems and circuits must be permanently identified with an identification plate that is substantially orange in color. All other device and junction boxes for emergency systems and circuits must be substantially orange in color, both inside and outside.

NEW SECTION

WAC 296-46B-760 Fire alarm systems. Device and junction boxes for fire alarm systems other than the surface raceway type, must be substantially red in color, both inside and outside. Power-limited fire protective signaling circuit conductors must be durably and plainly marked in or on junction boxes or other enclosures to indicate that it is a power-limited fire protective signaling circuit.

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 5/23/03)

WAC 296-46B-800 Communications systems—Communications circuits.**001 Installation.**

(1) All telecommunications installations on an end-user's property, beyond the end-user's telecommunications network demarcation point, made by a telecommunications service provider, both inside and outside of a building or structure, must conform to all licensing, certification, installation, permitting, and inspection requirements described in chapter 19.28 RCW and this chapter.

002 Designation of demarcation point.

(2) At the point of demarcation, the telecommunications installer must install an identification plate with the following information:

(a) "Point of demarcation";

(b) Name of telecommunications utility; and

(c) Name of customer/end user of the system.

(3) The telecommunications installer must confer with the telecommunications utility when determining the point of demarcation.

AMENDATORY SECTION (Amending WSR 04-21-086, filed 10/20/04, effective 11/22/04)

WAC 296-46B-900 Electrical work permits and fees. General.

(1) When an electrical work permit is required by chapter 19.28 RCW or this chapter, inspections may not be made, equipment must not be energized, or services connected unless:

(a) A valid electrical work permit is completely and legibly filled out and readily available;

(b) The classification or type of facility to be inspected and the exact scope and location of the electrical work to be performed are clearly shown on the electrical work permit;

(c) The address where the inspection is to be made is clearly identifiable from the street, road or highway that serves the premises; and

(d) Driving directions and/or a legible map is provided for the inspectors' use.

(2) An electrical work permit is valid for only one specific site address.

(3) Except as provided in subsection (8) of this section, a valid electrical work permit must be posted on the job site at a readily accessible and conspicuous location prior to beginning electrical work and at all times until the electrical inspection process is completed.

Permit - responsibility for.

(4) Each person, firm, partnership, corporation, or other entity must furnish a valid electrical work permit for the installation, alteration, or other electrical work performed or to be performed by that entity. Each electrical work permit application must be signed by the electrical contractor's administrator (or designee) or the person, or authorized representative of the firm, partnership, corporation, or other entity that is performing the electrical installation or alteration. Permits purchased electronically do not require a handwritten signature. An entity designated to sign electrical permits must provide written authorization of the purchaser's designation when requested by the department.

(5) Permits to be obtained by customers. Whenever a serving electrical utility performs work for a customer under one of the exemptions in WAC 296-46B-925 and the work is subject to inspection, the customer is responsible for obtaining all required permits.

(6) Except for emergency repairs to existing electrical systems, electrical work permits must be obtained and posted at the job site prior to beginning the installation or alteration. An electrical work permit for emergency repairs to existing electrical systems must be obtained and posted at the job site no later than the next business day after the work is begun.

(7) Fees must be paid in accordance with the inspection fee schedule, WAC 296-46B-905. The amount of the fee due is calculated based on the fee effective at the date payment is made. If the project is required to have an electrical plan review, the plan review fees will be based on the fees effective at the date the plans are received by the department for review.

Permit - requirements for.

(8) As required by chapter 19.28 RCW or this chapter, an electrical work permit is required for the installation, alteration, or maintenance of all electrical systems or equipment except for:

(a) Travel trailers;

(b) Class A basic electrical work which includes the **like-in-kind replacement** of a: Contactor, relay, timer, starter, circuit board, or similar control component; household appliance; circuit breaker; fuse; residential luminaire; lamp; snap switch; dimmer; receptacle outlet; thermostat; heating element; luminaire ballast with an exact same ballast; component(s) of electric signs, outline lighting, skeleton neon tubing when replaced on-site by an appropriate electrical contractor and when the sign, outline lighting or skeleton neon tubing electrical system is not modified; ten horsepower or smaller motor; and induction detection loops described in WAC 296-46B-300(2) and used to control gate access devices.

Unless specifically noted, the exemptions listed do not include: The replacement of an equipment unit that contains multiple components (e.g., an electrical furnace/heat pump, industrial milling machine, etc.) containing various control components or any appliance/equipment described in WAC 296-46B-110(10) for Class B permits.

A provisional electrical work permit label may be posted in lieu of an electrical work permit. If a provisional electrical work permit label is used, an electrical work permit must be obtained within two working days after posting the provisional electrical work permit label.

(9) An electrical work permit is required for all installations of telecommunications systems on the customer side of the network demarcation point for projects greater than ten telecommunications outlets. All backbone installations regardless of size and all telecommunications cable or equipment installations involving penetrations of fire barriers or passing through hazardous locations require permits and inspections. For the purposes of determining the inspection threshold for telecommunications projects greater than ten outlets, the following will apply:

(a) An outlet is the combination of jacks and mounting hardware for those jacks, along with the associated cable and telecommunications closet terminations, that serve one workstation. In counting outlets to determine the inspection threshold, one outlet must not be associated with more than six standard four-pair cables or more than one twenty-five-pair cable. Therefore, installations of greater than sixty standard four-pair cables or ten standard twenty-five-pair cables require permits and inspections. (It is not the intent of the statute to allow large masses of cables to be run to workstations or spaces serving telecommunications equipment without inspection. Proper cable support and proper loading of building structural elements are safety concerns. When considering total associated cables, the telecommunications availability at one workstation may count as more than one outlet.)

(b) The installation of greater than ten outlets and the associated cables along any horizontal pathway from a telecommunications closet to work areas during any continuous ninety-day period requires a permit and inspection.

(c) All telecommunications installations within the residential dwelling units of single-family, duplex, and multi-family dwellings do not require permits or inspections. In residential multifamily dwellings, permits and inspections are required for all backbone installations, all fire barrier penetrations, and installations of greater than ten outlets in common areas.

(d) No permits or inspections are required for installation or replacement of cord and plug connected telecommunications equipment or for patch cord and jumper cross-connected equipment.

(e) Definitions of telecommunications technical terms will come from chapter 19.28 RCW, this chapter, TIA/EIA standards, and NEC.

Permit - inspection and approval.

(10) Requests for inspections.

(a) Requests for inspections must be made no later than three business days after completion of the electrical/telecommunications installation or one business day after any

part of the installation has been energized, whichever occurs first.

(b) Requests for after hours or weekend inspections must be made by contacting the local electrical inspection supervisor at least three working days prior to the requested date of inspection. The portal-to-portal inspection fees required for after hours or weekend inspections are in addition to the cost of the original electrical work permit.

(c) Emergency requests to inspect repairs necessary to preserve life and equipment safety may be requested at any time.

(d) Inspections for annual electrical maintenance permits and annual telecommunications permits may be done on a regular schedule arranged by the permit holder with the department.

(11) Final inspection approval will not be made until all inspection fees are paid in full.

Permit - duration/refunds.

(12) Electrical work permits will expire one year after the date of purchase unless electrical work is actively and consistently in progress and inspections requested. Refunds are not available for:

(a) Expired electrical work permits;

(b) Electrical work permits where the electrical installation has begun; or

(c) Any electrical work permit where an electrical inspection or electrical inspection request has been made.

Permit - annual telecommunications.

(13) The chief electrical inspector can allow annual permits for the inspection of telecommunications installations to be purchased by a building owner or licensed electrical/telecommunications contractor. The owner's full-time telecommunications maintenance staff, or a licensed electrical/telecommunications contractor(s) can perform the work done under this annual permit. The permit holder is responsible for correcting all installation deficiencies. The permit holder must make available, to the electrical inspector, all records of all the telecommunications work performed and the valid electrical or telecommunications contractor's license numbers for all contractors working under the permit.

Permit - annual electrical.

(14) The chief electrical inspector can allow annual permits for the inspection of electrical installations to be purchased by a building owner or licensed electrical contractor. This type of permit is available for commercial/industrial locations employing a full-time electrical maintenance staff or having a yearly maintenance contract with a licensed electrical contractor.

The permit holder is responsible for correcting all installation deficiencies. The permit holder must make available, to the electrical inspector, all records of all electrical work performed.

This type of electrical permit may be used for retrofit, replacement, maintenance, repair, upgrade, and alterations to electrical systems at a single plant or building location. This type of permit does not include new or increased service or new square footage.

Provisional electrical work permit - use/duration/refunds.

(15) Only licensed electrical or telecommunications contractors can use provisional electrical work permits.

(16) If a provisional electrical work permit label is used, the following requirements must be met:

(a) Prior to beginning the work, the certified electrician or telecommunications worker performing the installation must affix the provisional electrical work permit label on the cover of the panelboard (~~(or)~~), overcurrent device, or telecommunications equipment supplying (~~(power to)~~) the circuit or equipment (~~(prior to beginning the work)~~).

(b) The job site portion of the label must include the following:

- (i) Date the work is begun;
- (ii) (~~(Electrical)~~) Contractor's name;
- (iii) (~~(Electrical)~~) Contractor's license number; and
- (iv) Short description of the work.

(c) The contractor portion of the label must include the following:

- (i) Date the work is begun;
- (ii) (~~(Electrical)~~) Contractor's license number;
- (iii) Job site address;
- (iv) Owner's name; and
- (v) Short description of the work.

(d) The label must be filled in using sunlight and weather resistant ink.

(e) The (~~(electrical)~~) contractor must return the contractor's portion of the label to the department of labor and industries, electrical section office having jurisdiction for the inspection, within two working days after the job site portion of the label is affixed. Either receipt by department of labor and industries or postmark to a valid department of labor and industries electrical address is acceptable for meeting this requirement.

(f) The contractor must return the contractor's portion of the label to the Department of Labor & Industries, Chief Electrical Inspector, within five working days after destroying or voiding any label.

(g) The contractor is responsible for safekeeping of all purchased labels.

(17) Refunds are not available for provisional electrical work permit labels.

(18) Provisional electrical work permit labels will be sold in blocks of twenty.

(19) Any (~~(electrical)~~) contractor purchasing a provisional electrical work permit label may be audited for compliance with the provisions for purchasing, inspection, reporting of installations, and any other requirement of usage.

Class B electrical work permit - use.

(20) The electrical contractor must return the contractor's portion of the Class B label to the department of labor and industries, chief electrical inspector, within five working days after destroying or voiding any label.

(21) The electrical contractor is responsible for safekeeping of all purchased Class B labels.

PROPOSED

AMENDATORY SECTION (Amending WSR 04-21-086, filed 10/20/04, effective 11/22/04)

WAC 296-46B-915 Civil penalty schedule.

((*)) Each day that a violation occurs will be a separate offense.

((*)) Once a violation of chapter 19.28 RCW or chapter 296-46B WAC becomes a final judgment, any additional violation within three years becomes a "second" or "additional" offense subject to an increased penalty as set forth in the following tables.

((*)) In case of continued, repeated or gross violation of the provisions of chapter 19.28 RCW or this chapter, or if property damage or bodily injury occurs as a result of the failure of a person, firm, partnership, corporation, or other entity to comply with chapter 19.28 RCW or this chapter the department may double the penalty amounts shown in subsections (1) through (13) of this section.

((*)) A person, firm, partnership, corporation or other entity who violates a provision of chapter 19.28 RCW or chapter 296-46B WAC is liable for a civil penalty based upon the following schedule.

(1) Offering to perform, submitting a bid for, advertising, installing or maintaining cables, conductors or equipment:

(a) That convey or utilize electrical current without having a valid electrical contractor's license.

(b) Used for information generation, processing, or transporting of signals optically or electronically in telecommunications systems without having a valid telecommunications contractor's license.

First offense:	\$500
Second offense:	\$1,500
Third offense:	\$3,000
Each offense thereafter:	\$6,000

(2) Employing an individual for the purposes of chapter 19.28 RCW who does not possess a valid certificate of competency or training certificate to do electrical work.

First offense:	\$(+100) 250
Each offense thereafter:	\$500

(3) Performing electrical work without having a valid certificate of competency or electrical training certificate.

First offense:	\$250
Each offense thereafter:	\$500

(4) Employing electricians and electrical trainees for the purposes of chapter 19.28 RCW in an improper ratio. Contractors found to have violated this section three times in a three-year period must be the subject of an electrical audit in accordance with WAC 296-46B-975.

First offense:	\$250
Each offense thereafter:	\$500

(5) Failing to provide proper supervision to an electrical trainee as required by chapter 19.28 RCW. Contractors found to have violated this section three times in a three-year period must be the subject of an electrical audit in accordance with WAC 296-46B-975.

First offense:	\$250
Each offense thereafter:	\$500

(6) Working as an electrical trainee without proper supervision as required by chapter 19.28 RCW.

First offense:	\$50 (see note E)
Second offense:	\$250
Each offense thereafter:	\$500

(7) Offering, bidding, advertising, or performing electrical or telecommunications installations, alterations or maintenance outside the scope of the firm's specialty electrical or telecommunications contractors license.

First offense:	\$500
Second offense:	\$1,500
Third offense:	\$3,000
Each offense thereafter:	\$6,000

(8) Selling or exchanging electrical equipment associated with spas, hot tubs, swimming pools or hydromassage bathtubs which are not listed by an approved laboratory.

First offense:	\$500
Second offense:	\$1,000
Each offense thereafter:	\$2,000

Definition:

The sale or exchange of electrical equipment associated with hot tubs, spas, swimming pools or hydromassage bathtubs includes to: "Sell, offer for sale, advertise, display for sale, dispose of by way of gift, loan, rental, lease, premium, barter or exchange."

(9) Covering or concealing installations prior to inspection.

First offense:	\$250 (see note E)
Second offense:	\$1,000
Each offense thereafter:	\$2,000

(10) Failing to make corrections within fifteen days of notification by the department.

Exception:

Where an extension has been requested and granted, this penalty applies to corrections not completed within the extended time period.

First offense:	\$250 ((see note E))
Second offense:	\$1,000
Each offense thereafter:	\$2,000

(11) Failing to obtain or post an electrical/telecommunications work permit or provisional electrical work permit label prior to beginning the electrical/telecommunications installation or alteration.

Exception:

In cases of emergency repairs to existing electrical/telecommunications systems, this penalty will not be charged if the permit is obtained and posted no later than the business day following beginning work on the emergency repair.

First offense:	\$250
Second offense:	\$1,000
Each offense thereafter:	\$2,000

(12) Violating chapter 19.28 RCW duties of the electrical/telecommunications administrator or master electrician.

(First offense:	\$100 (see note E except for RCW 19.28.061 (5)(a) or 19.28.430 (3)(a))
Second offense:	\$750
Third offense:	\$1,500
Each offense thereafter:	\$3,000))

(a) Failing to be a member of the firm or a supervisory employee and shall be available during working hours to carry out the duties of an administrator or master electrician.

<u>First offense:</u>	<u>\$1,000</u>
<u>Second offense:</u>	<u>\$1,500</u>
<u>Each offense thereafter:</u>	<u>\$3,000</u>

(b) Failing to ensure that all electrical work complies with the electrical installation laws and rules of the state.

<u>First offense:</u>	<u>\$100</u>
<u>Second offense:</u>	<u>\$250</u>

PROPOSED

PROPOSED

<u>Third offense:</u>	<u>\$1,000</u>
<u>Each offense thereafter:</u>	<u>\$3,000</u>
<u>(c) Failing to ensure that the proper electrical safety procedures are used.</u>	
<u>First offense:</u>	<u>\$500</u>
<u>Second offense:</u>	<u>\$1,500</u>
<u>Each offense thereafter:</u>	<u>\$3,000</u>
<u>(d) Failing to ensure that all electrical labels, permits, and certificates required to perform electrical work are used.</u>	
<u>First offense:</u>	<u>\$250</u>
<u>Each offense thereafter:</u>	<u>\$500</u>
<u>(e) Failing to ensure that all electrical licenses required to perform electrical work are used (i.e., work performed must be in the allowed scope of work for the contractor).</u>	
<u>First offense:</u>	<u>\$500</u>
<u>Second offense:</u>	<u>\$1,500</u>
<u>Third offense:</u>	<u>\$3,000</u>
<u>Each offense thereafter:</u>	<u>\$6,000</u>
<u>(f) Failing to see that corrective notices issued by an inspecting authority are complied with within fifteen days.</u>	
<u>Exception: Where an extension has been requested and granted, this penalty applies to corrections not completed within the extended time period.</u>	
<u>First offense:</u>	<u>\$250</u>
<u>Second offense:</u>	<u>\$1,000</u>
<u>Each offense thereafter:</u>	<u>\$2,000</u>
<u>(g) Failing to notify the department in writing within ten days if the master electrician or administrator terminates the relationship with the electrical contractor.</u>	
<u>First offense:</u>	<u>\$500</u>
<u>Second offense:</u>	<u>\$1,000</u>
<u>Each offense thereafter:</u>	<u>\$3,000</u>
<u>(13) Violating any of the provisions of chapter 19.28 RCW or chapter 296-46B WAC which are not identified in subsections (1) through (12) of this section.</u>	
RCW 19.28.161 through 19.28.271 and the rules developed pursuant to them.	
<u>First offense:</u>	<u>\$250</u>
<u>Each offense thereafter:</u>	<u>\$500</u>
All other chapter 19.28 RCW provisions and the rules developed pursuant to them.	
<u>First offense:</u>	<u>\$250</u>
<u>Second offense:</u>	<u>\$750</u>
<u>Each offense thereafter:</u>	<u>\$2,000</u>

E: Upon written request to the chief electrical inspector, the penalty amount will be waived for the first citation issued within a three-year period. The written request must be received by the department no later than twenty days after notice of penalty. If a subsequent citation is issued within a three-year period and found to be a final judgment, the penalty amount for the first citation will be reinstated and immediately due and payable. Penalty waivers will not be granted for any citation being appealed under WAC 296-46B-995(11).

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

WAC 296-46B-920 Electrical/telecommunications license/certificate types and scope of work. (1) **General electrical (01):** A general electrical license and/or certificate encompasses all phases and all types of electrical and telecommunications installations.

(2) All specialties listed in this subsection may perform the work described within their specific specialty as allowed by the occupancy and location described within the specialty's scope of work. **Specialty (limited) electrical licenses and/or certificates are as follows:**

(a) **Residential (02):** Limited to the telecommunications, low voltage, and line voltage wiring of one- and two-family dwellings, or multifamily dwellings not exceeding three (~~two~~) stories above grade. All wiring is limited to nonmetallic sheathed cable, except for services and/or feeders, exposed installations where physical protection is required, and for wiring buried below grade.

(i) This specialty also includes the wiring for ancillary structures such as, but not limited to: Appliances, equipment, swimming pools, septic pumping systems, domestic water systems, limited energy systems (e.g., doorbells, intercoms, fire alarm, burglar alarm, energy control, HVAC/refrigeration, etc.), multifamily complex offices/garages, site lighting when supplied from the residence or ancillary structure, and other structures directly associated with the functionality of the residential units.

(ii) This specialty does not include wiring occupancies defined in WAC 296-46B-010 (14), or commercial occupancies such as: Motels, hotels, offices, assisted living facilities, or stores.

(b) **Pump and irrigation (03):** Limited to the electrical connection of circuits, feeders, controls, low voltage, related telecommunications, and services to supply: Domestic and irrigation water pumps, circular irrigating system's pumps and pump houses.

This specialty may also perform the work defined in (c) of this subsection ((see Table 920-1)).

(c) **Domestic well (03A):** Limited to the extension of a branch circuit, which is supplied and installed by others, to signaling circuits, motor control circuits, motor control devices, and pumps which do not exceed 7 1/2 horsepower at 250 volts AC single phase input power, regardless of motor controller output or motor voltage/phase, used in residential potable water or residential sewage disposal systems.

(d) **Signs (04):** Limited to placement and connection of signs and outline lighting, the electrical supply, related telecommunications, controls and associated circuit extensions thereto; and the installation of a maximum 60 ampere, 120/240 volt single phase service to supply power to a remote sign only. This specialty may service, maintain, or repair exterior luminaires that are mounted on a pole or other structure with like-in-kind components.

- (i) Electrical licensing/certification is not required to:
 - (A) Clean the nonelectrical parts of an electric sign;
 - (B) To form or pour a concrete pole base used to support a sign;
 - (C) To operate machinery used to assist an electrician in mounting an electric sign or sign supporting pole; or

(D) To assemble the structural parts of a billboard.

(ii) Electrical licensing/certification is required to: Install, modify, or maintain a sign, sign supporting pole, sign face, sign ballast, lamp socket, lamp holder, disconnect switch, or any other part of a listed electric sign.

(e) **Limited energy system (06):** Limited to the installation of signaling and power limited circuits and related equipment. This specialty is restricted to low-voltage circuits. This specialty includes the installation of telecommunications, HVAC/refrigeration low-voltage wiring, fire protection signaling systems, intrusion alarms, energy management and control systems, industrial and automation control systems, lighting control systems, commercial and residential amplified sound, public address systems, and such similar low-energy circuits and equipment in all occupancies and locations.

Limited energy electrical contractors may perform all telecommunications work under their specialty (06) electrical license and administrator's certificate.

~~((On the effective date of this rule, any entity holding a currently valid electrical contractor's license, electrical administrator's certificate, master specialty electrician's certificate, or specialty electrician's certificate in this specialty will be issued combination specialty status for HVAC/refrigeration (06A) at no cost and without examination.))~~

(f) **HVAC/refrigeration systems:**

(i) See WAC 296-46B-020 for specific HVAC/refrigeration definitions.

(ii) For the purposes of this section when a component is replaced, the replacement must be like-in-kind or made using the equipment manufacturer's authorized replacement component.

(iii) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may:

(A) Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all residential occupancies;

(B) Install, repair, replace, and maintain line voltage components within HVAC/refrigeration equipment. Such line voltage components include product illumination luminaires installed within and powered from the HVAC/refrigeration system (e.g., reach-in beverage coolers, frozen food cases, produce cases, etc.) and new or replaced factory authorized accessories such as internally mounted outlets;

(C) Repair, replace, or maintain the internal components of the HVAC/refrigeration equipment disconnecting means or controller so long as the disconnecting means or controller is not located within a motor control center or panelboard (see Figure 920-1 and Figure 920-2);

(D) Install, repair, replace, and maintain short sections of raceway to provide physical protection for low-voltage cables. For the purposes of this section a short section cannot mechanically interconnect two devices, junction boxes, or other equipment or components; and

(E) Repair, replace, or maintain line voltage flexible supply whips not over six feet in length, provided there are no modifications to the characteristics of the branch circuit/feeder load being supplied by the whip. There is no limitation on the whip raceway method (e.g., metallic replaced by nonmetallic).

(iv) The HVAC/refrigeration specialties described in (f)(v) and (vi) of this subsection may not:

(A) Install line voltage controllers or disconnect switches external to HVAC/refrigeration equipment;

(B) Install, repair, replace, or maintain:

- Integrated building control systems, other than HVAC/refrigeration systems;

- Single stand-alone line voltage equipment or components (e.g., heat cable, wall heaters, radiant panel heaters, baseboard heaters, contactors, motor starters, and similar equipment) unless the equipment or component:

Is exclusively controlled by the HVAC/refrigeration system and requires the additional external connection to a mechanical system(s) (e.g., connection to water piping, gas piping, refrigerant system, ducting for the HVAC/refrigeration system, gas fireplace flume, ventilating systems, etc. (i.e., as in the ducting connection to a bathroom fan)). The external connection of the equipment/component to the mechanical system must be required as an integral component allowing the operation of the HVAC/refrigeration system; or

Contains a HVAC/refrigeration mechanical system(s) (e.g., water piping, gas piping, refrigerant system, etc.) within the equipment (e.g., "through-the-wall" air conditioning units, self-contained refrigeration equipment, etc.);

- Luminaires that serve as a building or structure lighting source, even if mechanically connected to a HVAC/refrigeration system (e.g., troffer luminaire used as a return air device, lighting within a walk-in cooler/freezer used for personnel illumination);

- Raceway/conduit systems;

- Line voltage: Service, feeder, or branch circuit conductors. However, if a structure's feeder/branch circuit supplies HVAC/refrigeration equipment containing a supplementary overcurrent protection device(s), this specialty may install the conductors from the supplementary overcurrent device(s) to the supplemental HVAC/refrigeration equipment if the supplementary overcurrent device and the HVAC/refrigeration equipment being supplied are located within sight of each other (see Figure 920-2); or

- Panelboards, switchboards, or motor control centers external to HVAC/refrigeration system.

(v) **HVAC/refrigeration (06A):**

(A) This specialty is not limited by voltage, phase, or amperage.

(B) No unsupervised electrical trainee can install, repair, replace, or maintain any part of a HVAC/refrigeration system that contains any circuit rated over 600 volts whether the circuit is energized or deenergized.

(C) This specialty may:

- Install HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies:

That have no more than three ~~((floors))~~ stories on/above grade; or

Regardless of the number of ~~((floors))~~ stories above grade if the installation:

- Does not pass between ~~((floors))~~ stories;
- Is made in a previously occupied and wired space; and
- Is restricted to the HVAC/refrigeration system;

PROPOSED

- Repair, replace, and maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in all occupancies regardless of the number of ((floors)) stories on/above grade.

(D) This specialty may not install, repair, replace, or maintain: Any electrical wiring governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations) located outside the HVAC/refrigeration equipment.

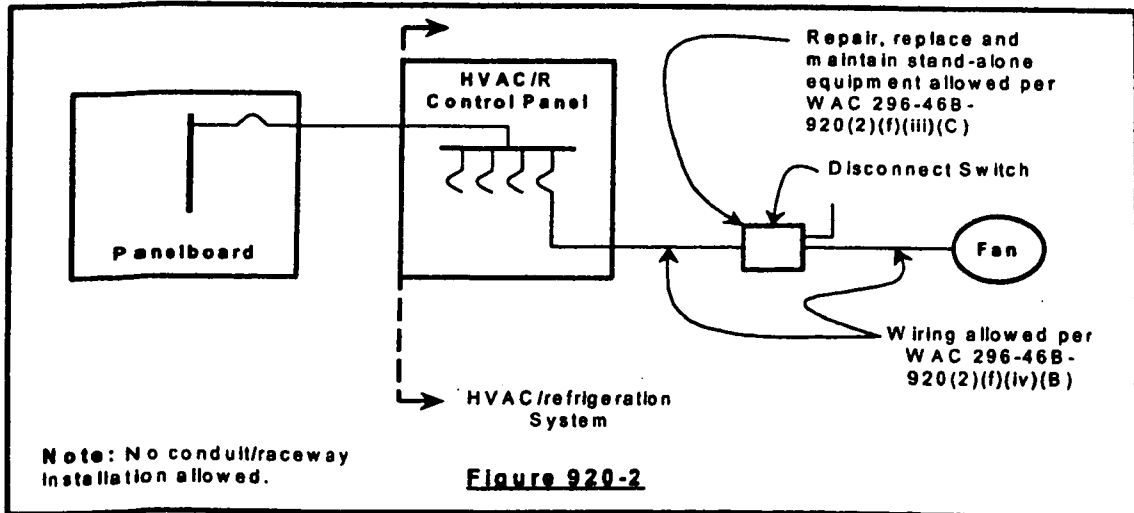
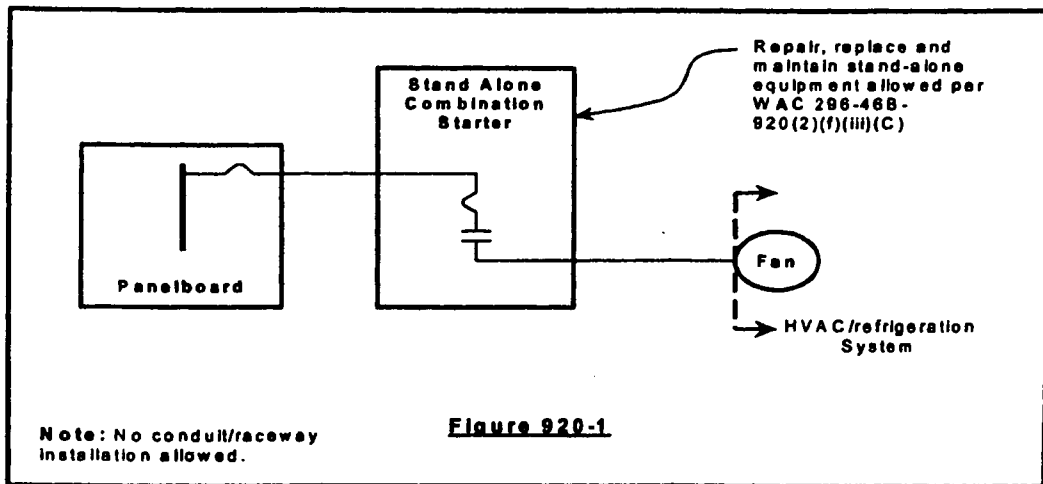
(vi) HVAC/refrigeration - restricted (06B):

(A) This specialty may not perform any electrical work where the primary electrical power connection to the HVAC/refrigeration system exceeds: 250 volts, single phase, or 120 amps.

(B) This specialty may install, repair, replace, or maintain HVAC/refrigeration: Telecommunications, Class 2 low-voltage control circuit wiring/components in other than residential occupancies that have no more than three ((floors)) stories on/above grade.

(C) This specialty may not install, repair, replace, or maintain:

- The allowed telecommunications/low-voltage HVAC/refrigeration wiring in a conduit/raceway system; or
- Any electrical work governed under article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).



(g) **Nonresidential maintenance (07):** Limited to maintenance, repair and replacement of like-in-kind existing electrical equipment and conductors. This specialty does not include maintenance activities in residential dwellings defined in (a) of this subsection for the purposes of accumulating training experience toward qualification for the residential (02) specialty electrician examination.

This specialty may perform the work defined in (h), (i), (j), (k), and (l) of this subsection ((see Table 920-1)).

(h) **Nonresidential lighting maintenance and lighting retrofit (07A):** Limited to working within the housing of existing nonresidential luminaires for work related to repair, service, maintenance of luminaires and installation of energy efficiency lighting retrofit upgrades. This specialty includes replacement of lamps, ballasts, sockets and the installation of

listed lighting retrofit reflectors and kits. All work is limited to the luminaire body, except remote located ballasts may be replaced or retrofitted with approved products. This specialty does not include installing new luminaires or branch circuits; moving or relocating existing luminaires; or altering existing branch circuits.

(i) **Residential maintenance (07B):** This specialty is limited to residential dwellings as defined in WAC 296-46B-920 (2)(a), multistory dwelling structures with no commercial facilities, and the interior of dwelling units in multistory structures with commercial facilities. This specialty may maintain, repair, or replace (like-in-kind) existing luminaires, water heating equipment, ranges, electric heaters, similar household type appliances, and all permit exempted work as defined in WAC 296-46B-900.

This specialty is limited to equipment and circuits to a maximum of 250 volts, 60 amperes, and single phase maximum.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit or whip.

For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip.

(j) **Restricted nonresidential maintenance (07C):** This specialty may maintain, repair, or replace (like-in-kind) existing luminaires, water heating equipment, ranges, electric heaters, similar household type appliances, and all permit exempted work as defined in WAC 296-46B-900 except for the replacement or repair of circuit breakers.

This specialty is limited to equipment and circuits to a maximum of 277 volts and 20 amperes for lighting branch circuits only and/or maximum 250 volts and 60 amperes for other circuits.

The replacement of luminaires is limited to in-place replacement required by failure of the luminaire to operate. Luminaires installed in suspended lay-in tile ceilings may be relocated providing: The original field installed luminaire supply whip is not extended or relocated to a new supply point; or if a manufactured wiring assembly supplies luminaire power, a luminaire may be relocated no more than eight feet providing the manufactured wiring assembly circuiting is not changed.

This specialty may disconnect and reconnect low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit. For the purpose of this specialty, "electrical equipment" does not include electrical conductors, raceway or conduit systems external to the equipment or whip.

This specialty may perform the work defined in (h) and (i) of this subsection ((see Table 920-1)).

This specialty cannot perform any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(k) **Appliance repair (07D):** Servicing, maintaining, repairing, or replacing household appliances, small commercial/industrial appliances, and other small utilization equipment.

(i) For the purposes of this subsection:

(A) The appliance or utilization equipment must be self-contained and built to standardized sizes or types. The appliance/equipment must be connected as a single unit to a single source of electrical power limited to a maximum of 250 volts, 60 amperes, single phase.

(B) Appliances and utilization equipment include, but are not limited to: Dish washers, ovens, water heating equipment, office equipment, vehicle repair equipment, commercial kitchen equipment, self-contained hot tubs and spas, grinders, and scales.

(C) Appliances and utilization equipment do not include systems and equipment such as: Alarm/energy management/similar systems, luminaires, furnaces/heaters/air conditioners/heat pumps, sewage disposal equipment, door/gate/similar equipment, or individual components installed so as to create a system (e.g., pumps, switches, controllers, etc.).

(ii) This specialty includes:

(A) The in-place like-in-kind replacement of the appliance or equipment if the same unmodified electrical circuit is used to supply the equipment being replaced. This specialty also includes the like-in-kind replacement of electrical components within the appliance or equipment;

(B) The disconnection and reconnection of low-voltage control and line voltage supply whips not over six feet in length provided there are no modifications to the characteristics of the branch circuit; and

(C) The installation of an outlet box and outlet at an existing appliance or equipment location when converting the appliance from a permanent electrical connection to a plug and cord connection. Other than the installation of the outlet box and outlet, there can be no modification to the existing branch circuit supplying the appliance or equipment.

(iii) This specialty does not include:

(A) The installation, repair, or modification of branch circuits conductors, services, feeders, panelboards, disconnect switches, or raceway/conductor systems interconnecting multiple appliances, equipment, or other electrical components.

(B) Any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations).

(l) **Equipment repair (07E):** Servicing, maintaining, repairing, or replacing utilization equipment.

See RCW 19.28.095 for the equipment repair scope of work and definitions.

(m) **Telecommunications (09):** Limited to the installation, maintenance, and testing of telecommunications systems, equipment, and associated hardware, pathway systems, and cable management systems.

(i) This specialty includes:

(A) Installation of open wiring systems of telecommunications cables.

(B) Surface nonmetallic raceways designated and used exclusively for telecommunications.

(C) Optical fiber innerduct raceway.

(D) Underground raceways designated and used exclusively for telecommunications and installed for additions or extensions to existing telecommunications systems not to exceed fifty feet inside the building.

(E) Incidental short sections of circular or surface metal raceway, not to exceed ten feet, for access or protection of telecommunications cabling and installation of cable trays and ladder racks in telecommunications service entrance rooms, spaces, or closets.

(F) Audio or paging systems where the amplification is integrated into the telephone system equipment.

(G) Audio or paging systems where the amplification is provided by equipment listed as an accessory to the telephone system equipment and requires the telephone system for the audio or paging system to function.

(H) Closed circuit video monitoring systems if there is no integration of line or low-voltage controls for cameras and equipment. Remote controlled cameras and equipment are considered (intrusion) security systems and must be installed by appropriately licensed electrical contractors and certified electricians.

(I) Customer satellite and conventional antenna systems receiving a telecommunications service provider's signal. All receiving equipment is on the customer side of the telecommunications network demarcation point.

(ii) This specialty does not include horizontal cabling used for fire protection signaling systems, intrusion alarms, access control systems, patient monitoring systems, energy management control systems, industrial and automation control systems, HVAC/refrigeration control systems, lighting control systems, and stand-alone amplified sound or public address systems. Telecommunications systems may interface with other building signal systems including security, alarms, and energy management at cross-connection junctions within telecommunications closets or at extended points of demarcation. Telecommunications systems do not include the installation or termination of premises line voltage service, feeder, or branch circuit conductors or equipment. Horizontal cabling for a telecommunications outlet, necessary to interface with any of these systems outside of a telecommunications closet, is the work of the telecommunications contractor.

(n) **Door, gate, and similar systems (10):** This specialty may install, service, maintain, repair, or replace door/gate/similar systems electrical operator wiring and equipment.

(i) For the purposes of this subsection, door/gate/similar systems electrical operator systems include electric gates, doors, windows, awnings, movable partitions, curtains and similar systems. These systems include, but are not limited to: Electric gate/door/similar systems operators, control push buttons, key switches, key pads, pull cords, air and electric treadle, air and electric sensing edges, coil cords, take-up reels, clocks, photo electric cells, loop detectors, motion detectors, remote radio and receivers, antenna, timers, lock-out switches, stand-alone release device with smoke detection, strobe light, annunciator, control panels, wiring and termination of conductors.

(ii) This specialty includes:

(A) Low-voltage, NEC Class 2, door/gate/similar systems electrical operator systems where the door/gate/similar systems electrical operator system is not connected to other systems.

(B) Branch circuits originating in a listed door/gate/similar systems electric operator control panel that supplies only door/gate/similar systems system components providing: The branch circuit does not exceed 600 volts, 20 amperes and the component is within sight of the listed door/gate/similar systems electric operator control panel.

(C) Reconnection of line voltage power to a listed door/gate/similar systems electric operator control panel is permitted provided:

- There are no modifications to the characteristics of the branch circuit/feeder;

- The circuit/feeder does not exceed 600 volts, 20 amperes; and

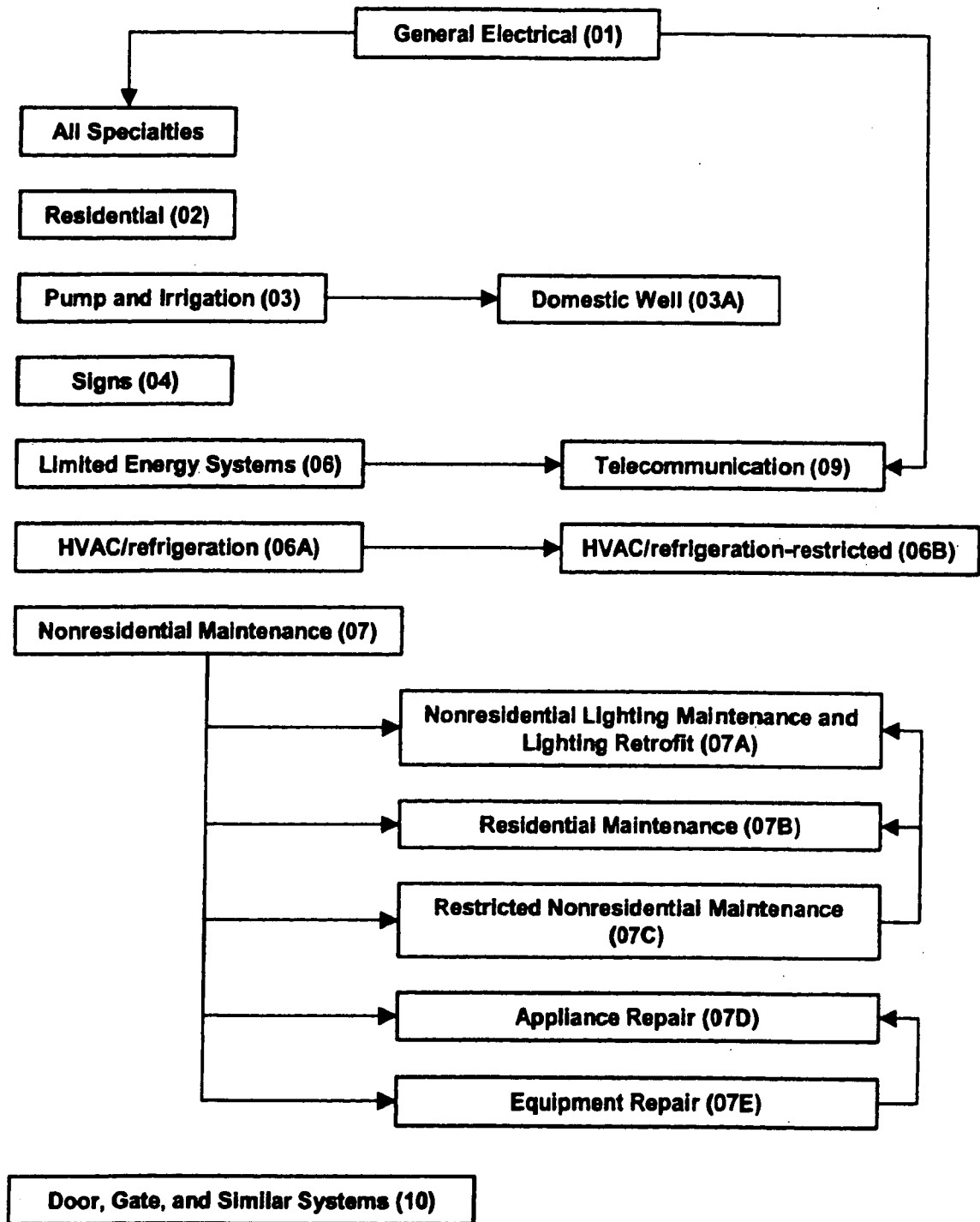
- The conductor or conduit extending from the branch circuit/feeder disconnecting means or junction box does not exceed six feet in length.

(iii) This specialty does not include any work governed under Article(s) 500, 501, 502, 503, 504, 505, 510, 511, 513, 514, 515, or 516 NEC (i.e., classified locations). This specialty may not install, repair, or replace branch circuit (line voltage) conductors, services, feeders, panelboards, or disconnect switches supplying the door/gate/similar systems electric operator control panel.

(3) A specialty electrical contractor, other than the (06) limited energy specialty electrical contractor, may only perform telecommunications work within the equipment or occupancy limitations of their specialty electrical contractor's license. Any other telecommunications work requires a telecommunications contractor's license.

Table 920-1 Allowed Scope of Work Crossover

((STRICKEN GRAPHIC



STRICKEN GRAPHIC))

PROPOSED

AMENDATORY SECTION (Amending WSR 04-21-086, filed 10/20/04, effective 11/22/04)

WAC 296-46B-925 Electrical/telecommunications contractor's license. General.

(1) The department will issue an electrical/telecommunications contractor's license that will expire twenty-four months following the date of issue to a person, firm, partnership, corporation or other entity that complies with requirements for such license in chapter 19.28 RCW. An electrical/telecommunications contractor's license will not be issued to or renewed for a person, firm, or partnership unless the Social Security number, date of birth, and legal address of the individual legal owner(s) are submitted with the application. The department may issue an electrical/telecommunications contractor's license for a period greater or less than twenty-four months for the purpose of equalizing the number of electrical contractor's licenses that expire each month. The department may prorate the electrical/telecommunications contractor's license fee according to the license period.

(2) Combination specialty contractor's license. The department may issue a combination specialty contractor's license to a firm that qualifies for more than one specialty electrical contractor's license. The assigned administrator must be certified in all specialties applicable to the combination specialty contractor's license. The license will plainly indicate the specialty licenses' codes included in the combination license. An administrator assigned to a telecommunications contractor must be certified as a telecommunications administrator. A combination license will not be issued for telecommunications (09).

(3) The department may deny renewal of an electrical/telecommunications contractor's license if a firm, an owner, partner, member, or corporate officer owes money as a result of an outstanding final judgment(s) to the department.

Electrical/telecommunications contractor cash or securities deposit.

(4) Cash or securities deposit. The electrical/telecommunications contractor may furnish the department with a cash or security deposit to meet the bond requirements in lieu of posting a bond. A cash or security deposit assigned to the department for bond requirements will be held in place for one year after the contractor's license is expired, revoked, or the owner notifies the department in writing that the company is no longer doing business in the state of Washington as an electrical/telecommunications contractor. Upon written request, the cash or security deposit will then be released by the department providing there is no pending legal action against the contractor under chapter 19.28 RCW of which the department has been notified.

Telecommunications contractor insurance.

(5) To obtain a telecommunications contractor's license, the applicant must provide the department with an original certificate of insurance naming the department of labor and industries, electrical section as the certificate holder. Insurance coverage must be no less than twenty thousand dollars for injury or damages to property, fifty thousand dollars for injury or damage including death to any one person, and one hundred thousand dollars for injury or damage including

death to more than one person. The insurance will be considered a continuing obligation unless canceled by the insurance company. The insurance company must notify the department in writing ten days prior to the effective date of said cancellation or failure to renew.

(6) The telecommunications contractor may furnish the department with an assigned account to meet the insurance requirements in lieu of a certificate of insurance. An account assigned to the department for insurance requirements will be held in place for three years after the contractor's license is expired, revoked, or the owner notifies the department in writing that the company is no longer doing business in the state of Washington as a telecommunications contractor. Upon written request, the account then will be released by the department providing there is no pending legal action against the contractor under chapter 19.28 RCW of which the department has been notified.

Electrical/telecommunications contractor exemptions.

(7) The following types of systems and circuits are considered exempt from the requirements for licensing and permitting described in chapter 19.28 RCW. The electrical failure of these systems does not inherently or functionally compromise safety to life or property.

Low-voltage thermocouple derived circuits and low-voltage circuits for:

- (a) Built-in residential vacuum systems;
- (b) Underground landscape sprinkler systems;
- (c) Underground landscape lighting; and
- (d) Residential garage doors.

For these types of systems and circuits to be considered exempt, the following conditions must be met:

(e) The power supplying the installation must be derived from a listed Class 2 power supply;

(f) The installation and termination of line voltage equipment and conductors supplying these systems is performed by appropriately licensed and certified electrical contractors and electricians;

(g) The conductors of these systems do not pass through fire-rated walls, fire-rated ceilings or fire-rated floors in other than residential units; and

(h) Conductors or luminaires are not installed in installations covered by the scope of Article 680 NEC (swimming pools, fountains, and similar installations).

(8) Firms who clean and/or replace lamps in luminaires are not included in the requirements for licensing in chapter 19.28 RCW. This exemption does not apply to electric signs as defined in the NEC.

(9) Firms who install listed plug and cord connected equipment are not included in the requirements for licensing in chapter 19.28 RCW. The plug and cord must be a single listed unit consisting of a molded plug and cord and not (~~exceed~~) exceeding 250 volt 60 ampere single phase. The plug and cord can be field installed per the manufacturer's instructions and the product listing requirements. The equipment must be a single manufactured unit that does not require any electrical field assembly except for the installation of the plug and cord.

(10) Firms regulated by the Federal Communications Commission or the utilities and transportation commission,

supplying telecommunications service to an end-user's property, are not required to be licensed as a telecommunications contractor under chapter 19.28 RCW for telecommunications installations made ahead of the telecommunications network demarcation point.

(11) Unregulated firms, supplying telecommunications service to an end-user's property, are not required to be licensed as a telecommunications contractor under chapter 19.28 RCW for telecommunications installations made ahead of the telecommunications network demarcation point.

(12) Leaseholders. For electrical installations, maintenance, or alterations to existing buildings only, any person, firm, partnership, corporation, or other entity holding a valid, signed lease from the property owner authorizing the leaseholder to perform electrical work, on the property the leaseholder occupies, will be allowed to purchase an electrical permit(s) and do electrical work on or within the property described in the lease. The lessee and/or his or her regularly employed employees must perform the electrical installation, maintenance and alteration.

The lessee who performs the electrical maintenance or installation work must be the sole occupant of the property or space. Property owners or leaseholders cannot perform electrical work on new buildings for rent, sale, or lease, without the proper electrical licensing and certification. Refer to RCW 19.28.261 for exemptions from licensing and certification.

(13) Assisting a householder. A friend, neighbor, relative, or other person (including a certified electrician) may assist a householder, at his/her residence in the performance of electrical work on the condition that the householder is present when the work is performed and the person assisting the householder does not accept money or other forms of compensation for the volunteer work. For the purposes of this subsection, a residence is a single-family residence.

(14) Volunteering to do electrical work. There are no exceptions from the electrical contractor's license or electrician certification requirements to allow persons to perform volunteer electrical work for anyone other than a householder or a nonprofit organization as allowed by RCW 19.28.091(7). For the purpose of this section, volunteer means that there is no remuneration or receiving of goods or services in return for electrical installations performed.

(15) Farms or place of business. See RCW 19.28.261 for licensing/certification exemptions allowed for the owner(s) of a farm or other place of business and for the employees of the owner.

Exemptions - electrical utility and electrical utility's contractor.

(16) Electrical utility system exemption. Neither a serving electrical utility nor a contractor employed by the serving electrical utility is required to have an electrical contractor's license for work on the "utility system" or on service connections or on meters and other apparatus or appliances used to measure the consumption of electricity.

(a) Street lighting exemption. A serving electrical utility is not required to have an electrical contractor's license or electrical permit to work on electrical equipment used in the lighting of streets, alleys, ways, or public areas or squares.

Utilities are allowed to install outside area lighting on privately owned property where the lighting fixture(s) is installed on a utility owned pole(s) used to support utility owned electric distribution wiring or equipment designed to supply electrical power to a customer's property.

Utilities are allowed to install area lighting outside and not attached to a building or other customer owned structure when the areas are outside publicly owned buildings such as: Publicly owned/operated parking lots, parks, schools, play fields, beaches, and similar areas; or the areas are privately owned where the public has general, clear and unrestricted access such as: Church parking lots, and commercial property public parking areas and similar areas.

Utilities are not allowed to install area lighting when the area is privately owned and the public does not have general, clear, and unrestricted access such as industrial property, residential property and controlled commercial property where the public's access is otherwise restricted.

Utilities are not allowed to install area lighting where the lighting is supplied from a source of power derived from a customer owned electrical system.

(b) Customer-owned equipment exemption. A serving electrical utility is not required to have an electrical contractor's license to work on electrical equipment owned by a commercial, industrial, or public institution customer if:

(i) The utility has not solicited such work; and

(ii) Such equipment:

(A) Is located outside a building or structure; and

(B) The work performed is on the primary side of the customer's transformer(s) which supplies power at the customer's utilization voltage.

(c) Exempted equipment and installations. No person, firm, partnership, corporation, or other entity is required to have an electrical contractor's license for work on electrical equipment and installations thereof that are exempted by RCW 19.28.091.

(d) Exemption from inspection.

(i) The work of a serving electrical utility and its contractors on the utility system is not subject to inspection. The utility is responsible for inspection and approval for the installation.

(ii) Work exempted by NEC 90.2 (B)(5), 1981 edition, is not subject to inspection.

Exemptions - electrical utility telecommunications transition equipment installations, maintenance and repair.

(17) Until July 1, ~~((2005))~~ 2006, no license, inspection or other permit will be required by the department of any electric utility or, of any person, firm, partnership or corporation or other entity employed or retained by an electric utility or its contractor, because of work in connection with the installation, maintenance, or repair of telecommunications transition equipment located ahead of the utility's telecommunications network demarcation point on the outside of a building or other structure when the work is performed by a qualified person consistent with the requirements of the National Electric Code (NEC) except as provided in (a) and (b) of this subsection:

(a) The following exceptions to the NEC shall be permitted:

(i) An additional service disconnect supplying power to the transition equipment can be connected on the supply side of the main service disconnect supplying general power to the building;

(ii) Service entrance disconnects may be separated when clearly labeled;

(iii) The service disconnect used for supplying power to the transition equipment must be connected to the grounding electrode system using:

(A) # 8 AWG copper or larger grounding electrode conductor if protected from physical damage; or

(B) # 6 AWG copper or larger grounding electrode conductor if not protected from physical damage;

(iv) Use of equipment or materials that have been listed/field evaluated by a recognized independent testing laboratory or the department;

(v) Low-voltage circuits do not require a separate disconnecting means and may be grounded to the transition equipment grounding system;

(vi) Any other variance to the NEC must be approved by the department.

(b) A variance recommended by a joint utility standards group composed of representatives of both public and private utilities or certified by a professional engineer will be approved by the department unless the recommendation is inconsistent with meeting equivalent objectives for public safety.

(c) For the purposes of this section, a qualified worker is employed by a utility or its contractor and is familiar with the construction or operation of such lines and/or equipment that concerns his/her position and who is proficient with respect to the safety hazards connected therewith, or, one who has passed a journey status examination for the particular branch of the electrical trades with which he/she may be connected or is in a recognized training or apprenticeship course and is supervised by a journey level person.

(d) Although the utility is responsible for inspection and approval of the installation, including the selection of material and equipment, the department reserves the right to audit worker qualifications and inspect such installations semiannually for conformance with the requirements of (a), (b) and (c) of this subsection but shall not collect a permit fee for such inspection or audit.

(e) If a utility fails to meet the requirements of this section, the department may require the utility to develop and submit a remedial action plan and schedule to attain compliance with this section which may be enforced by the department.

(f) This exemption shall be in addition to any other exemption provided in chapter 19.28 RCW, this chapter or other applicable law.

Exemptions - independent electrical power production equipment exemption.

(18) An independent electrical power production entity is not required to have an electrical contractor's license to work on electrical equipment used to produce or transmit electrical power if:

(a) The entity is:

(i) The owner or operator of the generating facility is regulated by the Federal Energy Regulatory Commission (FERC);

(ii) A municipal utility, or other form of governmental electric utility, or by an electrical cooperative or mutual corporation; or

(iii) The owner or operator of the generating facility is an independent electrical power producer and the facility generates electrical power only for sale to one or more:

(A) Electrical utilities regulated by FERC, municipal utility, or other form of governmental utility, or to an electric cooperative or mutual corporation; and

(B) The electrical power generated by the facility is not used for self-generation or any other on- or off-site function other than sale to one or more utilities regulated by FERC or by one or more state public utilities commissions, or to a PUD, municipal utility, or other form of governmental electric utility, or to an electric cooperative or mutual corporation.

(b) The entity must supply the chief electrical inspector a valid master business license issued by the department of licensing, state of Washington so that the entity's status as a revenue generating business can be confirmed.

(c) The entity has entered into an agreement to sell electricity to a utility or to a third party; and

(d) The electrical equipment is used to transmit electricity from the terminals of an electrical generating unit located on premises to the point of interconnection with a utility system.

(e) The electrical power production facility's generation capacity exceeds 115 KVA.

(f) Notwithstanding that a generating facility may be granted an exemption pursuant to this section, the facility will be subject to all the requirements of chapter 19.28 RCW if the facility at any time in the future ceases to comply with the requirements for exemption. All site facilities not exclusively and directly required to generate and/or distribute the electrical power generated on the site are subject to all the licensing and inspection requirements of chapter 19.28 RCW. All facility services, feeders, and circuits not exclusively and directly required to generate and/or distribute the electrical power (e.g., lights, outlets, etc.) must comply with all requirements of chapter 19.28 RCW for licensing and inspection. Facility circuits supplied to equipment required for the function of generation equipment (e.g., block heaters, power supplies, etc.) must comply with all requirements of chapter 19.28 RCW for licensing and inspection up to and including the equipment termination point.

Exemptions - telegraph and telephone utility and telegraph and telephone utility's contractor.

(19) Telegraph and telephone utility exempted equipment and installations. No person, firm, partnership, corporation, or other entity is required to have an electrical contractor's license for work on electrical equipment and installations thereof that are exempted by RCW 19.28.151. For the purposes of this exemption, "building or buildings used exclusively for that purpose" may mean any separate building or space of a building where the space is separated from the remainder of the building by a two-hour fire wall. The tele-

communications or telegraph equipment within such a space must supply telephone or telegraph service to other customer's buildings (i.e., telecommunications or telegraph equipment cannot solely supply the building containing the telephone/telegraph space).

Exemptions - manufacturers of electrical/telecommunications products.

(20) Manufacturers of electrical/telecommunications systems products will be allowed to utilize a manufacturer's authorized factory-trained technician to perform initial calibration, testing, adjustment, modification incidental to the startup and checkout of the equipment, or replacement of components within the confines of the specific product, without permit or required licensing:

(a) Provided the product:

(i) Has not been previously energized;

(ii) Has been recalled by the Consumer Product Safety Commission;

(iii) Is within the manufacturer's written warranty period;

or

(iv) The manufacturer is working under the written request and supervision of an appropriately licensed electrical contractor.

(b) Modifications to the equipment, as designated above, must not include any changes to the original intended configuration nor changes or contact with external or field-connected components or wiring.

(c) The manufacturer will be responsible for obtaining any required reapproval/recertification from the original listing or field evaluation laboratory.

(d) The manufacturer must notify the department if any modifications have been made or reapproval/recertification is required.

(21) Premanufactured electric power generation equipment assemblies and control gear.

(a) Manufacturers of premanufactured electric power generation equipment assemblies and control gear will be allowed to utilize a manufacturer's authorized factory-trained technician to perform initial calibration, testing, adjustment, modification incidental to the startup and checkout of the equipment, or replacement of components within the confines of the specific product, without permit or required licensing, provided:

(i) For transfer equipment, the product has not been previously energized or is within the manufacturer's written warranty period;

(ii) Modifications to the equipment, as designated above, must not include any changes to the original intended configuration nor changes or contact with external or field-connected components or wiring;

(iii) The manufacturer will be responsible for obtaining any required reapproval/recertification from the original listing or field evaluation laboratory; or

(iv) The manufacturer must notify the department if any modifications have been made or reapproval/recertification is required.

(b) Premanufactured electric power generation equipment assemblies are made up of reciprocating internal combustion engines and the associated control gear equipment.

Control gear equipment includes control logic, metering, and annunciation for the operation and the quality of power being generated by the reciprocating internal combustion engine and does not have the function of distribution of power.

(c) Modifications of a transfer switch must not include changes to the original intended configuration or changes or contact with externally field-connected components.

(d) For the purposes of this subsection, the following work on premanufactured electric power generation equipment assemblies is not exempt from the requirements of chapter 19.28 RCW:

(i) Installation or connection of conduit or wiring between the power generation unit, transfer switch, control gear;

(ii) Installation of the transfer switch;

(iii) Connections between the power generation unit, transfer switch, control gear, and utility's transmission or distribution systems;

(iv) Connections between the power generation unit, transfer switch, control gear, and any building or structure; or

(v) Test connections with any part of:

(A) The utility's transmission or distribution system; or

(B) The building or structure.

(22) The installation, maintenance, or repair of a medical device deemed in compliance with chapter 19.28 RCW is exempt from licensing requirements under RCW 19.28.091, certification requirements under RCW 19.28.161, and inspection and permitting requirements under RCW 19.28.101. This exemption does not include work providing electrical feeds into the power distribution unit or installation of conduits and raceways. This exemption covers only those factory engineers or third-party service companies with equivalent training who are qualified to perform such service.

(23) Coincidental electrical/plumbing work. See RCW 19.28.091(8) for the plumber exemption.

(24) Nothing in this section will alter or amend any other exemptions from or requirement for licensure or inspection, chapter 19.28 RCW or this chapter.

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

WAC 296-46B-930 Assignment—Administrator or master electrician. ~~((1))~~ An administrator or master electrician designated on the electrical/telecommunications contractor's license must be a member of the firm who fulfills the duties of an assigned master electrician/administrator as required in RCW 19.28.061(5), or be a full-time supervisory employee. In determining whether the individual is a member of the firm, the department will require that the individual is named ~~((as))~~ on the electrical contractor application or at subsequent renewal and:

~~((a) The sole proprietor;~~

~~((b) A) (1) Partners must be~~ on file with the department of licensing; or

~~((c) A) (2) Corporate officers or members of an LLC must be~~ on file with the secretary of state.

In determining whether an individual is a full-time supervisory employee, the department will consider whether the individual is on the electrical/telecommunications con-

tractor's full-time payroll; receives a regular salary or wage similar to other employees; has supervisory responsibility for work performed by the electrical/telecommunications contractor, and carries out the duties shown in chapter 19.28 RCW.

((2) A firm may designate certain temporary specialty administrator(s) to satisfy the requirements of RCW 19.28.041 and 19.28.061 under the guidelines described in Table 930-1 Temporary Specialty Administrator Application/Enforcement Procedure. See note 1 on Figure 955-1 for additional requirements regarding failure to comply with the licensing/certification requirements during the open window opportunity.

Table 930-1 Temporary Specialty Administrator Application/Enforcement Procedure

specialties open for assigning temporary specialty administrator	<ul style="list-style-type: none"> • Domestic well (03A); • HVAC/refrigeration—restricted (06B); • Nonresidential maintenance (07); • Nonresidential lighting maintenance (07A); • Residential maintenance (07B); • Restricted nonresidential maintenance (New—07C); • Appliance repair (New—07D); • Equipment repair (New—07E); • Door, gate and similar systems (10).
Last date to submit application for temporary administrator	July 31, 2004.(2), (3)
Required business status in the contracting specialty	Chapter 18.27 RCW contractor registration, chapter 19.28 RCW electrical contractor's license, or appropriate Washington business license (effective at any time between January 1, 2002 and September 1, 2002).
Minimum previous experience for firm making temporary designation	N/A
Begin interim enforcement	Effective date of this chapter.(1)
Begin full enforcement	August 1, 2004.(1)
Must pass specialty administrator examination no later than:	Twelve months after submitting temporary specialty administrator assignment, except that applicants who applied for temporary administrator status in specialties 06B, 07C, 07D, and 07E between April 22, 2003, and January 1, 2004, must pass the examination no later than December 31, 2004.(3)

- Notes:
- (1) See Figure 955-1 for enforcement procedures.
 - (2) To qualify for a temporary specialty administrator certificate, the following must be submitted to the department: Complete contractor's application package, complete temporary specialty administrator's application, complete Assignment of Temporary Specialty Administrator's Certificate form, and all appropriate fees. Fees will be prorated from the three year amount required in WAC 296-46B-910.
 - (3) A firm may only designate a single individual as a temporary administrator in a specialty.
 - (4) An individual may not receive a temporary specialty administrator certificate if the individual has previously held any type of administrator certificate in that specialty.)

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

WAC 296-46B-935 Administrator certificate. General.

- (1) The department will deny renewal of a certificate if an individual owes money as a result of an outstanding final judgment(s) to the department.
- (2) For special accommodation see WAC 296-46B-960.
- (3) An applicant will not be issued a specialty administrator certificate that is a subspecialty of a certificate the applicant currently holds (i.e., the applicant is not eligible to take the domestic well administrator examination if the applicant currently possesses a pump and irrigation administrator certificate).

Qualifying for examination.

- (4) There are no qualification requirements for taking an administrator certificate examination. Applicants should contact the testing agency directly.

Original - administrator certificates.

- (5) The scope of work for electrical administrators is described in WAC 296-46B-920. The department will issue an original administrator certificate to a general administrator, or specialty administrator who:
 - (a) Successfully completes the appropriate administrator examination; and
 - (b) Submits the appropriate examination passing report from the testing agency with the applicant's: Date of birth, mailing address, and Social Security number; and
 - (c) Pays all appropriate fees as listed in WAC 296-46B-910.

For an examination report to be considered, all the above must be submitted within ninety days after the completion of the examination. After ninety days, the applicant will be required to successfully retake the complete examination. An individual's original administrator certificate will expire on their birth date at least one year, and not more than three years, from the date of original issue.

Combination - specialty administrator certificate.

- (6) The department may issue a combination specialty administrator certificate to an individual who qualifies for more than one specialty administrators' certificate. The combination specialty administrators' certificate will plainly indi-

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cate the specialty administrator's certificate(s) the holder has qualified for. Telecommunications cannot be issued a combination because the renewal requirements are different from those required for electrical administrators. Temporary administrator certificates will not be issued as a part of a combination certificate.

Renewal - administrator certificate.

(7) An individual must apply for renewal of their administrator certificate on or before the expiration date of the certificate. The individual may not apply for renewal more than ninety days prior to the expiration date. Renewed certificates are valid for three years, with the exception of telecommunications administrators, who will be renewed for two years.

(8) An individual may renew their administrator certificate within ninety days after the expiration date without reexamination if the individual pays the late renewal fee listed in WAC 296-46B-910.

(9) All renewals received more than ninety days after the expiration date of the certificate will be denied. The administrator will be required to pass the appropriate administrator examination before being recertified.

(10) All applicants for certificate renewal must:

(a) Submit a complete renewal application;

(b) Pay all appropriate fees as listed in WAC 296-46B-910; and

(c) Provide accurate evidence on the renewal form that the individual has completed the continuing education requirements described in WAC 296-46B-970. If an individual files inaccurate or false evidence of continuing education information when renewing a certificate, the individual's certificate may be suspended or revoked.

Telecommunications administrators are not required to provide continuing education information.

(11) An individual who has not completed the required hours of continuing education can renew an administrator's certificate if the individual applies for renewal on or before the certificate expires and pays the appropriate renewal fee. However, the certificate will be placed in an inactive status.

When the certificate is placed in inactive status, an assigned administrator will be automatically unassigned from the electrical contractor. The electrical contractor will be notified of the unassignment and has ninety days to replace the administrator. An assignment fee will then be required per WAC 296-46B-910.

The inactive certificate will be returned to current status upon validation, by the department, of the required continuing education requirements. If the certificate renewal date occurs during the inactive period, the certificate must be renewed on or before the renewal date to allow the return to current status.

(12) An individual may renew a suspended administrator's certificate by submitting a complete renewal application including obtaining and submitting the continuing education required for renewal. However, the certificate will remain in a suspended status for the duration of the suspension period.

(13) An individual may not renew a revoked or temporary administrator's certificate.

Temporary specialty administrator certificate.

(14) See WAC 296-46B-930 for additional information.

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

WAC 296-46B-940 Electrician/training/temporary certificate of competency or permit required. Electrician - general.

(1) The department will deny renewal of a certificate or permit if an individual owes money as a result of an outstanding final judgment(s) to the department.

Electrician - scope of work.

(2) The scope of work for electricians and trainees is described in WAC 296-46B-920.

Electrician - certificate of competency required.

(3) To work in the electrical construction trade, an individual must possess a current valid:

(a) Master journeyman electrician certificate of competency issued by the department;

(b) Journeyman electrician certificate of competency issued by the department;

(c) Master specialty electrician certificate of competency issued by the department;

(d) Specialty electrician certificate of competency issued by the department;

(e) Temporary electrician permit. Unless continually supervised by an appropriately certified electrician, no temporary electrician can install, repair, replace, or maintain any electrical wiring or equipment where the system voltage is more than 600 volts, whether the system is energized or deenergized; or

(f) Electrical training certificate, learning the trade in the proper ratio, per RCW 19.28.161, under the supervision of a certified master journeyman electrician, journeyman electrician, master specialty electrician working in their specialty, or specialty electrician working in their specialty.

(4) The department issues master electrician and electrician certificates of competency in the following areas of electrical work:

(a) General journeyman (01);

(b) Specialties:

(i) Residential (02);

(ii) Pump and irrigation (03);

(iii) Domestic well (03A);

(iv) Signs (04);

(v) Limited energy system (06);

(vi) HVAC/refrigeration (06A);

(vii) HVAC/refrigeration - restricted (06B);

(viii) Nonresidential maintenance (07);

(ix) Nonresidential lighting maintenance and lighting retrofit (07A);

(x) Residential maintenance (07B);

(xi) Restricted nonresidential maintenance (07C);

(xii) Appliance repair (07D);

(xiii) Equipment repair (07E); and

(xiv) Door, gate, and similar systems (10).

Exemptions - linemen.

(5) Definition: See general definitions WAC 296-46B-020 for the definition of a lineman.

(6) Electrical linemen employed by a:

(a) Serving electrical utility or the serving utility's contractor, or a subcontractor to their subcontractor, while performing work described in WAC 296-46B-925 do not need certificates of competency.

(b) Licensed general electrical contractors do not need certificates of competency if the electrical equipment:

(i) Is on commercial or industrial property;

(ii) Is located outside a building or structure; and

(iii) The work performed is on the primary side of the customer's transformer(s) supplying power at the customer's building or structure utilization voltage.

Exemptions - plumbers.

(7) Coincidental electrical/plumbing work. See RCW 19.28.091(8) for the plumber exemption.

Original - master electrician, journeyman, and specialty electrician certificates of competency.

(8) The department will issue an original certificate of competency to master, journeyman, or specialty electricians who meet the eligibility requirements listed in:

(a) RCW 19.28.191 (1)(a) or (b); and

(i) Submit an application for an original master electrician certificate including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC 296-46B-910;

(b) RCW 19.28.191 (1)(d) through (e);

(i) Submit an original master electrician certification examination application including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC 296-46B-910; or

(c) RCW 19.28.191 (1)(f) through (g);

(i) Submit an original electrician certification examination application including: Date of birth, mailing address and Social Security number; and

(ii) Pay all appropriate fees, as listed in WAC 296-46B-910.

(9) An individual's original electrician certificate of competency will expire on their birth date at least two years, and not more than three years, from the date of original issue.

Renewal - master electrician, journeyman, and specialty electrician certificates of competency.

(10) An individual must apply for renewal of their electrician certificate of competency on or before the expiration date of the certificate. The individual may not apply for renewal more than ninety days prior to the expiration date. Renewed certificates are valid for three years.

(11) An individual may renew their certificate of competency within ninety days after the expiration date without reexamination if the individual pays the late renewal fee listed in WAC 296-46B-910.

(12) All applications for renewal received more than ninety days after the expiration date of the certificate of competency require that the electrician pass the appropriate competency examination before being recertified.

(13) All applicants for certificate of competency renewal must:

(a) Submit a complete renewal application;

(b) Pay all appropriate fees; and

(c) Provide accurate evidence on the renewal form that the individual has completed the continuing education requirements described in WAC 296-46B-970. If an individual files inaccurate or false evidence of continuing education information when renewing a certificate of competency, the individual's certificate of competency may be suspended or revoked.

(14) An individual who has not completed the required hours of continuing education can renew a certificate of competency if the individual applies for renewal before the certificate of competency expires and pays the appropriate renewal fee. However, the certificate of competency will be placed in an inactive status. The inactive certificate of competency will be returned to current status upon validation, by the department, of the required continuing education. If the certificate renewal date occurs during the inactive period, the certificate must be renewed on or before the renewal date to allow the return to current status.

(15) An individual may renew a suspended certificate of competency by submitting a complete renewal application including obtaining and submitting the continuing education required for renewal. However, the certificate will remain in a suspended status for the duration of the suspension period.

(16) An individual may not renew a revoked or temporary certificate of competency.

Reciprocal agreements between Washington and other states.

(17) The department negotiates reciprocal agreements with states that have equivalent requirements for certification of master electricians, journeymen, or specialty electricians. These agreements allow electricians from those reciprocal states to become certified in the state of Washington without examination and allow Washington certified electricians to become certified in the other states without taking competency examinations.

(18) An individual coming into the state of Washington from a reciprocal state will be issued a reciprocal electrician certificate of competency if all the following conditions are met:

(a) The department has a valid reciprocal agreement with the other state in the master electrician category requested, journeyman, or specialty category requested;

(b) The individual makes a complete application for the reciprocity certificate on the form provided by the department. A complete application includes:

(i) Application for reciprocal certificate of competency;

(ii) Evidence that the individual meets the eligibility requirements listed in RCW 19.28.191, by presenting a valid journeyman or specialty electrician certificate or certified letter from the issuing state; and

(iii) All appropriate fees as listed in WAC 296-46B-910.

(c) The individual obtained the reciprocal state's certificate of competency as a master electrician, journeyman, or specialty electrician by examination and the individual held the reciprocal state's certificate for a period of at least one year;

(19) An individual is not eligible for a reciprocal electrician certificate of competency if the individual:

(a) Has failed to renew a similar Washington master electrician or electrician certificate of competency as required in RCW 19.28.211;

(b) Has a similar Washington master electrician or electrician certificate of competency in suspended, revoked, or inactive status under this chapter; or

(c) Was a resident of the state of Washington at the time the examination was taken in the other state.

Military experience.

(20) An individual who has worked in the electrical construction trade performing work described in WAC 296-46B-920 while serving in the armed forces of the United States may be eligible to take the examination for the certificate of competency as a journeyman or specialty electrician. Credit may be allowed for hours worked or training received.

If an individual has military experience in a specialized electrical field (e.g., rating) that is similar to a specialty electrician category listed in WAC 296-46B-920, credit may be allowed toward the appropriate specialty certificate. Nuclear, marine, radar, weapons, aeronautical experience, or similar experience may not be acceptable.

The military experience (~~(should)~~ must be related specifically to the building construction trade (~~(, not shipboard, aircraft, weapons, or similar installations)~~)).

Experience in another country.

(21) If an individual has a journeyman electrician certificate from a country outside the United States that requires that at least four years of electrical construction training and certification is obtained by examination, the individual may be eligible for four thousand hours of the specialty credit allowed towards the qualification to take the Washington journeyman electrician examination.

No more than two years of the required training to become a Washington journeyman electrician may be for work described for specialty electricians or technicians in WAC 296-46B-920. In addition to the maximum of four thousand hours credit that may be allowed by this subsection, an additional four thousand hours of new commercial/industrial experience must be obtained using a training certificate in the state while under the supervision of a master journeyman electrician or journeyman electrician.

Documentation substantiating the individual's out-of-country experience must be submitted in English.

(22) Out-of-country experience credit is not allowed toward a specialty electrician certificate.

Training school credit.

(23) No more than fifty percent of the minimum work experience needed to qualify for specialty electrician certification is allowed for any training school program (e.g., a specialty requiring two thousand hours of minimum required

work experience may receive no more than one thousand hours credit from an electrical construction training program).

(24) See RCW 19.28.191 (1)(h) for training school credit allowed for journeyman applicants.

(25) See WAC 296-46B-971 for additional information on training schools.

Temporary electrician permit.

(26) Temporary permits are not allowed for master electricians.

(27) Temporary electrician permit when coming from out-of-state. An individual coming from out-of-state must either obtain a reciprocal electrician certificate, valid training certificate, or make application and receive approval for a temporary electrician permit to perform electrical work in the state, or otherwise obtain an electrician certificate of competency.

(a) Initial temporary electrician permit when coming from out-of-state.

(i) If an individual can show evidence of work experience in another state similar to RCW 19.28.191, the department may issue the individual one initial temporary journeyman or specialty electrician permit. The individual must present appropriate evidence at the time of application showing work experience equivalent to that required by RCW 19.28.191.

The initial temporary electrician permit allows the individual to work as an electrician between the date of filing a completed application for the certification examination and the notification of the results of the examination. This initial permit will be issued for one twenty-day period and will become invalid on the expiration date listed on the temporary electrician permit or the date the individual is notified they have failed the examination, whichever is earlier.

(ii) To qualify for an initial temporary electrician permit, an individual must:

(A) Meet the eligibility requirements of RCW 19.28-191; and

(B) Submit a complete application for an initial temporary electrician permit and original certification including:

- Date of birth, mailing address, Social Security number; and

- All appropriate fees as listed in WAC 296-46B-910.

(iii) The individual must not have ever possessed a Washington master ((journeyman)) electrician, journeyman ((certificate of competency, or a master specialty or)) electrician specialty electrician, or temporary electrician certificate of competency in the specialty requested.

(iv) If the initial temporary electrician permit becomes invalid, it will not be extended or renewed. To continue to work in the electrical trade, the individual must apply for and receive a:

(A) Second temporary electrician permit; or

(B) Training certificate and work in the proper ratio, per RCW 19.28.161, under the direct supervision of either a certified master journeyman electrician, journeyman electrician, master specialty electrician working in the appropriate specialty, or a specialty electrician working in the appropriate specialty.

PROPOSED

(b) Second temporary electrician permit.

(i) If the individual fails the certification examination during the initial temporary electrician period and provides verification of enrollment in an approved journeyman refresher course or approved appropriate specialty electrician refresher course, as prescribed in RCW 19.28.231, application may be made for a second temporary electrician permit.

A complete second application must include proof of enrollment in the refresher course and all appropriate fees as listed in WAC 296-46B-910.

(ii) The second temporary electrician permit will be issued for one ninety-day period and will become invalid: Upon withdrawal from the electrician refresher course, on the expiration date listed on the temporary electrician permit, or the date the individual is notified they have failed the examination, whichever is earlier;

(iii) After successfully completing the electrician refresher course, the individual must provide appropriate course completion documentation to the department and will be eligible to retake the appropriate competency exam.

(iv) If the second temporary electrician permit becomes invalid, it will not be extended or renewed. To continue to work in the electrical trade, the individual must apply for and receive a training certificate and work in the proper ratio, per RCW 19.28.161, under the direct supervision of either a certified master journeyman electrician, journeyman electrician, master specialty electrician working in the appropriate specialty, or a specialty electrician working in the appropriate specialty.

(28) Appliance repair temporary specialty electrician permit gained by using previous work experience gained in the state.

(a) For the ~~((specialties listed in chapter 296-46B-WAC Table 950-1))~~ appliance repair specialty, individuals credited with the minimum amount of work experience using the criteria described in WAC 296-46B-950 will be eligible for a temporary specialty electrician permit for the purposes of working without supervision and for supervising trainees in the appropriate specialty. This temporary specialty electrician permit will be valid for a period of ~~((two))~~ one year(s) or until the individual has passed the appropriate specialty examination, whichever is first.

(b) To qualify for an initial temporary specialty electrician permit, an individual must:

(i) Document the hour requirements described in chapter 296-46B WAC Table 945-1; and

(ii) Submit a complete application including:

(A) Application for consideration of previous work experience as described in WAC 296-46B-950;

(B) Application for original electrician certificate of competency/examination including: Date of birth, mailing address, Social Security number; and

(C) All appropriate fees as listed in WAC 296-46B-910.

(c) If the individual does not successfully complete the appropriate specialty examination before the temporary specialty electrician permit expires, the individual must obtain a training certificate to continue performing electrical work. Such an individual must apply for a training certificate and work under the supervision of an appropriate electrician.

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

WAC 296-46B-945 Qualifying for master, journeyman, specialty electrician examinations. Qualifying for master, journeyman, specialty electrician examinations.

(1) All applicants must be at least sixteen years of age.

Qualifying for the master electrician examination.

(2) An individual may take the master electrician's certificate of competency examination if the individual meets the requirements described in RCW 19.28.191 (1)(d) or (e).

Qualifying for the master electrician examination from out-of-state.

(3) No credit may be applied from out-of-state toward qualifying for a master electrician certificate of competency examination.

Qualifying for the journeyman electrician competency examination.

(4) An individual may take the journeyman electrician's certificate of competency examination if the individual held a current electrical training certificate and has worked for an employer who employs at least one certified master electrician, journeyman, or specialty electrician on staff and the individual:

(a) Has been employed, in the electrical construction trade, under the direct supervision of a master electrician, journeyman electrician or specialty electrician working in the appropriate specialty in the proper ratio, per RCW 19.28.161, for four years (eight thousand hours). Of the eight thousand hours:

(i) At least two years (four thousand hours) must be in new industrial and/or new commercial electrical installation (excluding all work described for specialty electricians or technicians) under the direct supervision of a master journeyman electrician or journeyman electrician while working for a general electrical contractor; and

(ii) Not more than a total of two years (four thousand hours) may be for work described as an electrical specialty in WAC 296-46B-920(2).

(b) Has completed a four-year apprenticeship program in the electrical construction trade that is registered with the state apprenticeship council while working under the direct supervision of a master journeyman or journeyman electrician in the proper ratio, per RCW 19.28.161; or

(c) Has completed a two-year electrical construction training program as described in RCW 19.28.191 for journeyman electricians, and two years (four thousand hours) of work experience in new industrial and/or new commercial electrical installations (excluding work described for specialty electricians or electrical technicians) under the direct supervision of a journeyman electrician while working for a general electrical contractor in the proper ratio, per RCW 19.28.161. See WAC 296-46B-971 for additional training school information.

Electrical construction training hours gained in specialties requiring less than two years (i.e., four thousand hours)

PROPOSED

will not be credited towards qualification for journeyman electrician.

The trainee and their employer and/or apprenticeship training director must attest to the accuracy of all information contained on affidavits of experience used to verify eligibility for the examination.

Qualifying for the journeyman/specialty electrician competency examination when work was performed in a state requiring electrician certification.

(5) An individual may take the journeyman/specialty electrician's competency examination when the appropriate state having authority certifies to the department that:

- (a) The work was legally performed under the other state's licensing and certification requirements;
 - (i) For journeyman applicants who meet the minimum hour requirements described in WAC 296-46B-945(4).
 - (ii) For specialty applicants who meet the minimum hour requirements described in WAC 296-46B-945(9).
- (b) The other state's certificate of competency was obtained by examination.

Electrical construction training hours gained in specialties requiring less than two years (i.e., four thousand hours) may not be credited towards qualification for journeyman electrician.

Qualifying for the journeyman/specialty electrician competency examination when work was performed in a state that does not require electrician certification.

(6) If the other state requires electrical contractor licensing:

(a) An individual may take the journeyman/specialty electrician's competency examination when an appropriately licensed electrical contractor(s) files a notarized letter of experience with the department accompanied by payroll documentation which certifies and shows that:

- (i) For journeyman applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(4).
- (ii) For specialty applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(9).

(b) An individual may take the journeyman/specialty electrician's competency examination when an employer(s), acting under a property owner exemption, files a notarized letter of experience from the property owner with the department accompanied by payroll documentation which certifies and shows that:

(i) For journeyman applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(4).

(ii) For specialty applicants: The individual meets the minimum hour requirements described in WAC 296-46B-945(9).

(7) If the other state does not require electrical contractor licensing or registration: An individual may take the journeyman/specialty electrician's competency examination when the individual's employer(s) files a notarized letter(s) of experience with the department accompanied by payroll documentation which certifies and shows that:

(a) For journeyman applicants: The individual meets the minimum work requirements described in WAC 296-46B-945(4).

(b) For specialty applicants: The individual meets the minimum work requirements described in WAC 296-46B-945(9).

(8) The letter of experience described in subsections (6) and (7) of this section should include a complete list of the individual's usual duties with percentages attributed to each.

Qualifying for a specialty electrician certificate of competency or examination.

(9) An individual may qualify for a specialty electrician's examination and certificate of competency if the individual held a current electrical training certificate, and has worked for an employer who employs at least one certified master journeyman electrician, journeyman electrician, appropriate master specialty electrician, or appropriate specialty electrician on staff and the individual:

(a) Has been employed, in the electrical construction trade, under the direct supervision of an appropriate electrician in the appropriate specialty as follows:

Table 945-1 Experience Hours

Specialty	Minimum Hours of Work Experience Required to be Eligible for Examination ⁽⁴⁾⁽⁵⁾⁽⁽⁹⁾⁾	Minimum Hours of Work Experience Required for Certification ⁽⁽⁸⁾⁾
Residential certificate (02)	4,000 ⁽³⁾	4,000
Pump and irrigation certificate (03)	4,000 ⁽³⁾	4,000
Domestic well certificate (03A)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Signs certificate (04)	4,000 ⁽³⁾	4,000
Limited energy system certificate (06)	4,000 ⁽³⁾	4,000
HVAC/refrigeration system certificate (06A)	4,000 ⁽³⁾	4,000 ⁽⁷⁾
HVAC/refrigeration-restricted (06B)	1,000 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Nonresidential maintenance certificate (07)	4,000 ⁽³⁾	4,000
Nonresidential lighting maintenance and lighting retrofit certificate (07A)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Residential maintenance certificate (07B)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Restricted nonresidential maintenance certificate (07C)	((4,000)) 1,000 ⁽³⁾	((4,000)) 2,000
Appliance repair certificate (07D)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾
Equipment repair certificate (07E)	1,000 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾

Table 945-1 Experience Hours

Specialty	Minimum Hours of Work Experience Required to be Eligible for Examination ⁽⁴⁾⁽⁵⁾⁽⁶⁾⁽⁹⁾⁾	Minimum Hours of Work Experience Required for Certification ⁽⁽⁸⁾⁾
Door, gate, and similar systems certificate (10)	720 ⁽¹⁾⁽²⁾	2,000 ⁽⁶⁾

- Notes:**
- ⁽¹⁾Until the examination is successfully completed, the trainee must work under one hundred percent supervision. Once the appropriate examination is successfully completed, the modified supervision trainee may work under zero percent supervision.
 - ⁽²⁾Two calendar years after the date of initial trainee certification, the trainee must work under seventy-five percent supervision until all required work experience hours are gained and credited towards the minimum work experience requirement even if the trainee has completed the examination.
 - ⁽³⁾This specialty is not eligible for modified trainee status as allowed in chapter 19.28 RCW.
 - ⁽⁴⁾The trainee and their employer and/or apprenticeship training director must attest to the accuracy of all information contained on affidavits of experience used to verify eligibility for the examination.
 - ⁽⁵⁾Neither previous work experience credit nor training school credit is allowed as a substitute for the initial hours of minimum work experience required to be eligible for examination unless the trainee's work experience hours under direct supervision are provided as required in RCW 19.28.191 (1) (g)(ii).
 - ⁽⁶⁾Electrical construction training hours gained in specialties requiring less than two years for certification may not be credited towards qualification for journeyman electrician.
 - ⁽⁷⁾The 2,000 minimum hours of work experience required for certification as a HVAC/refrigeration-restricted (06B) specialty electrician may be credited as 2,000 hours towards the 4,000 minimum hours of work experience required for certification as a HVAC/refrigeration (06A) specialty electrician. Hours of work experience credited from the HVAC/refrigeration-restricted (06B) specialty cannot be credited towards qualification for taking the general electrician (01) examination or minimum work experience requirements.
 - ~~⁽⁽⁸⁾⁾If any legislation is enacted in 2004 setting the minimum hours of work experience for a specialty electrician certification to be set at one year (2,000 hours), the minimum will be set at 2,000 hours.~~
 - ~~⁽⁹⁾If any legislation is enacted in 2004 setting the minimum hours of work experience for a specialty certification required to be eligible for examination to ninety days (720 hours), the minimum will be set at 1,000 hours.)~~

(b) Or has completed an appropriate two-year apprenticeship program in the electrical construction trade that is registered with the state apprenticeship council while working under the direct supervision of an electrician in the appropriate specialty in the proper ratio, per RCW 19.28.161.

Qualifying for a certificate of competency when the Washington electrical work experience is exempt from certification requirements in RCW 19.28.261.

(10) To receive credit for electrical work experience that is exempted in RCW 19.28.261, an individual must provide the department with verification from the employer or owner according to WAC 296-46B-965 (i.e., affidavit(s) of experience). For the purposes of this section, exempt work does not

include work performed on property owned by the individual seeking credit.

(11) All exempt individuals learning the electrical trade must obtain an electrical training certificate from the department and renew it biannually in order to receive credit for hours worked in the trade according to WAC 296-46B-965.

(12) The department may require verification of supervision in the proper ratio from the certified supervising electrician(s).

(13) Telecommunications work experience:

(a) Credit may be verified only by employers exempted by RCW 19.28.261, general electrical (01) contractors, and limited energy system (06) electrical contractors for limited energy experience for telecommunications work done:

(i) Under the supervision of a certified journeyman or limited energy electrician; and

(ii) In compliance with RCW 19.28.191.

(b) Individuals who want to obtain credit for hours of experience toward electrician certification for work experience doing telecommunications installations must:

(i) Obtain an electrical training certificate;

(ii) Renew the training certificate biannually in order to receive credit for hours worked in the trade according to WAC 296-46B-965.

(c) Telecommunications contractors may not verify telecommunications work experience toward electrician certification.

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

WAC 296-46B-950 Opportunity for gaining credit for previous work experience gained in certain specialties. ~~((Some specialties have))~~ The appliance repair specialty has an opportunity to apply any previous work experience gained toward electrical training credit. See Table 950-1 for opportunities, deadlines and requirements. See WAC 296-46B-940(28) for other information.

To qualify previous work experience training credit toward eligibility for ~~((any of))~~ the appliance repair specialty certificate examination~~((8))~~ in this subsection, an individual must provide proof, upon application for a specialty electrician temporary permit, to the department with a notarized verification letter from the individual's employer(s) documenting:

(1) The specific specialty for which credit is being sought;

(2) The specific date time period for which credit is being sought; and

(3) The number of previous work experience hours for which credit is being sought.

The department will deny application for previous work experience credit if an individual owes money as a result of an outstanding final judgment(s) to the department.

PROPOSED

((Table 950-1 Specialty Electrician Open Window to apply previous work experience

PROPOSED

SPECIALTIES Available for Open Window	<ul style="list-style-type: none"> • HVAC/refrigeration (06A), HVAC/refrigeration-restricted (06B) 	<ul style="list-style-type: none"> • Domestic well (03A), • Nonresidential maintenance (07), • Nonresidential lighting maintenance and lighting retrofit (07A), • Residential maintenance (07B), • Door, gate and similar systems (10) 	<ul style="list-style-type: none"> • Restricted nonresidential maintenance (New 07C), • Appliance repair (New 07D) • Equipment repair (New 07E)
Previous work experience training credit will only be allowed for:	Work performed prior to September 30, 2000 ⁽³⁾	Work performed prior to June 30, 2001 ⁽³⁾	Work performed prior to the effective date of this chapter ⁽³⁾
Last date to submit application for previous work experience	Make application on or before July 31, 2004, for a specialty electrician temporary permit as described in WAC 296-46B-940(28).		
Begin interim enforcement	Effective date of this chapter ⁽¹⁾		
Begin full enforcement	August 1, 2004 ⁽¹⁾		
Exam completion	If a temporary specialty electrician permit is awarded per WAC 296-46B-940(28), the applicant must pass the specialty electrician examination no later than two years after application, except that applicants who applied for temporary specialty electrician status in specialties 06B, 07C, 07D, and 07E between April 22, 2003, and January 1, 2004, must pass the examination no later than December 31, 2005. ⁽²⁾⁾		

Table 950-1 Specialty electrician open window to apply previous work experience

	Appliance Repair (07D) - see notes below
Previous work experience training credit will only be allowed for:	Work performed prior to the effective date of this chapter ⁽¹⁾
Last date to submit application for previous work experience	Make application on or before June 30, 2006, for a specialty electrician temporary permit as described in WAC 296-46B-940(28)
Begin interim enforcement	Effective date of this chapter
Begin full enforcement	July 1, 2006

Notes: (1) ((See Figure 955-1 for enforcement procedures. See note 1 on Figure 955-1 for additional requirements regarding failure to comply with the licensing/certification requirements during the open window opportunity.
 (2) See WAC 296-46B-940(28) other temporary specialty electrician permit requirements.
 (3)) Work experience gained for these specialties on or after this date will be credited only if the applicant possessed a valid training certificate during the time period worked and met all requirements of chapter 19.28 RCW and this chapter.

Bullets: • See Figure 955-1 for enforcement procedures. See note 1 on Figure 955-1 for additional requirements regarding failure to comply with the licensing/certification requirements during the open window opportunity.
 ((4)) • Previous work experience credit gained using this section will not be allowed for the same time periods for multiple specialties.
 ((5)) • Previous work experience gained using this section will not be applicable towards journeyman certification ((until the trainee successfully completes the appropriate specialty certification examination and meets all other requirements in chapter 19.28 RCW and this chapter)).
 ((6) Previous work experience gained using this section will not be applicable toward journeyman certification if the

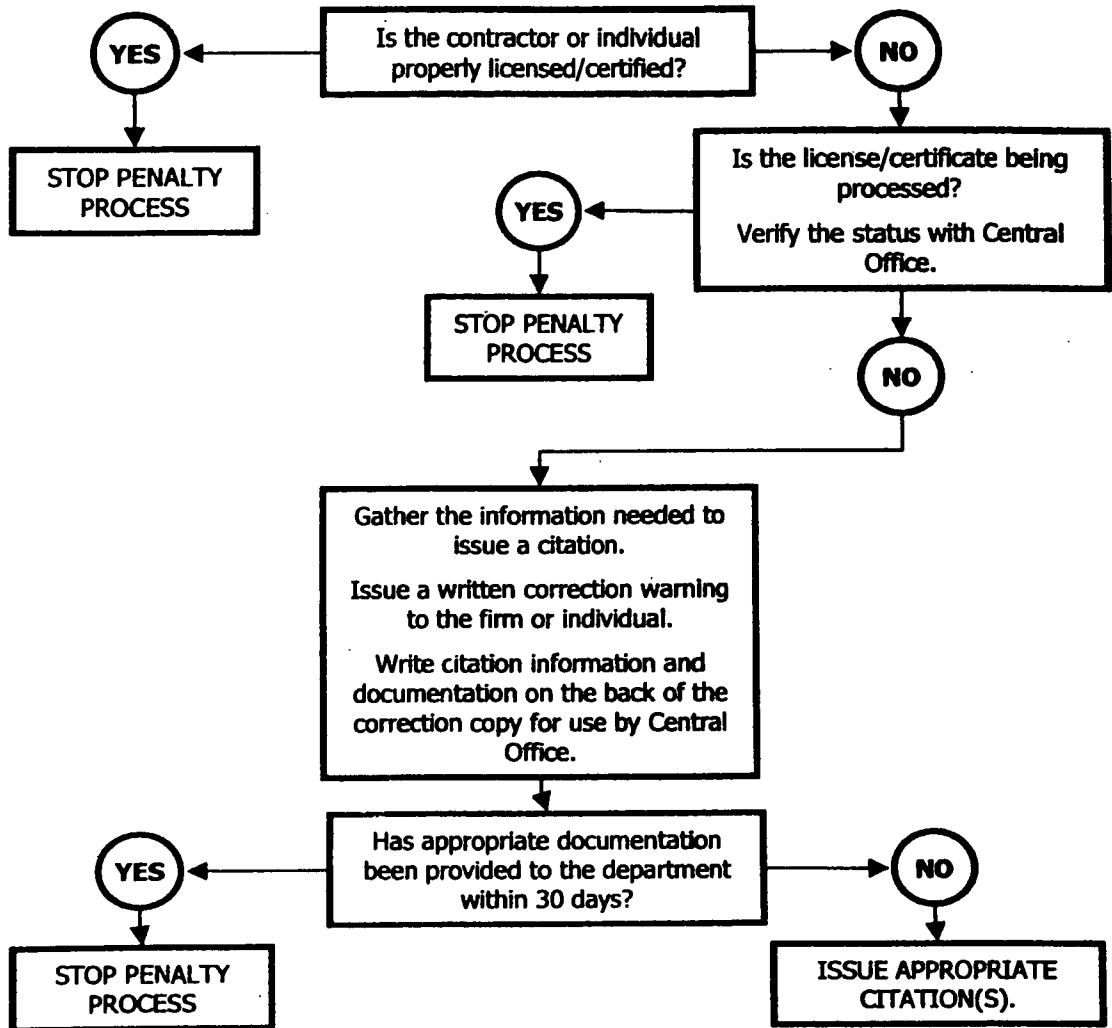
specialty has a work experience requirement less than two years (four thousand hours). Hours of experience gained prior to the effective date of this rule may be applied toward journeyman certification if appropriate.
 (7)) • No extension, except as permitted by rule change, of the temporary specialty electrician's status will be permitted. A temporary specialty electrician permit cannot be renewed, except as permitted by rule.
 ((8)) • An individual may not receive a temporary electrician permit in a specialty if the individual has previously held a specialty electrician permit in that specialty.

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 4/22/03)

WAC 296-46B-955 ((Specialty contractor/)) Appliance repair specialty electrician enforcement procedures. Interim noncompliance enforcement procedures are outlined in Figure 955-1 for the ((specialties listed)) **appliance repair specialty electrician**. All other specialties require full compliance with the requirements of chapter 19.28 RCW and this chapter.

Figure 955-1

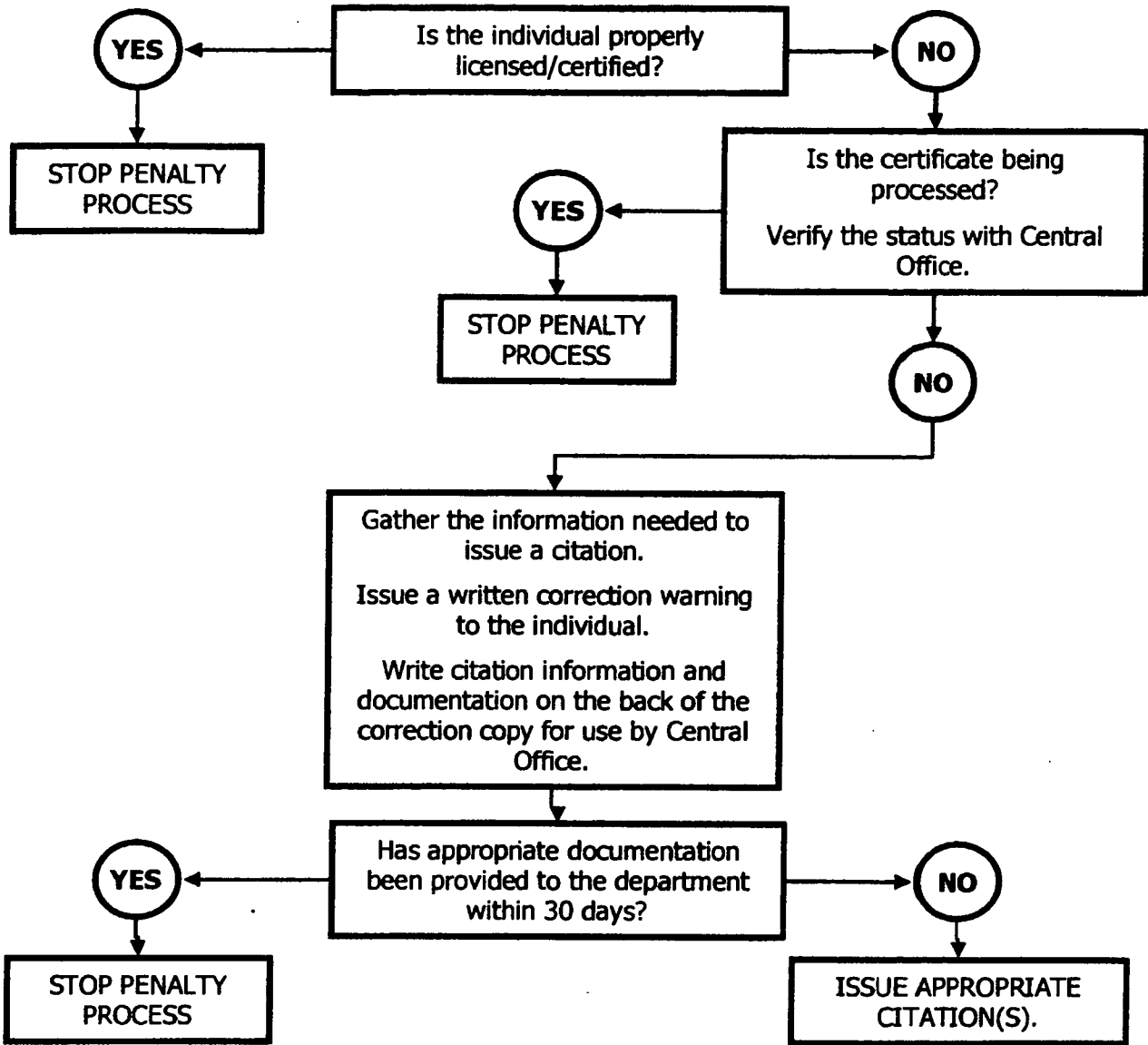
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- ~~((Domestic well (03A)(1))~~
- ~~HVAC/refrigeration (06A)(1)~~
- ~~HVAC/refrigeration restricted (06B)(1)~~
- ~~Nonresidential maintenance (07)(1)~~
- ~~Nonresidential lighting maintenance and lighting retrofit (07A)(1)~~
- ~~Residential maintenance (07B)(1)~~
- ~~Restricted nonresidential maintenance (07C)(1))~~
- ~~Appliance repair (07D)⁽¹⁾ - electricians only~~
- ~~((Equipment repair (07E)(1)~~
- ~~Door, gate and similar systems (10)(1))~~

Begin Interim enforcement
Effective date of this chapter
 Begin Full enforcement
 ((August 1, 2004)) **July 1, 2005**

Note: (1) If a citation is issued, the ~~((contractor))~~ individual loses the right to apply previous experience ~~((or nominate a temporary administrator))~~.

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 4/22/03)

WAC 296-46B-960 Administrator and electrician certificate of competency examinations. General.

(1) The minimum passing score on any examination or examination section is seventy percent. If examination is requested to be administered by the department, an application is required and the examination must be successfully completed within one year of application or the individual must submit a new application for exam including all appropriate fees.

(2) All examinations are open book.

(a) Candidates may use:

(i) Any original copyrighted material;

(ii) A silent, nonprinting, nonprogrammable calculator that is not designed for preprogrammed electrical calculations; ~~((e))~~

(iii) Copies of chapter 19.28 RCW and this chapter; or

(iv) A foreign language dictionary that does not contain definitions.

(b) Candidates may not use:

(i) Copies of copyrighted material;

(ii) Copies of internet publications, except for RCWs or WACs;

~~(iii) ((A foreign language dictionary that contains definitions;~~

~~((+))) Personal notes; or~~

~~((+))) (iv) A personal computing device of any type other than the calculator in (a)(ii) of this subsection.~~

(3) Administrator and master electrician examinations may consist of multiple sections. All sections must be successfully completed within a one-year period of beginning the examination. Within the one-year examination period, the candidate does not have to retake any sections successfully completed within the examination period. If all sections are not successfully completed within the one-year period, the candidate must begin a new examination period and retake all sections.

Special accommodations for examination.

(4) An applicant for an examination who, due to a specific physical, mental, or sensory impairment, requires special accommodation in examination procedures, may submit a written request to the chief electrical inspector for the specific accommodation needed.

(a) The applicant must also submit to the department a signed and notarized release, authorizing the specifically identified physician or other specialist to discuss the matter with the department representative. The applicant must also submit an individualized written opinion from a physician or other appropriate specialist:

(i) Verifying the existence of a specific physical, mental, or sensory impairment;

(ii) Stating whether special accommodation is needed for a specific examination;

(iii) Stating what special accommodation is necessary; and

(iv) Stating if extra time for an examination is necessary and if so, how much time is required. The maximum allowance for extra time is double the normal time allowed.

(b) The written request for special accommodation and individualized written opinion must be submitted to the department at least six weeks in advance of the examination date and must be accompanied by a completed application and fees as described in WAC 296-46B-910.

(c) Only readers and interpreters provided from the administrative office of the courts and/or approved by the department may be used for reading or interpreting the examination. The applicant will be required to bear all costs associated with providing any reading or interpretive services used for an examination.

(d) Applicants who pass the examination with the assistance of a reader or interpreter will be issued a certificate with the following printed restriction: "Requires reading supervision for product usage." A competent reader or interpreter must be present on any job site where a person with this restriction is performing electrical work as described in chapter 19.28 RCW.

Applicants who pass the examination with the assistance of a mechanical device (e.g., magnifier, etc.) will be issued a certificate with the following printed restriction: "Requires mechanical reading assistance for product usage." Appropriate mechanical reading assistance must be present on any job site where a person with this restriction is performing electrical work as described in chapter 19.28 RCW.

If a candidate successfully retakes the examination without the assistance of a reader or translator, a new certificate will be issued without the restriction.

(5) Applicants who wish to use a foreign language dictionary during an examination must obtain approval at the examination site prior to the examination. Only dictionaries without definitions will be approved for use.

Failed examination appeal procedures.

(6) Any candidate who takes an examination and does not pass the examination may request a review of the examination.

(a) The department will not modify examination results unless the candidate presents clear and convincing evidence of error in the grading of the examination.

(b) The department will not consider any challenge to examination grading unless the total of the potentially revised score would result in a passing score.

(7) The procedure for requesting an informal review of examination results is as follows:

(a) The request must be made in writing to the chief electrical inspector and must be received within twenty days of the date of the examination and must request a rescore of the examination. The written request must include the appropriate fees for examination review described in WAC 296-46B-910.

(b) The following procedures apply to a review of the results of the examination:

(i) The candidate will be allowed one hour to review their examination.

(ii) The candidate must identify the challenged questions of the examination and must state the specific reason(s) why the results should be modified with multiple published reference material supporting the candidate's position.

(iii) Within fifteen days of the candidate's review, the department will review the examination and candidate's justification and notify the candidate in writing of the department's decision.

Subjects included in administrator certificate, or master electrician, journeyman, or specialty electrician competency examinations.

(8) The following subjects are among those that may be included in the examination for an administrator certificate or electrician certificate of competency. The list is not exclusive. The examination may also contain subjects not on the list.

(a) For general administrators, master journeyman, and journeyman electricians:

AC - Generator; 3-phase; meters; characteristics of; power in AC circuits (power factor); mathematics of AC circuits.

Administration - Chapter 19.28 RCW and this chapter.

Air conditioning - Basic.

Blueprints - Surveys and plot plans; floor plans; service and feeders; electrical symbols; elevation views; plan views.

Building wire.

Cable trays.

Calculations.

Capacitive reactance.

Capacitor - Types; in series and parallel.

Circuits - Series; parallel; combination; basic; branch; outside branch circuits; calculations.

Conductor - Voltage drop (line loss); grounded.

Conduit - Wiring methods.

DC - Generator; motors; construction of motors; meters.

Definitions - Electrical.

Electrical units.

Electron theory.

Fastening devices.

Fire alarms - Introduction to; initiating circuits.

Fuses.

Generation - Electrical principles of.

Grounding.

Incandescent lights.

Inductance - Introduction to; reactance.

Insulation - Of wire.

Mathematics - Square root; vectors; figuring percentages.

Motors/controls - Motors vs. generators/CEMF; single phase; capacitor; repulsion; shaded pole; basic principles of AC motors.

Ohm's Law.

Power.

Power factor - AC circuits; correction of; problems.

Rectifiers.

Resistance - Of wire.

Rigging.

Safety - Electrical shock.

Services.

3-wire system.

Tools.

Transformers - Principles of; types; single-phase; 3-phase connections.

Voltage polarity across a load.

Wiring methods - Conduit; general.

Wiring systems - Less than 600 volts; 480/277 volts; single and 3-phase delta or wye; distribution systems over 600 volts.

Note: The general administrator, master journeyman, and journeyman electrician examinations may also include the subjects listed below for specialty electrician examinations.

(b) For specialty administrators, master specialty and specialty electricians, the following subjects are among those that may be included in the examination. Examination subjects are restricted to those subjects related to the scope of work of the specialty described in WAC 296-46B-920. The list is not exclusive. The examination may also contain subjects not on the list.

AC - Meters.

Administration - Chapter 19.28 RCW and this chapter.

Appliance circuits or controls.

Blueprints - Floor plans; service and feeders.

Cables - Wiring methods.

Calculations.

Circuits - Series; parallel; combination; basic; outside branch.

Conductor - Voltage drop (line loss); grounded; aluminum or copper.

Conduit - Wiring methods.

Electrical signs, circuits, controls, or services.

Electrical units.

First aid.

Fuses.

General lighting.

Grounding of conductors.

Insulation of wire.

Limited energy circuits or systems.

Maintenance of electrical systems.

Mathematics - Figuring percentage.

Motor circuits, controls, feeders, or services.

Ohm's Law.

Overcurrent protection.

Resistance of wire.

Safety - Electrical shock.

Services.

Sizes of building wire.

3-wire system.

Tools.

Transformer - Ratios; single-phase/3-phase connections.

Failing an administrator certificate exam or electrician certificate of competency examination.

(9) Anyone failing an administrator or electrician competency examination may retake the examination by making arrangements with the testing agency and paying the retesting fee.

(10) If the individual makes a score of less than sixty percent, the individual must wait two weeks before being eligible to retest.

(11) If the individual makes a score of sixty to sixty-nine percent, the individual must wait one day before being eligible to retest.

(12) If the individual fails an electrician examination or a part of an administrator or master electrician examination three times within a one-year period, the individual must wait three months to retake the failed portion of the examination.

(13) Anyone failing an electrician competency examination may continue to work in the electrical trade if they have a valid electrical training certificate and work under the direct supervision of a certified journeyman or specialty electrician in the proper ratio, per RCW 19.28.161. However, if the applicant holds a temporary specialty electrician certificate per WAC 296-46B-940(28), the applicant may continue to work under the temporary specialty electrician certificate until it expires. After the temporary specialty electrician certificate expires, the applicant must obtain a valid electrical training certificate and work under the direct supervision of a certified journeyman or specialty electrician in the proper ratio, per RCW 19.28.161.

Cheating on an examination.

~~((13))~~ (14) Anyone found cheating on an examination or using inappropriate materials/equipment during an examination will be required to wait at least eleven months before being allowed to reexamine. All such reexaminations will be administered by the department in Tumwater, Washington and the candidate will be required to apply and schedule for the examination with the chief electrical inspector.

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 4/22/03)

WAC 296-46B-965 Training certificate required. General.

(1) A training certificate is required to work in the electrical construction trade if an individual does not:

(a) Possess a current journeyman certificate of competency issued by the department;

(b) Possess a current specialty electrician certificate of competency issued by the department while working in that specialty's scope of work;

(c) Possess a valid temporary electrician permit;

(d) Possess a valid temporary specialty electrician permit while working in that specialty's scope of work; or

(e) Is not working in exempt status as allowed by chapter 19.28 RCW.

(2) Trainees who have had their training certificates revoked or suspended (during the duration of the revocation or suspension) will not be issued a training certificate.

Original training certificates.

(3) The department will issue an original training certificate when the trainee applicant submits a complete training certificate application including:

(a) Date of birth, mailing address, Social Security number; and

(b) All appropriate fees as listed in WAC 296-46B-910.

All applicants for an electrical training certificate must be at least sixteen years of age. The original training certificate will be valid for two years.

Specialty specific - zero percent and seventy-five percent supervision modified training certificates.

(4) For specialties as allowed in Table 945-1 (i.e., specialties with seven hundred twenty minimum hours of work experience required to be eligible for examination):

(a) The department will approve the trainee to take the appropriate specialty competency examination necessary to qualify for a zero percent supervision modified training certificate. To qualify, the trainee applicant must submit a complete zero percent supervision modified training certificate application including:

(i) Date of birth, mailing address, Social Security number;

(ii) Affidavit of experience fulfilling the minimum work experience hours required to qualify for the specialty examination described in Table 945-1; and

(iii) All appropriate fees as listed in WAC 296-46B-910.

Upon successful completion of the appropriate examination, the trainee will be issued a nonrenewable zero percent supervision modified training certificate for the appropriate specialty. The zero percent supervision modified training certificate will be restricted in duration to the time allowed in Table 945-1, note 2.

(b) Prior to the expiration of the zero percent supervision modified training certificate or temporary specialty electrician permit obtained as described in WAC 296-46B-940(28), the individual must submit a complete application for a seventy-five percent supervision modified training certificate for the appropriate specialty including:

(i) Seventy-five percent supervision training certificate application including: Date of birth, mailing address, Social Security number; and

(ii) All appropriate fees as listed in WAC 296-46B-910.

(c) A trainee may possess multiple (i.e., in different specialties) modified supervision training certificates for specialties where reduced supervision is allowed in Table 945-1. Combination training certificates will not be issued.

Renewal of training certificates.

(5) The individual may not apply for renewal more than ninety days prior to the expiration date. An individual will not be issued a renewed or reinstated training certificate if the individual owes the department money as a result of an outstanding final judgment. Within thirty days after renewing an electrical training certificate, the individual, if not enrolled in a department approved apprenticeship program, must submit a completed, signed, and notarized affidavit(s) of experience for all hours of experience gained since the individual's last training certificate was effective. Employers are required to provide the necessary documentation and signed affidavit of experience to the trainee within twenty days after the trainee requests the affidavit. See WAC 296-46B-965(6). See WAC 296-46B-985(4) for the penalty for providing a false or inaccurate affidavit of experience. If the individual is enrolled in a department approved apprenticeship program, the program may submit the required affidavit(s) of experience upon the individual's completion of the required experience hours without cost to the individual. The affidavit of experience must accurately attest to:

(a) The electrical installation work performed for each employer the individual worked for in the electrical trade during the previous period;

(b) The correct electrical category the individual worked in; and

(c) The actual number of hours worked in each category worked under the proper supervision of a Washington certified, master journeyman electrician, journeyman electrician or appropriate master specialty electrician or specialty electrician under that specific training certificate. If a trainee possesses multiple training certificates, an affidavit must be submitted for each training certificate for the hours worked under that specific training certificate.

If the individual is enrolled in a department approved apprenticeship program, the program may submit the required affidavit(s) of experience upon the individual's completion of the required experience hours without cost to the individual.

(6) The individual should ask each employer and/or apprenticeship training director for an accurately completed, signed, and notarized affidavit of experience for the previous certification period. The employer(s) or apprenticeship training director(s) must provide the previous period's affidavit of experience to the individual within twenty days of the request. If an individual is enrolled in an approved apprenticeship program under chapter 49.04 RCW when the individual renews an electrical training certificate, the individual and their apprenticeship training director and/or each employer must give the department an accurately completed, signed, and notarized affidavit of experience accurately attesting to:

(a) The electrical installation work the individual performed in the electrical trade during the previous certification period;

(b) The correct electrical category the individual worked in; and

(c) The actual number of hours worked in each category under the proper supervision of a Washington certified master journeyman electrician, journeyman electrician or appropriate master specialty or specialty electrician for each employer. For apprentices enrolled in a registered apprenticeship program, the applicant and the training director are the only authorized signatures the department will accept on affidavits of experience.

(7) The individual and their employer(s) and/or apprenticeship training director(s) must sign and have notarized the affidavit of experience attesting to the accuracy of all information contained in the affidavit.

Trainees seeking a journeyman electrician certificate - working with no supervision.

(8) Trainee seeking a general (01) journeyman electrician certificate of competency. After review by the department, a trainee may be issued a six-month, nonrenewable unsupervised electrical training certificate that will allow the individual to work without supervision if the trainee:

(a) Has submitted a complete application for an unsupervised electrical training certificate;

(b) Has worked over seven thousand hours properly supervised not to include more than four thousand of specialty experience;

(c) Has successfully completed or is currently enrolled in an approved apprenticeship program or an electrical construction trade program in a school approved by the board of community and technical colleges;

(d) Has paid all appropriate training certificate fees listed in WAC 296-46B-910; and

(e) Is currently working for and continues to work for a licensed electrical contractor that employs at least one certified journeyman or specialty electrician in the appropriate specialty.

Trainees seeking certain specialty electrician certificates - working with reduced or no supervision.

(9) After review by the department, a trainee may be issued a nonrenewable zero percent supervision training certificate that will allow the individual to work without supervision if the trainee meets the requirements in subsection (4) of this section.

(10) Individuals who received a temporary specialty electrician certificate using previous work experience credit as allowed in WAC 296-46B-950 and fail to successfully complete the appropriate specialty examination before the expiration of the temporary specialty electrician permit may be issued a training certificate in the appropriate specialty if the individual submits a complete application as described in WAC 296-46B-965 (4)(b) prior to the expiration of the temporary specialty electrician permit.

(11) HVAC/refrigeration trainees (06A) may work unsupervised when installing HVAC thermostat cable when the system consists of a single thermostat in one- and two-family dwelling units where line voltage power is not connected to the system.

AMENDATORY SECTION (Amending WSR 04-21-086, filed 10/20/04, effective 11/22/04)

WAC 296-46B-970 Continuing education. General requirements - continuing education classes requirements for administrator, master electrician, and electrician renewal.

(1) DEFINITIONS - for purposes of this section.

(a) "Applicant" means the entity submitting an application for review.

(b) "Application" means a submittal made by an applicant seeking instructor or class approval.

(c) "Calendar day" means each day of the week, including weekends and holidays.

(d) "Class" means continuing education class or course.

(e) "Contractor" means the entity who has contracted with the department to review and approve/deny continuing education classes and instructors.

(f) "Date of notification" means the date of a request for additional information from the contractor or the approval/denial letter sent to the applicant by the contractor.

(g) "Individual" means an administrator or electrician seeking credit for continuing education.

(h) "Instructor" means an individual who is authorized to instruct an approved continuing education class.

(i) "Working day" means Monday through Friday, excluding state of Washington holidays.

(2) GENERAL.

(a) The department and the electrical board have the right to monitor all approved classes without notice and at no charge.

If the department or electrical board determines that the class or instructor does not meet or exceed the minimum requirements for approval or course length or instructor qualifications, the department may revoke the class or instructor approval and reduce the number of credited hours for the class.

(b) Department-offered classes and the instructors used for those classes are automatically approved and do not need to be sent to the contractor for review.

(c) Instructors who meet the minimum requirements using subsection (5)(b)(i)(D) of this section may only instruct classes sponsored by the manufacturer(s) who verified the instructors' qualifications under subsection (5)(b)(i)(D) of this section.

(d) An individual will not be given credit for the same approved continuing education class taken more than once. No credit will be granted for any class not approved per this section.

(e) Telecommunications administrators do not require continuing educations.

(f) Other administrators, master electricians, and electricians:

(i) To be eligible for renewal of an administrator certificate, master electrician or electrician certificate of competency, the individual must have completed at least eight hours of approved continuing education for each year of the prior certification period. The individual is not required to take the classes in separate years. At least eight hours of the total required continuing education must be on the currently adopted National Electrical Code changes. Beginning January 1, 2005, four hours of the required continuing education must be on the currently adopted chapter 19.28 RCW and its related WAC(s).

(ii) An individual changing an electrical administrator and an electrician certificate of competency into a master electrician's certificate of competency as allowed in RCW 19.28.191 (1)(a) or (b) must have completed at least eight hours of approved continuing education for each year of the prior electrician certificate period. The individual is not required to take the classes in separate years. Eight hours of the required continuing education must be on the currently adopted National Electrical Code changes. Beginning January 1, 2005, four hours of the required continuing education must be on the currently adopted chapter 19.28 RCW and its related WAC(s).

(iii) Any portion of a year of a prior administrator or electrician certificate period is equal to one year for the purposes of the required continuing educations.

(iv) An individual who has both an electrician certificate and an administrator certification may use the same class to fulfill the requirements for continuing education.

(g) A continuing education class attended or completed by an individual before the class's effective date cannot be used to meet the administrator or electrician certificate renewal requirements.

(h) If neither the electrical board nor the department has a contract in effect as described in this section, the department may, at its option, elect to act as the contractor. If a contractor is not in place and the department elects not to act as the contractor, the electrical board will act as the contractor. If either the electrical board or the department acts as the contractor, the following will apply:

(i) The fee for class or instructor submittal is as set in WAC 296-46B-910(4).

(ii) The electrical board or the department will:

(A) Review the application for completeness within fifteen working days after receipt.

(B) If the application is incomplete, notify the applicant within seven working days of the status of the review and what additional information is required.

(C) Complete the review and approval/denial process within fifteen working days upon receipt of a complete application or additional requested information.

(iii) An appeal of a denial by the department will be heard by the full electrical board in accordance with WAC 296-46B-995.

(3) CLASS AND INSTRUCTOR - GENERAL APPROVAL PROCESS.

(a) The contractor will review submitted class and instructor applications to determine whether the application meets the minimum requirements for approval.

(b) The contractor will deny approval of applications that do not meet the minimum requirements.

(c) All applications will be considered to be new applications (i.e., Classes and instructors may not be renewed. All applications must include all information necessary to show conformance with the minimum requirements).

(d) Minimum requirements:

(i) Application review fees:

(A) The contractor may charge a fee for review of an application. Such fees, paid by the applicant, are nonrefundable.

(B) The fee will be as set by contractor between the department and the contractor.

(C) The fee will be set for a minimum of one year.

(D) Upon mutual agreement between the department and the contractor, the fee may be raised or lowered.

(ii) Application:

(A) The applicant must submit a complete application to the contractor at least thirty calendar days prior to offering or instructing a class.

(B) The contractor will only consider material included with the application when reviewing an application.

(C) All applications will consist of:

- ~~((Two copies))~~ One copy of all material;
- Applicant's name, address, contact name, and telephone number;
- All required fees;
- Any other information the applicant wants to consider during the review; and
- In addition, class applications will include:

- Sponsor's name, address, contact name, and telephone number;
 - Class title;
 - Number of continuing education hours requested for the class;
 - Statement of whether the class is open to the public;
 - Class syllabus (e.g., general description of the training, specific NEC articles referenced, time allowed for various subject matter, etc.);
 - List of resources (e.g., texts, references, etc.);
 - Copies of all visual aids;
 - Sample of the completion certificate.
- In addition, instructor application will include:
- Instructor's name, address, telephone number;
 - Copies of credentials or other information showing conformance with the instructor minimum qualifications.

(e) Contractor's review process:

(i) When the application is received, the contractor must:

(A) Date stamp the application;

(B) Review the application for completeness within seven working days after receipt.

(ii) If the application is incomplete, the contractor must within two working days notify the applicant of the status of the review and what additional information is required.

(A) The applicant must provide any additional information requested by the contractor within five working days after the date of notification.

(B) The contractor will deny the application if the additional required information is not received within the five working days after the date of notification.

(iii) When the contractor has received a complete application, the contractor must review and evaluate the application for compliance with the minimum requirements.

The contractor must complete the review and approval/denial process within seven working days upon receipt of a complete application or additional requested information and within two working days notify:

- The applicant in writing; and

- The chief electrical inspector in writing and electronically. The contractor's electronic notification to the chief electrical inspector must be made in a format approved by the chief electrical inspector.

(iv) A notification of denial must include:

(A) Applicant's name and telephone number;

(B) Date of denial;

(C) Sponsor's name and class title if applicable;

(D) Instructor's name if applicable; and

(E) The reason for denial.

(v) A notification of approval:

(A) For classes must include:

- Applicant's name and telephone number;

- Sponsor's name and telephone number;

- Class title;

- Class number;

- Number of hours approved for the class. Note that the

contractor may reduce the hours requested in the application if the review shows that the requested number of hours is excessive;

- Effective date for this class;

- Expiration date of class;

- Category for which the class is approved (i.e., code update, RCW/WAC update, or industry related);

- Sample of written class roster and attendance sheet;

- Type of class (i.e., classroom, correspondence, internet); and

- Whether the class is open to the public.

(B) For instructors must include:

- Applicant's name and telephone number;

- Instructor's name and telephone number;

- Effective date for the approval; and

- Expiration date of the approval.

(vi) Applicant's request for review of the contractor's decision:

The applicant's may request a review of the contractor's decision to deny or modify an application:

- All requests for review must be:

- Made in writing;

- Received by the chief electrical inspector within twenty calendar days of the contractor's denial; and

- Accompanied by a review fee of \$109.50. The review fee is nonrefundable.

(4) CLASS APPROVAL PROCESS.

(a) Class approval will be valid for three years except:

(i) If the class is "code update" and a new NEC is adopted by the department within the class approval period, the class approval will be considered automatically revoked; or

(ii) If the class is modified after the application is approved, the class approval will be considered automatically revoked (i.e., change in syllabus, hours, examination, etc.).

(b) Minimum requirements:

(i) Class content:

(A) Industry-related classes must be based on:

- Codes or rules included in the NEC chapters 19.28 RCW or 296-46B WAC;

- Electrical theory based on currently published documents that are readily available for retail purchase; and/or

- Materials and methods that pertain to electrical construction, building management systems, electrical maintenance, or workplace health and safety.

(B) Code update classes must be based on the latest adopted version of the NEC and must specify the NEC articles to be addressed in the class presentation.

(C) RCW/WAC update classes must be based on the latest adopted versions of chapter 19.28 RCW and/or chapter 296-46B WAC.

(ii) Class length:

(A) The minimum allowed length of a class is two hours.

(B) The maximum allowed credit for a class is twenty-four hours.

(C) Class length must be based on two-hour increments (e.g., 2, 4, 6, 8, etc.).

(D) Class length must be based on the following:

- Classroom instruction will be based on the total hours the individual is in the classroom.

- Correspondence instruction will be based on:

- A written examination (i.e., ~~((twenty-five))~~ thirty-five questions will equal ~~((two))~~ one hour~~((s))~~ of classroom instruction). Individuals must be responsible to determine the correct answer without the assistance of the sponsor.

- Internet instruction will be based on:

– A written examination (i.e., ~~((twenty-five))~~ thirty-five questions will equal ~~((two))~~ one hour~~((s))~~ of classroom instruction).

• Examinations must not direct or point the individual to a correct answer or reference. Individuals must be responsible to determine the correct answer without the assistance of the sponsor.

• To successfully complete a correspondence or internet class, a participant must score at least 70% on the examination required for the class.

- (iii) Class material must include:

~~((A))~~ Supplementary written instruction material appropriate to the type and length of the class~~((, and~~

~~(B) If the class is code update and is provided via correspondence or internet, the sponsor must provide the individual with a nationally recognized, copyrighted publication that covers all changes to the NEC;))~~.

- (iv) Class material may include:

- Supplementary internet material;
- Supplementary texts;
- Other material as appropriate.

- (v) Certificates of completion:

(A) The sponsor must award a completion certificate to each individual successfully completing the approved class. To successfully complete a correspondence or internet class, a participant must score at least 70% on the examination required for the class.

- (B) The completion certificate must include the:

- Name of participant;
- Participant's Washington certificate number;
- Name of sponsor;
- Name of class;
- Date of class;
- Name of instructor;
- Location of the class:

– If a classroom-type class, the city and state in which the class was given;

– If a correspondence class, state the class is a correspondence class;

– If an internet class, state the class is an internet class;

- Class approval number;
- Number of continuing units; and
- Type of continuing education units.

- (vi) Instructors:

(A) For classroom instruction, all instructors must be approved per this section; and

(B) For correspondence and internet instruction, the applicant must show that the sponsor regularly employs at least one staff member who meets the requirements for instructors in this section.

- (5) INSTRUCTOR APPROVAL PROCESS:

(a) Instructor approval will be valid for three years except:

(i) If the instructor's credentials are invalidated (e.g., suspension or revocation by the issuing entity) for any reason, approval will be automatically revoked.

(ii) When the instructor approval expires or is revoked, a new application must be submitted to regain approved instructor status.

- (b) Minimum requirements:

(i) The application must show that the instructor meets one of the following:

- (A) Has a valid Washington~~((~~

~~•))~~ administrator, master electrician, or electrician's certificate~~((;))~~ and ~~((•))~~ has appropriate knowledge of and experience working as an electrical/electronic trainer; or

(B) Is ~~((accredited))~~ an instructor in a two-year program in the electrical construction trade licensed by the Washington work force training and education coordinating board. The instructor's normal duties must include providing electrical/electronic education; or

(C) Is a high school vocational teacher, community college, college, qualified instructor with a state of Washington approved electrical apprenticeship program, or university instructor. The instructor's normal duties must include providing electrical/electronic education; or

(D) Works for and is approved by a manufacturer of electrical products to teach electrical continuing education~~((; and))~~.

(ii) Any other information the applicant wants to be considered during the review.

- (6) FORMS:

- (a) The contractor will:

Develop an appropriate form(s) for the applicant's use when submitting for instructor or class approval;

(b) Applicants must use the contractor's form when submitting an application for review.

- (7) PUBLICATIONS:

The contractor will provide the department with appropriate material for use by the department on the electrical program website and may post the application process, review, and approval requirements on the contractor's website.

- (8) CLASS ATTENDANCE:

(a) The contractor is not responsible for monitoring any individual's attendance or class completion.

(b) The department is not responsible for providing verification of an individual's continuing education history with the class sponsor;

- (c) Classes offered in Washington:

(i) The sponsor must provide the department with an accurate and typed course attendance/completion roster for each class given.

(A) The attendance/completion roster must be provided within thirty days of class completion.

(B) In addition, the course sponsor must provide the attendance/completion roster in an electronic format ~~((provided))~~ approved by the department.

(C) The attendance/completion roster must show each individual's name, Washington certificate number, class number, location of class, date of completion, and instructor's name. The typed roster must contain the signature of the class sponsor's authorized representative.

(ii) The sponsor must provide the individual a certificate of completion within fifteen days after successful class completion. See subsection (4) of this section.

(iii) Individuals will not be granted credit for continuing education classes unless the sponsor's attendance/completion roster shows the individual successfully completed the class.

(iv) The department will keep submitted class rosters on file for four years.

(d) Classes offered in other states:

(i) For individuals to apply continuing education units earned from out-of-state classes, one of the following conditions must be met:

(A) The individual must request that the class sponsor submit a complete continuing education class application and gain approval for the class as described in this section for classes and instructors. Application for class or instructor approval will not be considered more than three years after the date the class was offered; or

(B) The department must have entered into a reciprocal agreement with the state providing class approval.

(ii) The individual must provide a copy of an accurate and completed award or certificate from the class sponsor identifying the class location, date of completion, individual's names, and Washington certificate number. The department will only accept a copy of the sponsor's certificate or form as evidence that the individual attended and completed the class.

(9) Contractor requirements:

(a) The contractor cannot be a sponsor or instructor.

(b) The contractor cannot be an employee of the department.

(c) The contractor must:

(i) Be an independent entity with no organizational, managerial, financial, design, or promotional affiliation with any sponsor or instructor covered under the contractor's review and approval/denial process;

(ii) Employ at least one staff member having a valid 01-General Administrator or 01-General Master Electrician Certificate. This staff member:

(A) Is responsible for reviewing and determining an application's approval or denial; and

(B) Must sign the written notification provided to applicants for all approvals and denials:

(iii) Receive, review, and process all applications as required in this section;

(iv) Allow the department access to the contractor's facilities during normal working hours to audit the contractor's ability to conform to the contract requirements;

(v) Treat all applications as proprietary information;

(vi) Respond to and attempt to resolve complaints contesting the review or approval/denial process performed by the applicant;

(vii) Notify the department within ten working days of any change in business status or ability to conform to this section;

(viii) Maintain one copy, original or electronic, of all applications and associated materials for a period of three years from the date of receipt.

AMENDATORY SECTION (Amending WSR 03-09-111, filed 4/22/03, effective 5/23/03)

WAC 296-46B-998 Standards. (1) The standard(s) used, as the basis of electrical product certification, field evaluation, or department approval must be determined by the department to provide an adequate level of safety or define an adequate level of safety performance. Except for

the reference of construction requirements to ensure the product can be installed in accordance with the National Electrical Code, field evaluations, by an approved laboratory, shall not use the National Electrical Code as standard for product evaluation.

(2) Generally, standards will be:

(a) Developed by a standards developing organization under a method providing for input and consideration of views of industry groups, experts, users, consumers, and governmental authorities, and others having broad experience in the electrical products safety field. A standard is used to control the quality and safety of a product;

(b) Compatible with and be maintained current with periodic revisions of applicable national codes and installation standards; and

(c) Approved by the department. The department will evaluate the proposed standard to determine that it provides an adequate level of safety.

(3) All ANSI safety designated electrical product standards may be deemed acceptable for their intended use without further qualification.

(4) If the product safety standard is not ANSI, the standard must be reviewed and approved by the department as an appropriate electrical product safety standard as a part of the field evaluation or department inspection process.

AMENDATORY SECTION (Amending WSR 04-12-049, filed 5/28/04, effective 6/30/04)

WAC 296-46B-999 Electrical testing laboratory requirements. General.

(1) This chapter describes the methods required to obtain recognition and accreditation of electrical product(s) certification and/or field evaluation laboratories by the state of Washington. This chapter provides assurance to the general consuming public that electrical products have been tested for safety and identified for their intended use.

(2) An electrical product is considered to be safe when it is either certified by a laboratory accredited by the department or labeled with a field evaluation mark by a laboratory accredited by the department.

(a) The department may declare electrical equipment unsafe if:

(i) The equipment is not being manufactured or produced in accordance with all standards of design and construction and all terms and conditions set out in the certification report for the equipment referred to in this chapter;

(ii) The equipment has been shown by field experience to be unduly hazardous to persons or property;

(iii) An examination of the equipment or of the certification report for the equipment shows that the equipment does not comply with all applicable standards; or

(iv) An examination of the certification report or the equipment shows that the equipment cannot be installed in accordance with this chapter.

(b) When the department declares an electrical product unsafe, the department will:

(i) Notify the product manufacturer and the appropriate testing laboratory in writing;

(ii) Notify the general public by:

PROPOSED

- (A) Report to the Consumer Product Safety Commission;
- (B) A published article in the *Electrical Currents*;
- (C) Internet website posting; and/or
- (D) News release.

Accreditation - general.

(3) The department's chief electrical inspector's office reviews requests for accreditation or evaluation. Applicants must submit supporting data as outlined in subsections (4) through (54) of this section.

(4) The accreditation period of a NRTL will be valid for the period of the laboratory's current OSHA NRTL accreditation. The accreditation of a non-NRTL will be valid for the period of five years from the date of the department's accreditation.

(5) On-site inspection of a laboratory.

(a) On-site inspection of the laboratory may be required during the initial application process or the renewal process. Technically qualified representative(s) of the department will evaluate for compliance with accreditation criteria.

(b) On-site inspection is not required for NRTL-recognized laboratories requesting approval as certification laboratories using standards for which NRTL recognition has been approved.

(c) The department may waive on-site inspection for:

(i) Laboratories recognized or accredited by another state determined to provide an accreditation program acceptable to the department; or

(ii) NRTL-recognized laboratories requesting approval as certification laboratories for using other standards for which NRTL recognition has not been approved.

(d) The applicant must pay all costs associated with the on-site inspection.

(6) For purposes of chapter 19.28 RCW, all laboratories which certify and/or field evaluate electrical products offered for sale in the state of Washington must be accredited by the department. A NRTL requesting approval as a certification laboratory will be approved for accreditation by the department upon completion of the application process.

(7) Fees are payable as required in WAC 296-46B-911.

(8) The laboratory must apply for renewal of accreditation at least thirty days prior to the accreditation expiration date. The department will renew accreditation for the period specified in subsection (4) of this section or notify the renewing laboratory of the department's reason(s) of refusal following receipt of the completed form and renewal fee. Accreditation may be renewed or refused for one or more electrical product category(ies).

(9) The department accepts or denies laboratory accreditation for all laboratories within the state. Accreditation is determined when a laboratory provides evidence to the department that all the requirements of this chapter are met. Accreditation is determined by the department and prior to making a determination, the department may require information and documentation to be provided by the laboratory.

(a) Accreditation is subject to review when deemed necessary by the department. The laboratory must pay all costs associated with on-site review.

(b) Every accredited laboratory must continue to satisfy all the conditions specified in this chapter during the period of the accreditation. A non-NRTL accredited laboratory must furnish the department an annual report detailing the extent of its activities for the year. The report must include, but not be limited to:

(i) The number of factory inspections;

(ii) Organizational structure;

(iii) Statement of ownership;

(iv) Laboratory equipment verification;

(v) Client accreditation programs;

(vi) Reports of litigation, which in any way were the result of or may affect any accreditation or testing of products covered by this chapter; or

(vii) Assessment of recordkeeping (i.e., certification/evaluation plans, certification/evaluation reports).

(c) The department will notify the applicant of the accreditation results. A letter of accreditation from the department is proof of the accreditation of a laboratory.

(10) The laboratory will be approved to certify only those categories identified and authorized by the department. The department will approve and list electrical product category(ies) the laboratory is qualified to certify or evaluate. The accreditation letter will indicate the electrical product category(ies) for which accreditation is issued.

(11) The department may exclude specific electrical products from acceptance. When required, the laboratory must provide evidence, acceptable to the department, that the laboratory is qualified to certify or field evaluate the specific electrical product. Laboratory recognition as an NRTL for the standard(s) used to certify or field evaluate an electrical product will be acceptable evidence. The standards used for certification or field evaluation must be determined by the department to be acceptable and applicable to the electrical product being certified or field evaluated.

Suspension or revocation.

(12) Any laboratory failing to comply with the requirements of this chapter or submitting false information may have accreditation revoked or suspended for one or more electrical product category(ies).

(13) The department may suspend or revoke the accreditation of any laboratory found to be in noncompliance with this chapter or the laws of the state of Washington.

(14) The department will serve written notice of intent prior to suspension, revocation, or refusal to renew the accreditation of a laboratory.

(15) The laboratory must immediately notify all manufacturers whose products are covered by the accreditation that such products manufactured subsequent to the departmental revocation and offered for sale in the state of Washington can no longer bear the laboratory's label that identified it as a certified product in the state of Washington. A laboratory, whose accreditation has been suspended, may not reapply for accreditation during the period of such suspension. A laboratory, whose accreditation has been revoked, may reapply for accreditation no sooner than one year after the date of revocation of accreditation.

Business structure, practices, and personnel.

(16) The laboratory must be an independent, third-party organization with no organizational, managerial, financial, design, or promotional affiliation with manufacturers, suppliers, installers, or vendors of products covered under its certification or evaluation programs.

The laboratory must have an adequate diversity of clients or activity so that the loss or award of a specific contract regarding certification or evaluation would not be a deciding factor in the financial well-being of the laboratory.

(17) The laboratory must adequately meet the following business practices:

(a) Perform the examinations, tests, evaluations, and inspections required under the certifications programs in accordance with the designated standards and procedures;

(b) Assure that reported values accurately reflect measured and observed data;

(c) Limit work to that for which competence and capacity is available;

(d) Treat test data, records, and reports as proprietary information;

(e) Respond and attempt to resolve complaints contesting certifications and evaluation results;

(f) Maintain an independent relationship between its clients, affiliates, and other organizations so the laboratory's capacity to give certifications and evaluations objectively and without bias is not adversely affected; and

(g) Notify the department within thirty calendar days should it become unable to conform to any of the requirements of this chapter.

(18) Laboratories accredited under this chapter must notify the department within thirty calendar days of any of the following:

(a) Change in company name and/or address;

(b) Changes in major test equipment which affect the ability to perform work for which accredited;

(c) Changes in principal officers, key supervisory and responsible personnel in the company including the director of testing and engineering services, director of follow-up services, and the laboratory supervisor; or

(d) Change in independent status.

(19) The laboratory must develop and maintain a certification or evaluation program plan that includes, but is not limited to:

(a) The procedures and authority to ensure the product complies with the standard(s) established by the program;

(b) A quality control system;

(c) Adequate personnel to perform the certification or evaluation;

(d) Verification and maintenance of facilities and/or equipment; or

(e) Sample selection as applicable for product certifications, and for component testing as necessary for field evaluations.

The plan must demonstrate that the laboratory has adequate personnel, facilities, and equipment to perform all certifications and testing for which it is accredited by the state of Washington. These elements must be contained in the laboratory operations control manual.

(20) The laboratory must develop and maintain a quality control system adequate to assure the accuracy and technical integrity of its work as follows:

(a) The laboratory's quality control system must include a quality control or laboratory operations control manual;

(b) The quality control or laboratory operations control manual must be adequate to guide a testing technician or inspector in conducting the inspection, evaluation, and/or test in accordance with the test methods and procedures required for the laboratory's certification and/or evaluation program(s); and

(c) The laboratory must have a current copy of its quality control or laboratory operations control manual available in the laboratory for use by laboratory personnel.

(21) Competent personnel who must have training, technical knowledge, and experience adequate to perform the tests, examinations, and evaluations for the certification and/or evaluation activities for which recognition is sought must staff the laboratory.

(22) The laboratory must:

(a) Provide adequate safeguards protecting the employment status of personnel from the influence or control of manufacturers, vendors, or installers of electrical products certified or tested by the laboratory;

(b) Develop and maintain a job description for each technical position category;

(c) Ensure the competency of its staff to perform assigned tasks through individual yearly observation and/or examination by a person(s) qualified by the person who has technical responsibility for the laboratory;

(d) Develop and maintain records of the results and dates of the observation or examination of personnel performance;

(e) Maintain information on the training, technical knowledge, and experience of personnel; and

(f) Develop and maintain an adequate training program assuring that new or untrained personnel will be able to perform assigned tasks properly and uniformly.

Recordkeeping and reporting - general.

(23) The laboratory must develop and maintain records and reports of those testing, inspection, certification, and evaluation activities associated with each program for which accreditation is sought. The laboratory must retain these records for a minimum of three years.

(24) The laboratory must make available to the department, upon request, all records required by the department to verify compliance with this chapter.

Recordkeeping and reporting - certification.

(25) Certification reports must contain, as applicable:

(a) Name and address of the laboratory;

(b) Pertinent data and identification of tests or inspections;

(c) Name of client;

(d) Appropriate product title;

(e) Designation of standards used to certify or test the product including edition and latest revision (e.g., UL 508, 16th Edition, Feb. 1993, Revision Oct. 9, 1997);

(f) Description and identification of the sample including, as necessary, where and how the sample was selected;

(g) Identification of the test, inspection, or procedure as specified for certification or evaluation by the standard;

(h) Known deviations, additions to, or exclusions from evaluation and certification activities in order to be appropriate for new or innovative products not contemplated by the standard;

(i) Measurements, examinations, derived results, and identification of test anomalies;

(j) A statement as to whether or not the results comply with the requirements of the standard;

(k) Name, contact information, and signature of person(s) having responsibility for the report;

(l) Raw data, calculations, tables, graphs, sketches, and/or photographs generated during certification or evaluation must be maintained if not included in the report;

(m) Control forms documenting the receipt, handling, storage, shipping, and testing of samples;

(n) Laboratory records of its quality control checks and audits for monitoring its test work associated with its certification programs, including:

(i) Records of products assurance (follow-up) test results; and

(ii) Records of detected errors and discrepancies and actions taken subsequent to such detection.

(o) Record of written complaints and disposition thereof; and

(p) A statement that records required by these criteria will be maintained for a minimum of three years after cessation of the certification or evaluation.

Recordkeeping and reporting - field evaluation.

(26) The evaluation report must include:

(a) Name and address of the laboratory;

(b) Name of client;

(c) Address where the evaluated product is or will be installed;

(d) Designation of standards used to certify or test the product including edition and latest revision (e.g., UL 508, 16th Edition, Feb. 1993, Revision Oct. 9, 1997);

(e) Description and identification of the nonlisted and nonlabeled component(s) requiring evaluation by applicable standard(s);

(f) Description of the overall product evaluated to include full nameplate data and equipment type;

(g) A statement as to whether or not the results comply with the requirements of the standard;

(h) Pertinent test evaluation data and identification of tests or inspections including anomalies;

(i) Signature of person(s) having responsibility for the report;

(j) Any condition of acceptability or restrictions on use/relocation;

(k) Serial number(s) of the field evaluation label(s) applied must be included with the equipment identification; and

(l) The labor and industries department file identification number;

(27) Within thirty calendar days after affixing the evaluation mark, the laboratory must submit a copy of the evaluation report to:

(a) The department's chief electrical inspector submitted electronically in a format approved by the department;

(b) Local electrical inspection office submitted electronically in a format approved by the department; and

(c) Client submitted in any format acceptable to the client and testing laboratory.

Facilities and equipment.

(28) The laboratory must provide adequate evidence of the calibration, verification, and maintenance of the facilities and equipment specified for each certification or evaluation.

(29) Verification and maintenance of facilities and equipment must include as applicable, but not be limited to:

(a) Equipment description;

(b) Name of manufacturer;

(c) Model, style, serial number, or other identification;

(d) Equipment variables subject to calibration and verification;

(e) Statement of the equipment's allowable error and tolerances of readings;

(f) Calibration or verification procedure and schedule;

(g) Dates and results of last calibrations or verifications;

(h) Specified maintenance practices;

(i) Calibration and/or verification of equipment used;

(j) Name and contact information of personnel or outside contractor providing the calibration or verification service; and

(k) Traceability to National Institute of Standards and Technology or other equivalent standard reference authority.

Standards.

(30) The laboratory must have copies available, for laboratory personnel use, of applicable standards and other documents referred to or used in performing each certification or test for which approval is sought.

(31) If a laboratory desires to use a standard other than an ANSI standard, the department will evaluate the proposed standard to determine that it provides an adequate level of safety. The National Electrical Code, NFPA 70, will not be allowed to be the primary standard used to evaluate a product.

Product certification.

(32) The electrical product certification program must contain test procedure(s), standard(s) used, certification agreement(s), method(s) of identification of products, follow-up inspection, and other laboratory procedures and authority necessary to ensure that the product complies with the standards (requirements) established by the program.

(33) All components of certified or tested products must be labeled or evaluated for compliance with all standards and conditions of use applicable to such components.

(34) The laboratory must publish an *Annual Product Directory* identifying products that are authorized to bear the laboratory's certification mark. The products directory must briefly describe the program, the products covered, the name of the manufacturer or vendor of the certified products, and the identification of the published standards or the compiled requirements on which the program is based. The product directory must be available to the public. Supplemental up-

to-date information must be available to the public at the office of the laboratory during normal business hours.

Certification laboratory/manufacturer - agreement.

(35) Measures to provide for manufacturer compliance with the provisions of the product standard and laboratory control of the use of the certification mark must be embodied in an agreement between the manufacturer and the certification laboratory. The certification agreement must:

(a) Require the manufacturer to provide information and assistance as needed by the laboratory to conduct the necessary product conformity and production assurance evaluation;

(b) Allow the laboratory's representative(s) access to the manufacturer's facilities during working hours for inspection and may allow audit activities without prior notice;

(c) Restrict the manufacturer's application of certification marks to products that comply with requirements of the product standard;

(d) Secure the manufacturer's agreement to the publication of notice by the certification laboratory for any product already available in the marketplace that does not meet the safety standard;

(e) Require reevaluation of products whenever the standard covering the product is revised;

(f) Require the laboratory to notify the manufacturer's personnel responsible for and authorized to institute product recall in the case of a hazard;

(g) Provide for control of certification marks by the laboratory;

(h) Require that the laboratory provide the manufacturer with a report of original product evaluation. The report must document conformity with applicable product standards by test results and other data; and

(i) Require the identification of the manufacturer(s) of the product and the location(s) where the product is produced.

Certification mark.

(36) The laboratory owns the certification mark.

(37) The certification mark must be registered as a certification mark with the United States Patent and Trademark Office.

(38) The certification mark must:

(a) Not be readily transferable from one product to another;

(b) Be directly applied to each unit of production in the form of labels or markings suitable for the environment and use of the product. When the physical size of the unit does not permit individual marking, markings may be attached to the smallest package in which the unit is marketed;

(c) Include the name or other appropriate identification of the certification laboratory;

(d) Include the product category; and

(e) The laboratory must have a system of controls and records for all marks. The records must include marks removed or otherwise voided. See WAC 296-46B-999(25).

(39) The certification mark may be applied to the product prior to authorizing the use of a certification mark on a product. The laboratory must:

(a) Determine by examination and/or tests that representative samples of the product comply with the requirements (standards). Components of certified products must comply with the applicable safety requirements (standards) or be listed. Evaluation of the product design must be made on representative production samples or on prototype product samples with subsequent verification that factory productions are the same as the prototype;

(b) Determine that the manufacturer has the necessary facilities, test equipment, and control procedures to ensure that continuing production of the product complies with the requirements; and

(c) If the certification mark is not applied at the manufacturing facility, the laboratory must provide prior notification to the department of its intent to affix the certification mark in the field.

Certification laboratory product - assurance/follow up.

(40) To verify continued product acceptability, the laboratory must develop and maintain a factory follow-up inspection program and manual to determine continued compliance of certified products with the applicable standard.

(41) The follow-up inspection file must include the:

(a) Conditions governing the use of the certification mark on products;

(b) Identification of the products authorized for certification;

(c) Identification of manufacturer and plant location at which manufacture and certification are authorized;

(d) Description, specifications, and requirements applicable to the product;

(e) Description of processes needed for control purposes;

(f) Description of the manufacturer's quality assurance program when used as part of the follow-up program;

(g) Description of inspections and tests to be conducted by the manufacturer and the laboratory; and

(h) Description of follow-up tests to be conducted in the laboratory.

(42) Follow-up procedures and activities must include:

(a) Periodic inspections at the factory with testing at the factory or certification laboratory of representative samples selected from production and, if appropriate, from the market;

(b) Periodic auditing or surveillance of the manufacturer's quality assurance program through the witnessing of manufacturer's tests, review of the manufacturer's records, and verification of the manufacturer's produced data;

(c) Investigation of alleged field failures upon department request; and

(d) Procedures for control of the use of the certification mark by:

(i) Keeping records of the release and use of certification marks;

(ii) Removal of marks from noncomplying products;

(iii) Return or destruction of unused marks when the authority to use the marks is terminated; and

(iv) Legal action.

(43) The frequency of laboratory follow-up inspections must not be less than four times per year during production, unless adequate data is provided to the department to justify

less frequent inspections. If there is no production during the year, at least one follow-up inspection is to be completed. The frequency of follow-up inspections must be sufficient to provide a reasonable check on the method(s) the manufacturer exercises to assure that the product bearing the certification mark complies with the applicable standards.

Field evaluation - requirements.

(44) The field evaluation laboratory may perform evaluations on any products or product categories previously approved by the department. NRTL recognition may be accepted by the department as a basis for approval to perform field evaluations. Since OSHA does not review or recognize laboratories for field evaluation purposes, laboratories seeking accreditation from the department for field evaluation may be required to provide additional justification of capability such as, but not limited to: Recordkeeping, employee standards and proficiency, equipment requirements, and other requirements described in this chapter.

(45) The laboratory must request permission from the department in writing two working days prior to conducting any field evaluation of an electrical product to be installed in any jurisdiction in the state. Requests must be made using a department-supplied form.

(46) The field evaluation process must be completed within six months following department approval. If the field evaluation is not completed within six months following department approval, the laboratory must request permission from the department in writing to continue the evaluation process. If this secondary permission is granted to the laboratory, the department may require the equipment to be placed out-of-service except as necessary to complete the field evaluation process.

(47) The scope of a field evaluation will depend on the status of the item to be evaluated as follows:

(a) A new piece of equipment must have a complete evaluation of all components and the assembly as provided by the manufacturer. For example: An industrial machine with a control panel, remote motors, sensors, controls, and other utilization equipment; and

(b) A product that has been modified internally or by an addition need have only those portions evaluated that were affected by the modification. For example: A switchboard with multiple sections that has a section added would only need the new section, the one section immediately adjacent, and any control modifications evaluated.

(48) Each unit that receives a field evaluation mark applied by the field evaluation laboratory must have sufficient inspections and/or testing completed to ensure it is in essential conformance with the applicable product standard(s).

(49) The laboratory may perform the preliminary evaluation in the manufacturer's facility. Final evaluation and acceptance of the product must be made on-site at the location of final installation, unless waived by the department.

Field evaluation mark.

(50) Only laboratory personnel may apply the field evaluation mark after final acceptance of the product. The field

evaluation label must be applied on-site at the location of the final installation, unless waived by the department.

(51) The field evaluation laboratory must have a system of controls and records for all field evaluation marks it applies. The records must include labels removed or otherwise voided.

(52) A field evaluated product may be relocated or fed from a different power source if not prohibited by the field evaluation mark or the field evaluation report.

(53) The field evaluation mark must:

(a) Not be readily transferable from one product to another;

(b) Be directly applied by the laboratory personnel to each unit of production in the form of labels or markings suitable for the environment and use of the product;

(c) Include the name or other appropriate identification of the certification laboratory; and

(d) Include a unique evaluation laboratory reference number.

(54) The field evaluation laboratory must have a system of controls and records for all field evaluation marks it applies. The records must include labels removed or otherwise voided. See subsection (26) of this section.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-46B-527	Special occupancies—Temporary installations.
WAC 296-46B-951	Domestic appliance specialty.

WSR 05-06-064

PROPOSED RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Filed March 1, 2005, 1:22 p.m.]

Continuance of WSR 05-02-096.

Preproposal statement of inquiry was filed as WSR 01-17-048.

Title of Rule and Other Identifying Information: Chapter 480-93 WAC, Gas companies—Safety, WUTC Docket No. UG-011073.

Hearing Location(s): Commission Hearing Room 206, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on March 31, 2005, at 1:30 p.m.

Date of Intended Adoption: March 31, 2005.

Assistance for Persons with Disabilities: Contact Mary DeYoung by March 29, 2005, TTY (360) 586-8203 or (360) 664-1133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules are intended to ensure the safety of gas pipeline operations and to promote safety for the citizens of Washington

state from the hazards of gas pipeline operations. The proposed rules are intended to implement the requirements of Executive Order 97-02, requiring agencies to review significant rules for need; effectiveness and efficiency; clarity; intent and statutory authority; cost and fairness. The proposal repeals some of the existing rules that are no longer necessary, adds rules to clarify existing federal rules which the commission adopts by reference, and includes new rules that are more stringent than federal rules, such as adding "new construction" as an activity included as a covered task. The proposed rules include new rules for defining "timeframes" used throughout the chapter, and addressing protection of exposed plastic pipe.

The purpose of this continuance of WSR 05-02-096 is to provide notice of a change in the adoption and hearing dates for this rule making from March 16, 2005, to March 31, 2005.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Sondra Walsh, Senior Policy Strategist, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1286; Implementation and Enforcement: Carole J. Washburn, Executive Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, (360) 664-1174.

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

Small Business Economic Impact Statement

A copy of the small business economic impact statement was filed with the initial CR-102 in WSR 04-15-141.

A copy of the statement may be obtained by contacting Washington Utilities and Transportation Commission, Records Center, Docket No. UG-011073, 1300 South Evergreen Park Drive S.W., P.O. Box 47250, Olympia, WA 98504-7250, phone (360) 664-1286, fax (360) 664-1150, e-mail swalsh@wutc.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. The commission is not an agency to which RCW 34.05.328 applies. The proposed rules are not significant legislative rules of the sort referenced in RCW 34.05.328(5).

March 1, 2005

Carole J. Washburn
Executive Secretary

WSR 05-06-066

PROPOSED RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed March 1, 2005, 2:11 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-01-175 on December 21, 2004.

Title of Rule and Other Identifying Information: Chapter 392-168 WAC, Special service programs—Citizen complaint procedure for certain categorical federal programs.

Hearing Location(s): Office of Superintendent of Public Instruction, 600 South Washington, Olympia, WA, on April 5, 2005, at 9:00 a.m.

Date of Intended Adoption: April 6, 2005.

Submit Written Comments to: Gayle Pauley, P.O. Box 47200, Olympia, WA 98504-7200, e-mail gpauley@ospi.wednet.edu, fax (360) 586-3305, by April 1, 2005.

Assistance for Persons with Disabilities: Contact Joie Erickson by April 2, 2005, TTY (360) 664-3631 or (360) 725-6142.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to bring the state into compliance with federal ESEA/NCLB requirements. This proposal describes the complaint procedure process and provides a timeline for when complaints are to be resolved. The edited complaint procedure process reflects the federal legal requirements that must be addressed. Outdated requirements have been removed.

Reasons Supporting Proposal: The state is required under federal rules and regulations to implement a complaint resolution procedure as defined in 34 C.F.R. 76.770 and 76.783. The additions and deletions in chapter 392-168 WAC reflect these requirements.

Statutory Authority for Adoption: RCW 28A.300.070.

Rule is necessary because of federal law, 34 C.F.R. 76.770 and 76.783.

Name of Proponent: Gayle Pauley, governmental.

Name of Agency Personnel Responsible for Drafting: Gayle Pauley, Office of Superintendent of Public Instruction, (360) 725-6100; Implementation: Bob Harmony, Office of Superintendent of Public Instruction, (360) 725-6170; and Enforcement: Mary Alice Heuschel, Office of Superintendent of Public Instruction, (360) 725-6115.

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

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(a), the Office of Superintendent of Public Instruction is not required to provide a cost benefit analysis.

March 1, 2005

Terry Bergeson
Superintendent

AMENDATORY SECTION (Amending Order 93-15, filed 9/13/93, effective 10/14/93)

WAC 392-168-110 Purpose. The purpose of this chapter is to ensure compliance by the state of Washington with 34 CFR ((~~76.780 through 782~~) 76.770 and 76.783, Department of Education regulations governing state-administered federal grant programs, ((~~34 CFR 300.660 through 662, Individuals with Disabilities Education Act,~~)) and with the Hatch Amendment.

AMENDATORY SECTION (Amending Order 93-15, filed 9/13/93, effective 10/14/93)

WAC 392-168-115 Applicability. This chapter shall apply to federal programs administered by the superintendent of public instruction and listed in 34 CFR 76.1((b)):

(1) ~~((Title III A of the National Defense Education Act of 1958, Strengthening Instruction in Academic Subjects in Public Schools;~~

~~(2) Title IV of Public Law 96-511, Emergency Immigrant Education Program;~~

~~(3) Title II, Sections 201-206, 208-211, and 213 of the Education for Economic Security Act, State Grants for Strengthening the Skills of Teachers and Instruction in Mathematics, Science, Foreign Languages, and Computer Learning;~~

~~(4) Part B of the Individuals with Disabilities Education Act, Assistance to States for Education of Students with Disabilities;~~

~~(5) Section 619 of the Individuals with Disabilities Education Act, Incentive Grants;~~

~~(6) Part A of Title I of the Vocational Education Act, State Vocational Education Program;~~

~~(7) Career Education Incentive Act (except Sections 10, 11, and 12) Career Education—State Allotment Program; and~~

~~(8) Adult Education Act (except Sections 309, 314, 317, and 318), State Adult Education Program;~~

~~(9) Provided, That pursuant to 34 CFR 76.1(c), this chapter shall not apply to programs authorized under Chapter 1 and Chapter 2 of the Education Consolidation and Improvement Act of 1981:~~

~~(a) Chapter 1—Financial Assistance to Local Educational Agencies to Meet the Special Educational Needs of Educationally Deprived Children, Grants to State Educational Agencies for Program to Meet the Special Educational Needs of Migratory Children, Grants to State Agencies for Programs to Meet the Special Education Needs of Children in Institutions for Neglected or Delinquent Children, State-operated Programs for Handicapped Children; and~~

~~(b) Chapter 2—Consolidation of Federal Programs for Elementary and Secondary Education:~~

~~(10) Provided further, That any additional complaint procedure requirements of particular programs shall be applicable to those programs in addition to the basic citizen complaint procedure described in this chapter.)) Title I, Part A: Improving Basic Programs Operated by Local Educational Agencies;~~

~~(2) Title I, Part B, Subpart 1: Reading First;~~

~~(3) Title I, Part B, Subpart 3: William F. Goodling Even Start Family Literacy Program;~~

~~(4) Title I, Part C: Education of Migratory Children;~~

~~(5) Title I, Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk;~~

~~(6) Title I, Part F: Comprehensive School Reform;~~

~~(7) Title II, Part A: Teacher and Principal Training and Recruiting Fund;~~

~~(8) Title II, Part D: Enhancing Education Through Technology;~~

Title III—Language Instruction for Limited English Proficient and Immigrant Students

(9) Title III, Part A: English Language Acquisition, Language Enhancement, and Academic Achievement;

(10) Title IV—21st Century Schools;

(11) Title IV, Part A, Subpart 1: Safe and Drug Free Schools and Communities;

(12) Title IV, Part B: 21st Century Community Learning Centers;

Title V—Promoting Informed Parental Choice and Innovative Programs

(13) Title V, Part A: Innovative Programs;

Title VI—Flexibility and Accountability

(14) Title VI, Part A, Subpart 1: Improving Academic Achievement, Accountability, Grants for State Assessments and Enhanced Assessments;

(15) Title VI, Part B, Subpart 1: Small, Rural School Achievement Program;

(16) Title VI, Part B, Subpart 2: Rural and Low-Income Schools;

(17) Title IX—General Provisions;

(18) Title IX, Part E (Section 9532): Unsafe School Choice Option;

(19) Title X, Repeals, Redesignations, and Amendments to Other Statutes;

(20) Title X, Part C: McKinney-Vento Homeless Education Assistance Improvements.

AMENDATORY SECTION (Amending Order 43, filed 11/20/90, effective 12/21/90)

WAC 392-168-125 Definition—Complaint. As used in this chapter, the term "complaint" means an allegation, by the complainant, that the state, a local school district, an educational service district, or other subgrantee receiving federal funds has violated a federal statute or regulation or a related state regulation that applies to a federal program covered under this chapter.

AMENDATORY SECTION (Amending Order 93-15, filed 9/13/93, effective 10/14/93)

WAC 392-168-132 Informing citizens about complaint procedures. The superintendent of public instruction shall inform parents and other interested individuals about the citizen complaint procedures in this chapter. Specific actions to be taken by the superintendent of public instruction include:

(1) Disseminating copies of the state's procedures to parents, advocacy agencies, ~~((and))~~ professional organizations and other appropriate entities;

(2) Conducting inservice training sessions on the complaint process through educational service districts; and

(3) Including information about the system in statewide conferences.

AMENDATORY SECTION (Amending Order 90-09, filed 5/9/90, effective 6/9/90)

WAC 392-168-135 Right to register a complaint. Any individual~~((,-entity,))~~ or organization may register a signed

~~written complaint((: Provided, That a complaint filed pursuant to the Hatch Amendment may be filed only by a student or parent or guardian of a student directly affected by the alleged violation: Provided further, That if a parent or adult student has also filed a request for a due process special education hearing pursuant to WAC 392-171-531, regarding the same issues, a citizen complaint by such person regarding noncompliance shall be held in abeyance until the hearing has been concluded)).~~

AMENDATORY SECTION (Amending Order 90-09, filed 5/9/90, effective 6/9/90)

WAC 392-168-140 Contents of complaint. A written complaint filed under this chapter shall include:

(1) A statement that the state, a local school district, an educational service district, or other subgrantee has violated one or more requirements of federal statutes or regulations or state regulations that apply to a federal program covered under this chapter;

(2) The specific requirement alleged to have been violated;

(3) The facts on which the ~~((statement))~~ complaint is based;

~~((and))~~ (4) The name and address of the complainant;

~~((and))~~ (5) The expected resolution of the alleged violation; and

(6) In the case of a complaint alleging a violation by an entity other than the state and filed directly with the superintendent of public instruction, the name and address of the allegedly offending entity.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

WAC 392-168-145 Procedure for filing a complaint. The procedure for filing a complaint shall be as follows:

(1) A complaint alleging a violation by a local school district, an educational service district, or other subgrantee shall be filed directly with a ~~((responsible official of the local))~~ school district, an educational service district, or other subgrantee~~((: Provided, That a complaint alleging a violation by an entity other than the state may))~~ shall be filed directly with the superintendent of public instruction ~~((at the complainant's discretion)).~~

(2) ~~((A complaint against a local school district, an educational service district, or other subgrantee filed directly with the superintendent of public instruction shall be referred back to the allegedly offending entity for action pursuant to this chapter.))~~ The superintendent of public instruction, upon receipt of a signed, written complaint against a local school district or other public agency, an educational service district, or other subgrantee, shall refer the complaint to the educational entity for action pursuant to this chapter. A complaint against the state shall be investigated pursuant to WAC 392-168-....

(3) Receipt of a complaint by the superintendent of public instruction activates a time limit not to exceed sixty calendar days unless an extension of the time limit is approved by

the superintendent of public instruction on the basis of exceptional circumstances with respect to a particular complaint.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

WAC 392-168-155 Investigation of and response to complaints against a school district or other public agency, educational service district, or other subgrantee. Investigation of and response to a complaint shall be as follows:

(1) Upon receipt of a properly filed complaint, the ~~((employee(s) designated pursuant to WAC 392-168-150 shall investigate))~~ superintendent of public instruction shall send a copy of the complaint to the educational entity, for their investigation of the alleged violations.

(2) ~~((Upon completion of the investigation, the designated employee(s) shall provide the responsible official of the entity with a written report of the results of the investigation. Said officials shall respond in writing to the complainant.))~~ The educational entity shall investigate the complaint. The responsible official of the educational entity shall respond in writing to the superintendent of public instruction, and include documentation of the investigation, no later than twenty calendar days after the date of receipt by the entity of such complaint.

(3) The response to the ~~((complainant))~~ superintendent of public instruction shall clearly state either:

(a) That the educational entity denies the allegations contained in the complaint and the basis for such denial; or

(b) ~~((The))~~ Proposes reasonable corrective action(s) deemed necessary to correct the violation~~((: Provided, That any such corrective measures shall be instituted as expeditiously as possible but in no event later than thirty calendar days following the date of the response to the complainant)).~~

(4) The superintendent of public instruction shall provide the complainant a copy of the entity's response to the complaint.

(5) The superintendent of public instruction will provide the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

(6) Upon review of all relevant information including, if necessary, information obtained through an independent on-site investigation by the superintendent of public instruction, the superintendent of public instruction will make an independent determination as to whether the public agency is in violation of any federal program requirement as authorized under the Elementary and Secondary Education Act as amended by No Child Left Behind Act or this chapter.

(7) The superintendent of public instruction shall issue a written decision to the complainant that addresses each allegation in the complaint including findings of fact, conclusions, and the reasonable corrective measures deemed necessary to correct any violation. The state may provide technical assistance activities; negotiations; and corrective measures necessary to resolve a complaint. All actions shall be instituted, as soon as possible but in no event later than thirty calendar days following the date of the decision, unless otherwise agreed to, or for good cause.

(8) If compliance by a local district or other public agency, educational service district, or other subgrantee is not achieved pursuant to subsection (7) of this section, the superintendent of public instruction shall initiate fund withholding, fund recovery, or any other sanction(s) deemed appropriate.

AMENDATORY SECTION (Amending Order 15, filed 11/2/89, effective 12/3/89)

WAC 392-168-180 Complaints against the superintendent of public instruction—Investigation of and response to complaints. (1) The staff responsible for investigating the alleged violation shall commence investigation within ten days of receipt of the complaint by the superintendent of public instruction.

(2) Investigation by the superintendent of public instruction may include on-site investigations as appropriate.

(3) Upon completion of the investigation, investigating staff shall provide the superintendent of public instruction with a written report on the results of the investigation, no later than sixty calendar days after the receipt of such complaint.

~~(4) ((The superintendent of public instruction shall respond in writing to the complainant as expeditiously as possible but in no event later than sixty calendar days after the date of receipt of such complaint by the superintendent of public instruction.~~

~~(5))~~ The response shall clearly state either:

(a) That the complaint is without merit, the allegations are denied, and the basis for such denial; or

(b) The reasonable corrective measures deemed necessary to correct any violation: Provided, That any such corrective measures deemed necessary shall be instituted as expeditiously as possible but in no event later than thirty calendar days following the date of the response to the complainant.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 392-168-120 Definition—Hatch amendment.
- WAC 392-168-160 Appeal to the superintendent of public instruction of a local school district, educational service district, or other subgrantee decision.
- WAC 392-168-165 Content of appeal notice.
- WAC 392-168-167 General responsibilities of superintendent of public instruction.
- WAC 392-168-170 Actions by superintendent of public instruction in response to notices of appeal and notices registering complaints.

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-01-027.

Title of Rule and Other Identifying Information: Title 390 WAC, rules relating to enforcement hearings, informal settlement-cases resolved by stipulation prior to an enforcement hearing, electronic filing thresholds and mini campaign reporting.

Hearing Location(s): Commission Hearing Room, 711 Capitol Way, Room 206, Olympia, WA 98504, on April 26, 2005, at 9:00 a.m.

Date of Intended Adoption: April 26, 2005.

Submit Written Comments to: Doug Ellis, Public Disclosure Commission (PDC), P.O. Box 40908, Olympia, WA 98504-0908, e-mail dellis@pdc.wa.gov, fax (360) 753-1112, by April 22, 2005.

Assistance for Persons with Disabilities: Contact Ruthann Bryant by phone (360) 586-0544.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Possible rule amendments to remove the requirement to read stipulations into the record, to apply the ten-day notification requirement to respondents only for actual hearings under the Administrative Procedure Act, to exempt last minute in-kind contributions from the expenditure threshold for mandatory electronic filing, to provide clarification and guidance to candidates and political committees as to when a change in reporting option from mini reporting to full reporting is allowed and what provisions of chapter 42.17 RCW are not applicable when selecting the reporting option.

Reasons Supporting Proposal: To clarify and provide guidance to candidates and political committees concerning enforcement proceedings, electronic filing and reporting options.

Statutory Authority for Adoption: RCW 42.17.370.

Statute Being Implemented: Chapter 42.17 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: The rule amendments are needed to provide clarity, guidance and direction to candidates and political committees.

Name of Proponent: Public Disclosure Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Doug Ellis, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735; Implementation: Susan Harris, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 753-1981; and Enforcement: Phil Stutzman, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-8853.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rule amendments has minimal impact on small businesses.

PROPOSED

A cost-benefit analysis is not required under RCW 34.05.328. The PDC is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to this rule adoption pursuant to subsection (5)(a)(i) of section 201, and, to date, the Joint Administrative Rules Review Committee has not made section 201 application [applicable] to the adoption of these rules.

March 1, 2005

Susan Harris
Assistant Director

AMENDATORY SECTION (Amending WSR 03-22-065, filed 11/4/03, effective 12/5/03)

WAC 390-37-090 Informal settlement—Cases resolvable by stipulation prior to an enforcement hearing (adjudicative proceeding), or by other alternative dispute mechanisms. (1) RCW 34.05.060 authorizes agencies to establish by rule specific procedures for attempting and executing informal settlement of matters. The following procedures are available for informal dispute resolution prior to an adjudicative proceeding that may make more elaborate proceedings under the Administrative Procedure Act unnecessary.

(a) Any enforcement matter before the commission which has not yet been heard in an adjudicative proceeding may be resolved by settlement. The respondent shall communicate his or her request to the executive director or designee (commission staff), setting forth all pertinent facts and the desired remedy. Settlement negotiations shall be informal and without prejudice to rights of a participant in the negotiations.

(b) When the executive director and respondent agree to terms of any stipulation of facts, violations, and/or penalty, commission staff shall prepare the stipulation for presentation to the commission.

(c) Any proposed stipulation shall be in writing and signed by each party to the stipulation or his or her representative. The executive director shall sign for commission staff. The stipulation shall be ~~(recited on the record)~~ provided at the hearing ~~(, although attached or referenced documents may be stated by reference and incorporated as a result)~~. The commission has the option of accepting, rejecting, or modifying the proposed stipulation or asking for additional facts to be presented. If the commission accepts the stipulation or modifies the stipulation with the agreement of the opposing party, the commission shall enter an order in conformity with the terms of the stipulation. If the commission rejects the stipulation or the opposing party does not agree to the commission's proposed modifications to the stipulation, and if no revised stipulation or staff report is presented to the commission, then an adjudicative proceeding shall be scheduled and held.

(2) Parties are encouraged to be creative in resolving cases without further litigation where appropriate.

(3) Following a stipulation of facts or law, if the commission determines certain sanctions or other steps are required by the respondent as a result of the alternative dispute resolution including stipulations and that it intends to enter an

order, and the respondent does not timely raise an objection at the hearing, it shall be presumed that the respondent has waived objections and appeals, and agrees to the entry of the order.

AMENDATORY SECTION (Amending WSR 03-22-065, filed 11/4/03, effective 12/5/03)

WAC 390-37-060 Enforcement procedures—Investigation of complaints—Initiation of hearing (adjudicative proceeding). (1) Upon receipt of a complaint not obviously unfounded or frivolous, the executive director shall direct an investigation be conducted. If after an initial review of the complaint it is determined that a complete and thorough investigation will require the expenditure of substantial resources, the executive director may request review and concurrence by the commission before continuing the investigation.

(2) The executive director shall initiate an adjudicative proceeding or provide a report to the commission whenever an investigation reveals facts that the executive director has reason to believe are a material violation of the sections of chapter 42.17 RCW under the commission's jurisdiction, and do not constitute substantial compliance.

(3) The respondent shall be notified of the date of the adjudicative proceeding ~~((or other consideration by the commission))~~ no later than ten calendar days before that date. The notice shall contain the information required by RCW 34.05.434. The complainant shall also be provided a copy of this notice.

(4) It is the policy of the commission during the course of any investigation that all records generated or collected as a result of that investigation are exempt from public inspection and copying under RCW 42.17.310 (1)(d). If a request is made for any such record that implicates the privacy of an individual, written notice of the records request will be provided to the individual in order that such individual may request a protective order from a court under RCW 42.17.-330. Certain documents shall be returned to candidates, campaigns, or political committees as required by RCW 42.17.-365 within seven calendar days of the commission's final action upon completion of an audit or field investigation.

AMENDATORY SECTION (Amending WSR 04-01-130, filed 12/18/03, effective 1/18/04)

WAC 390-19-030 Electronic filing—Reporting threshold. (1) The "electronic reporting threshold" that requires electronic filing of all contribution and expenditure reports is met when a candidate or political committee has expended \$10,000 or more in the preceding calendar year or expects to expend \$10,000 or more in the current calendar year.

(2) It is presumed that a filer "expects to expend" \$10,000 or more when any one of the following first occurs:

(a) A filer spends at least \$10,000;

(b) A filer is a candidate for the same office last sought, the filer's election is in the current calendar year, and his or her campaign expenditures in the previous election for the same office were \$10,000 or more;

(c) A filer's expenditures meet or exceed \$2,500 on or before March 31 of the current calendar year;

(d) A filer's expenditures meet or exceed \$5,000 on or before June 30 of the current calendar year;

(e) A filer's expenditures meet or exceed \$7,500 on or before September 30 of the current calendar year; or

(f) A filer otherwise projects that \$10,000 or more will be spent during the current calendar year.

(3) The following expenditures or transactions are excluded from the electronic reporting threshold calculation:

(a) Expenditures made to pay outstanding debts carried forward from a previous election; ~~((and))~~

(b) Surplus funds disposed of in accordance with RCW 42.17.095; and

(c) The value of in-kind contributions pledged or received within eight days of a special or general election.

(4) Candidate committees or political committees supporting or opposing ballot propositions that meet, exceed or expect to meet or exceed the electronic reporting threshold shall report electronically for the duration of the campaign.

(5) A report that is filed with the commission electronically need not also be filed with the county auditor or elections officer pursuant to RCW 42.17.080.

AMENDATORY SECTION (Amending WSR 01-22-051, filed 10/31/01, effective 1/1/02)

WAC 390-16-125 Mini campaign reporting—Exceeding limitations. ~~((Whenever there is reason to believe that any of the limitations specified in WAC 390-16-105 or 390-16-111 will or may be exceeded, the))~~ (1) A candidate or political committee ((may)) shall apply in writing to the commission for authorization to change reporting options((-

~~(1) If the application is made more than thirty days prior to the date of the election, the application will be considered approved without further action by the commission if the person making application submits)) before the limitations specified in WAC 390-16-105 are exceeded. A complete application shall include all of the following documents:~~

(a) ~~((A PDC form C-1 or C-1pc indicating the intention of using)) An amended registration statement (Form C-1 for candidates, Form C-1pc for political committees) selecting the full reporting ((system)) option as provided ((by)) in RCW ((42.17.040)) 42.17.065 - 42.17.090;~~

(b) ~~((A)) PDC forms C-3 and ((form)) C-4 with ((appropriate)) relevant schedules and attachments disclosing all contributions and expenditures to date reportable under RCW 42.17.090 for the election campaign, or in the case of continuing political committees, for the calendar year((-); and~~

~~(c)(i) If the applicant is a candidate, a statement affirming that all ((known)) candidates registered with the commission for the office being sought have been notified personally in writing of the application ((stating)), and the manner and date of such notification((-In the case of));~~

~~(ii) If the applicant is the treasurer of a political committee supporting or opposing a ballot proposition, ((the)) a statement ((shall affirm)) affirming that ((the committee)) all treasurers of all political committees ((identifiable from the records of the county elections officer or public disclosure)) registered with the commission ((to be opposing or)) as sup-~~

porting or opposing the proposition have been notified personally in writing of the application ~~((stating)), and~~ the manner and date of such notification; or

(iii) If the applicant is a county or legislative district party committee, a statement affirming that the treasurer of that party committee's counterpart in any other major political party has been notified personally in writing of the application, and the manner and date of such notification.

(2) An application that is submitted without the required documents described in subsection (1) of this section is incomplete and will not be processed or approved. If the applicant provides the missing documents, the application will be determined to be complete on the date the documents are postmarked or delivered to the commission.

~~(3) If ((the)) a complete application is ((made within thirty days of)) postmarked or delivered to the commission on or before thirty business days prior to the date of the election, the application shall be approved ((only)) by ((authorization of)) the ((commission)) executive director.~~

~~((a) Prior to such approval being granted, the executive director shall determine that the application contains those documents shown in subsection (1)(a), (b) and (c) above.~~

~~(b) The commission staff shall investigate why the applicable requirements were not complied with in the first instance and whether or not the probability of exceeding such limitations was reasonably foreseeable. If the investigation shows that the declaration by the candidate, committee or other person filed under WAC 390-16-115 was made in good faith and that the probability of exceeding such limitations was not reasonably foreseeable, the executive director will approve the reporting option change conditioned upon full future compliance with all applicable requirements of chapter 42.17 RCW.~~

~~(3)) (4) If a complete application is postmarked or delivered to the commission on or after twenty-nine business days prior to the election, the application shall be approved by the executive director only if one or more of the following factors are present:~~

~~(a) The commission staff did not send to the applicant's campaign in a timely and proper manner, either electronically or by other mail delivery service, a notice that the thirtieth business day deadline for unrestricted changes in reporting options is approaching. To be timely and proper, this notice must be sent at least forty business days before the election to the campaign's electronic mail address or postal service mailing address specified on the registration statement;~~

~~(b) The applicant is a candidate and, within thirty business days of the election, a write-in opponent has filed for office in accordance with chapter 29A.24 RCW;~~

~~(c) Within thirty business days of the election, an independent expenditure as defined in RCW 42.17.020 is made in support of the applicant's opponent or in opposition to the applicant; or~~

~~(d) When ((one)) a candidate or political committee on ((either)) one side of an election campaign or proposition has been approved to change reporting options under ((subsection (1) above, all other candidates and/or committees may change reporting options by meeting the requirements of subsection (1)(a), (b) and (c).~~

(4) Any person who knowingly or negligently causes or permits the limitations specified in these regulations to be exceeded shall be deemed to have violated the applicable provisions of RCW ~~42.17.040—42.17.090~~) this section, each opponent of that candidate or political committee is approved to change options as of the date that opponent postmarks or delivers a complete application to the commission.

(5) Exceeding the aggregate contributions or aggregate expenditures specified in WAC 390-16-105 without complying with the provisions of this section shall constitute one or more violations of chapter 42.17 RCW or 390-17 WAC.

AMENDATORY SECTION (Amending WSR 02-03-018, filed 1/4/02, effective 2/4/02)

WAC 390-16-105 Mini campaign reporting—Eligibility. (1) A candidate or candidate's authorized committee, as those terms are defined in RCW 42.17.020, shall not be required to comply with the provisions of RCW ((42.17.060)) 42.17.065 through 42.17.090 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditures exceed the amount of the candidate's filing fee provided by law plus a sum not to exceed three thousand five hundred dollars and no contribution or contributions from any person other than the candidate within such aggregate exceed three hundred dollars. However, a bona fide political party may pay the candidate's filing fee provided by law without that payment disqualifying that candidate from eligibility under this section.

(2) A political committee, as that term is defined in RCW 42.17.020, shall not be required to comply with the provisions of RCW ((42.17.060)) 42.17.065 through 42.17.090 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditures exceed three thousand five hundred dollars and no contribution or contributions from any person exceed three hundred dollars.

(3) A continuing political committee, as that term is defined in RCW 42.17.020, shall not be required to comply with the provisions of RCW ((42.17.060)) 42.17.065 through 42.17.090 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditures during a calendar year exceed three thousand five hundred dollars and no contribution or contributions from any person exceed three hundred dollars.

(4) Candidates and political committees are required to comply with all applicable provisions of chapter 42.17 RCW including, but not limited to, false political advertising, sponsor identification and public inspection of campaign books of account unless specifically exempted under subsections (1) through (3) of this section.

WSR 05-06-069
PROPOSED RULES
PUBLIC DISCLOSURE COMMISSION
 [Filed March 1, 2005, 3:49 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-02-008.

Title of Rule and Other Identifying Information: WAC 390-20-130 Forms for statement of employment of legislators, state officers, and state employees.

Hearing Location(s): Commission Hearing Room, 711 Capitol Way, Room 206, Olympia, WA 98504, on April 26, 2005, at 9:00 a.m.

Date of Intended Adoption: April 26, 2005.

Submit Written Comments to: Doug Ellis, Public Disclosure Commission (PDC), P.O. Box 40908, Olympia, WA 98504-0908, e-mail dellis@pdc.wa.gov, fax (360) 753-1112, by April 22, 2005.

Assistance for Persons with Disabilities: Contact Ruthann Bryant by telephone (360) 586-0544.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Possible rule amendment to include specific reference to an employer of a registered lobbyist in the instruction section of PDC form L-7 and revise the certification language to include the phrase "to the best of my knowledge."

Reasons Supporting Proposal: To clarify reporting requirements and certification on the PDC form L-7.

Statutory Authority for Adoption: RCW 42.17.370.

Statute Being Implemented: RCW 42.17.210.

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 rule amendment is needed to provide clarity, guidance and direction to persons filing the PDC form L-7.

Name of Proponent: Public Disclosure Commission, governmental.

Name of Agency Personnel Responsible for Drafting: Doug Ellis, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735; Implementation: Susan Harris, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 753-1981; and Enforcement: Phil Stutzman, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-8853.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of these rule amendments has minimal impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The PDC is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to this rule adoption pursuant to subsection (5)(a)(i) of section 201, and, to date, the Joint Administrative Rules Review Committee has not made section 201 application [applicable] to the adoption of these rules.


March 1, 2005
 Susan Harris
 Assistant Director

AMENDATORY SECTION (Amending WSR 02-03-018, filed 1/4/02, effective 2/4/02)

WAC 390-20-130 Forms for statement of employment of legislators, state officers, and state employees. The official form for statement of employment of legislators, state officers, and state employees as required by RCW 42.17.210 is designated "L-7" revised ((1/02)) 2/05. Copies of this form are available at the Commission Office, Room 206, Evergreen Plaza Building, Olympia, Washington 98504-0908. Any paper attachments shall be on 8-1/2" x 11" white paper.

((STRICKEN GRAPHIC _____

PROPOSED

 <p>PUBLIC DISCLOSURE COMMISSION 711 CAPITOL WAY RM 206 PO BOX 49908 OLYMPIA WA 98504-0908 (360) 763-1111 TOLL FREE 1-877-801-2828</p>	<p>L7 1/02</p>	<p>TO BE FILED BY EMPLOYERS OF STATE LEGISLATORS STATE OFFICERS OR STATE EMPLOYEES</p>		
<p>EMPLOYER'S NAME AND BUSINESS ADDRESS</p>	<p>THIS SPACE FOR OFFICE USE</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">POSTMARK</td> <td style="width: 50%; text-align: center;">DATE RECEIVED</td> </tr> </table>		POSTMARK	DATE RECEIVED
POSTMARK	DATE RECEIVED			
<p>DATE PREPARED: _____ THIS FORM <input type="checkbox"/> AMENDS PREVIOUS FILING <input type="checkbox"/> REPLACES PREVIOUS FILING PREPARED (DATE) _____</p>				
ITEM 1	NAME OF PERSON BEING EMPLOYED			
ITEM 2	NATURE OF EMPLOYMENT BY REPORTING EMPLOYER			
ITEM 3	AMOUNT AND NATURE OF PAY OR CONSIDERATION			
ITEM 4	NATURE OF STATE OFFICE OR EMPLOYMENT			

<p style="text-align: center;">INSTRUCTIONS</p> <p>WHO SHOULD FILE THIS FORM: Any person registered or required to be registered as a lobbyist under this act, who employs a member of the legislature, and employee of the legislature, a member of a state board or commission, or a full time state employee, if that employee remains partially employed by the state.</p> <p>FILING DEADLINE: Within 15 days after commencement of employment.</p> <p>FORM TO BE SUBMITTED TO: Public Disclosure Commission.</p>	<p>CERTIFICATION: I hereby certify under oath, that the above is a true, complete and correct statement in accordance with RCW 42.17.210.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="text-align: center;">SIGNATURE</td> </tr> <tr> <td style="width: 70%; text-align: center;">TITLE</td> <td style="width: 30%; text-align: center;">DATE</td> </tr> </table>	SIGNATURE		TITLE	DATE
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TITLE	DATE				
<p>EXCERPT FROM PUBLIC DISCLOSURE LAW RCW 42.17.210 — Employment of legislators, board or commission members, or state employees — Statement contents and filing. If any person registered or required to be registered as a lobbyist under this chapter employs, or if any employer of any person registered or required to be registered as a lobbyist under this chapter, employs any member of the legislature, or any member of any state board or commission, or any employee of the legislature, or any full-time state employee, if such new employee shall remain in the partial employ of the state or any agency thereof, then the new employer shall file a statement under oath with the commission setting out the nature of the employment, the name of the person to be paid thereunder, and the amount of pay or consideration to be paid thereunder. The statement shall be filed within fifteen days after the commencement of such employment.</p>					

_____ ((STRICKEN GRAPHIC))



L7	TO BE FILED BY EMPLOYERS OF STATE LEGISLATORS STATE OFFICERS OR STATE EMPLOYEES
2/05	

EMPLOYER'S NAME AND BUSINESS ADDRESS	THIS SPACE FOR OFFICE USE	
	POSTMARK	DATE RECEIVED

DATE PREPARED: _____	THIS FORM	<input type="checkbox"/> AMENDS <input type="checkbox"/> REPLACES	PREVIOUS FILING PREPARED (DATE) _____
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ITEM 1	NAME OF PERSON BEING EMPLOYED
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ITEM 2	DESCRIPTION OF WORK BEING PERFORMED
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ITEM 3	AMOUNT OF COMPENSATION
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ITEM 4	DESCRIPTION OF COMPENSATION
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ITEM 5	STATE OFFICE OR POSITION HELD BY PERSON NAMED IN #1 ABOVE (include title and employing agency, board, or commission)
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<p style="text-align: center; font-weight: bold; margin: 0;">INSTRUCTIONS</p> <p style="font-size: 0.8em; margin: 5px 0;">WHO SHOULD FILE THIS FORM: Any person registered or required to be registered as a lobbyist under this act or any employer of any person registered or required to be registered as a lobbyist under this act, who employs a member of the legislature, an employee of the legislature, a member of a state board or commission, or a full-time state employee, if that employee remains partially employed by the state.</p> <p style="font-size: 0.8em; margin: 5px 0;">FILING DEADLINE: Within 15 days after commencement of employment.</p> <p style="font-size: 0.8em; margin: 5px 0;">FORM TO BE SUBMITTED TO: Public Disclosure Commission.</p>	<p style="font-size: 0.8em; margin: 0;">CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td colspan="2" style="padding: 5px;">SIGNATURE</td> </tr> <tr> <td style="width: 70%; padding: 5px;">TITLE</td> <td style="width: 30%; padding: 5px;">DATE</td> </tr> </table>	SIGNATURE		TITLE	DATE
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TITLE	DATE				
<p style="font-weight: bold; margin: 0;">EXCERPT FROM PUBLIC DISCLOSURE LAW</p> <p style="font-size: 0.8em; margin: 5px 0;">RCW 42.17.210 — Employment of legislators, board or commission members, or state employees – Statement, contents and filing. If any person registered or required to be registered as a lobbyist under this chapter employs, or if any employer of any person registered or required to be registered as a lobbyist under this chapter, employs any member of the legislature, or any member of any state board or commission, or any employee of the legislature, or any full-time state employee, if such new employee shall remain in the partial employ of the state or any agency thereof, then the new employer shall file a statement under oath with the commission setting out the nature of the employment, the name of the person to be paid thereunder, and the amount of pay or consideration to be paid thereunder. The statement shall be filed within fifteen days after the commencement of such employment.</p>					

PROPOSED

WSR 05-06-085
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed March 1, 2005, 4:16 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-24-045.

Title of Rule and Other Identifying Information: WAC 388-450-0195 Utility allowances for Basic Food programs.

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on April 5, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 6, 2005.

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., April 5, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by April 1, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule is being amended to meet federal criteria regarding eligibility for the limited utility allowance (LUA) for the food stamp program, administered as the Washington Basic Food program. Additional amendments have been made to improve clarity regarding qualifying utility expenses.

Reasons Supporting Proposal: United States Code of Federal Regulations. 7 C.F.R. 273.9 (d)(6)(iii)(A) defines the specific criteria necessary for LUA eligibility; the existing rule must be amended to be in compliance with the afore referenced C.F.R. governing food stamp utility allowances.

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.

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: Rebecca Henrie, 1009 College S.E., Lacey, WA 98504, (360) 725-4615.

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."

February 23, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-23-025, filed 11/8/04, effective 12/9/04)

WAC 388-450-0195 Utility allowances for Basic Food programs. (1) For Basic Food, "utilities" include the following:

- (a) Heating (~~(and cooking))~~ or cooling fuel;
- (b) (~~(Cooling and))~~ Electricity or gas;
- (c) Water (~~(and))~~ or sewer;
- (d) Well or septic tank installation/maintenance;
- (e) Garbage (~~(and))~~ trash collection; and
- (~~(e) Basic))~~ (f) Telephone service.

(2) The department uses the amounts below if you have utility costs separate from your rent or mortgage payment. We add your utility allowance to your rent or mortgage payment to determine your total shelter costs. We use total shelter costs to determine your Basic Food benefits.

(a) If you have heating or cooling costs, you get a standard utility allowance (SUA) that depends on your assistance unit's size.

Assistance Unit (AU) Size	Utility Allowance
1	\$278
2	\$287
3	\$295
4	\$304
5	\$312
6 or more	\$321

(b) If your AU does not qualify for the SUA and you have any two utility costs (~~(other than telephone costs))~~ listed above, you get a limited utility allowance (LUA) of two hundred twenty-two dollars.

(c) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of thirty-seven dollars.

WSR 05-06-086
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Children's Administration)
[Filed March 1, 2005, 4:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-07-059.

Title of Rule and Other Identifying Information: Children's administration—State supplementary payment program, new chapter 388-25 WAC.

PROPOSED

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on April 5, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 6, 2005.

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., April 5, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by April 1, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department was directed by the 2002 Washington state legislature to begin paying an income supplemental, called the state supplementary payment (SSP). The agencies directed by the legislature to participate (ESA, DDD, MAA, ADSA) have not been able to meet the federal requirement for maintenance of effort, so Children's Administration began participation January 1, 2004. The implementation of this program within Children's Administration requires the adoption of new rules within a new subchapter of chapter 388-25 WAC, the Children's Administration state supplementary payment program.

Children's has coordinated rule development with the DSHS Aging and Disability Services Administration, Medical Assistance Administration, Division of Developmental Disabilities, and Economic Services Administration.

Reasons Supporting Proposal: To comply with legislative directives and to respond to concerns from the federal Social Security Administration.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.600, 74.04.620, 74.13.031.

Statute Being Implemented: Chapter 371, Laws of 2002.

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 and Implementation: Cindy Beckman, Children's Administration, P.O. Box 45710, Olympia, WA 98504-5710, (360) 902-7977.

No small business economic impact statement has been prepared under chapter 19.85 RCW. An SBEIS is not required because these rules do not impact small businesses as described in RCW 19.85.020.

A cost-benefit analysis is not required under RCW 34.05.328. These rules are exempt from this requirement under RCW 34.05.328 (5)(b)(vii). These DSHS rules relate solely to financial eligibility for services from the DSHS Children's Administration.

February 25, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

STATE SUPPLEMENTARY PAYMENT PROGRAM

NEW SECTION

WAC 388-25-1000 What is the State Supplementary Payment (SSP) that is administered by the children's administration (CA)? The State Supplementary Payment (SSP) is a state-paid cash assistance program for specific eligible foster children with the children's administration.

NEW SECTION

WAC 388-25-1010 What are the eligibility requirements for the CA/SSP program? To be eligible to receive CA/SSP, you must be a child who has entered foster care (Title 45 CFR 1355.20) and is eligible for and receiving Supplemental Security Income (SSI), receiving behavior rehabilitation services (BRS) for out-of-home placement services for all or part of a month, and not be eligible for foster care reimbursement under Title IV-E of the Social Security Act (42 U.S.C. 670).

NEW SECTION

WAC 388-25-1020 When will my eligibility for CA/SSP be determined? The SSP eligibility verification and payment process is usually done two months following the month of your potential eligibility for an SSP payment. You will receive an SSP payment when all of the eligibility criteria (WAC 388-25-1010) have been verified.

NEW SECTION

WAC 388-25-1030 How will I know if I am eligible to receive a CA/SSP payment? Once you have been identified as eligible for a CA/SSP payment, CA will send out written notification to representative payees, legal guardians, and children age eighteen and above.

NEW SECTION

WAC 388-25-1040 Can I apply for the CA/SSP program if I am not identified by CA as eligible for the CA/SSP program? You can apply through children's administration to determine your eligibility for CA/SSP, but eligibility is limited to those meeting the eligibility requirements in WAC 388-25-1010.

NEW SECTION

WAC 388-25-1050 What are my appeal rights if CA determines that I am not eligible for CA/SSP? You have the right to appeal children's administration's denial, termination, or reduction of eligibility for the CA/SSP under RCW 74.13.045 and chapter 34.05 RCW and chapter 388-02 WAC.

PROPOSED

WSR 05-06-087
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)
[Filed March 1, 2005, 4:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-02-067.

Title of Rule and Other Identifying Information: Chapter 388-827 WAC, State supplementary payment program, WAC 388-827-0115 What are the programmatic eligibility requirements for DDD/SSP?, and 388-827-0145 How much money will I receive?

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on April 5, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 6, 2005.

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., April 5, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by April 1, 2005, 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 these rules is to expand the population eligible to receive the state supplementary payment (SSP) administered by the Division of Developmental Disabilities to include supplemental security income (SSI) recipients who are under age eighteen at the time of their initial comprehensive assessment and reporting evaluation (CARE) assessment and received Medicaid personal care between September 2003 and August 2004. These amendments also limit the receipt of SSP to certain individuals who received SSI prior to June 30, 2003, and limit the amount of SSP to former family support recipients to the rate in effect at the time the funding source was converted to SSP. DDD has coordinated rule development with the DSHS Aging and Disability Services Administration and Economic Services Administration.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: Chapter 71A.12 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: Steve Brink, P.O. Box 45310, Olympia, WA 98504-5310, (360) 725-3416; Implementation and Enforcement: Colleen Erskine, P.O. Box 45310, Olympia, WA 98504-5310, (360) 725-3452.

No small business economic impact statement has been prepared under chapter 19.85 RCW. DDD concludes that these rules do not impact small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. These rules are exempt from a cost-benefit anal-

ysis under RCW 34.05.328 (5)(b)(vii) as they relate only to client medical or financial eligibility.

February 23, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-15-094, filed 7/16/04, effective 8/16/04)

WAC 388-827-0115 What are the programmatic eligibility requirements for DDD/SSP? (1) You received one or more of the following services from DDD with state-only funding between March 1, 2001 and June 30, 2003 and continue to demonstrate a need for and meet the DDD program eligibility requirements for these services. Additionally, you must have been eligible for or received SSI prior to July 1, 2003; or you received Social Security Title II benefits as a disabled adult child prior to July 1, 2003 and would have been eligible for SSI if you did not receive these benefits.

(a) Certain voluntary placement program services, which include:

- (i) Foster care basic maintenance,
- (ii) Foster care specialized support,
- (iii) Agency specialized support,
- (iv) Staffed residential home,
- (v) Out-of-home respite care,
- (vi) Agency in-home specialized support,
- (vii) Group care basic maintenance,
- (viii) Group care specialized support,
- (ix) Transportation,
- (x) Agency attendant care,
- (xi) Child care,
- (xii) Professional services,
- (xiii) Nursing services,
- (xiv) Interpreter services,

(b) Family support;

(c) One or more of the following residential services:

- (i) Adult family home,
- (ii) Adult residential care facility,
- (iii) Alternative living,
- (iv) Group home,
- (v) Supported living,
- (vi) Agency attendant care,
- (vii) Supported living or other residential service allow-

ance,
(viii) Intensive individual supported living support (companion homes).

(2) For individuals with community protection issues as defined in WAC 388-820-020, the department will determine eligibility for SSP on a case-by-case basis.

(3) For new authorizations of family support opportunity:

(a) You were on the family support opportunity waiting list prior to January 1, 2003; and

(b) You are on the home and community based services (HCBS) waiver administered by DDD; and

(c) You continue to meet the eligibility requirements for the family support opportunity program contained in WAC 388-825-200 through 388-825-242; and

(d) You must have been eligible for or received SSI prior to July 1, 2003; or you received Social Security Title II benefits as a disabled adult child prior to July 1, 2003 and would have been eligible for SSI if you did not receive these benefits.

(4) For individuals on one of the HCBS waivers administered by DDD (Basic, Basic Plus, Core or Community Protection):

(a) You must have been eligible for or received SSI prior to April 1, 2004; and

(b) You were determined eligible for SSP prior to April 1, 2004.

(5) You received medicaid personal care (MPC) between September 2003 and August 2004; and

(a) You are under age eighteen at the time of your initial comprehensive assessment and reporting evaluation (CARE) assessment;

(b) You received or were eligible to receive SSI at the time of your initial CARE assessment;

(c) You are not on a home and community based services waiver administered by DDD; and

(d) You live with your family, as defined in WAC 388-825-020.

(6) If you meet all of the requirements listed in (5) above, your SSP will continue.

AMENDATORY SECTION (Amending WSR 04-02-015, filed 12/29/03, effective 1/29/04)

WAC 388-827-0145 How much money will I receive?

The purpose of the SSP is to increase the amount of income to meet your needs. The department will determine your payment amount based on your living arrangement and your assessed needs.

(1) For residential and voluntary placement program services, the amount of your SSP will be based on the amount of state-only dollars spent on certain services at the time the funding source was converted to SSP. If the type of your residential living arrangement changes, your need will be reassessed and your payment adjusted based on your new living arrangement and assessed need.

(2) For family support services, refer to WAC 388-825-200 through 388-825-284.

(a) If you are on the home and community based services (HCBS) waiver administered by DDD:

(i) You will receive nine hundred dollars DDD/SSP money per year to use as you determine.

(ii) The remainder up to the maximum allowed may be authorized by DDD to purchase HCBS waiver services and will be paid directly to the provider.

(b) If you are not on the HCBS waiver administered by DDD, ~~((you will receive the yearly maximum allowed in the form of DDD/SSP money to use as you determine))~~ the amount of your SSP will be based on the yearly maximum allowed at the time the funding source was converted to SSP.

(c) The yearly amount of DDD/SSP money will be prorated into monthly amounts. You will receive one twelfth of the yearly amount each month.

(3) If you are eligible for SSP because you meet the criteria in WAC 388-827-0115(5), you will receive one hundred dollars per month.

(a) For individuals whose initial CARE assessment was completed prior to January 1, 2005, January 2005 is the first month for which payment is made.

(b) For individuals whose initial CARE assessment is completed after December 31, 2004, the first month for which payment is made is the month in which the results of the initial CARE assessment are effective.

WSR 05-06-088

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 1, 2005, 4:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-21-074.

Title of Rule and Other Identifying Information: WAC 388-418-0011 What is a six-month report, and do I have to complete one in order to keep getting benefits? and 388-418-0020 How does the department determine the date a change affects my benefits?

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on April 5, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 6, 2005.

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., April 5, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by April 1, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal amends WAC 388-418-0011 to reflect department policy regarding who must complete a six-month report for cash, Basic Food, and medical programs and actions the department takes when someone completes the report late.

This proposal also amends WAC 388-418-0020 to reflect department policy regarding how the department determines the date a change impacts someone's benefits for cash, Basic Food, or medical programs.

Reasons Supporting Proposal: The changes are necessary to reflect department policy on who must complete a six-month report for Basic Food, cash, and medical programs. Additionally, changes were necessary to reflect effective dates of a change in benefits based on changes in circumstances.

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.

PROPOSED

Rule is necessary because of federal law, 7 C.F.R. 273.12.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Camp, 1009 College S.E., Lacey, WA 98504, (360) 725-4616.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not have an economic impact on small businesses, they only affect DSHS clients by establishing who must complete a six-month report for Basic Food, cash, and medical programs and establishing effective dates for changes to benefits based on a change of circumstances.

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." This rule filing adopts federal reporting requirements for the food stamp program as set in the Code of Federal Regulations, 7 C.F.R. § 273.12, and adopts reporting requirements for clients receiving cash or medical assistance.

February 23, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-19-134, filed 9/21/04, effective 10/1/04)

WAC 388-418-0011 What is a six-month report, and do I have to complete one in order to keep getting benefits? (1) A six-month report is a form the department sends you to confirm your current circumstances. We use the information you provide us through this report to determine if you are still eligible for benefits and calculate your monthly benefits.

(2) If you receive benefits from any of the following programs, you must complete a six-month report:

(a) Cash assistance unless you receive **only** refugee cash assistance as described under WAC 388-400-0030;

(b) Family-related medical; or

(c) ~~((Children's medical; or~~

~~(d)))~~ Basic Food unless you meet one of the following conditions:

(i) Your assistance unit has a certification period of six months or less. If you have a certification period of six months or less, you must complete a recertification under WAC 388-434-0010 in order to keep getting Basic Food benefits; or

(ii) All adults in your assistance unit are elderly or disabled and have no earned income.

(3) If you must complete a six-month report, we send you the report with the most current information we have on your case. You can choose to complete the report in one of the following ways:

(a) **Complete and return the form to the department.** For us to consider your six-month report complete, you must take all of the steps below:

(i) Complete the report form, telling us about changes in your circumstances we ask about;

(ii) Sign and date the report;

(iii) Provide proof of any changes you report;

(iv) If you receive ~~((children's or))~~ family medical benefits, provide proof of your income even if it has not changed; and

(v) Mail or turn in the completed form and any required proof to us by the due date on the report. This is the tenth day of the sixth month of your review or certification period.

(b) **Complete the six-month report over the phone.** For us to consider your six-month report complete, you must take all of the steps below:

(i) Contact us at the phone number we provide on the report form, telling us about changes in your circumstances we ask about;

(ii) Provide proof of any changes you report. We may be able to verify some information over the phone;

(iii) If you receive ~~((children's or))~~ family medical benefits, provide proof of your income even if it has not changed; and

(iv) Mail or turn in any required proof to us by the due date on the report. This is the tenth day of the sixth month of your review or certification period.

(4) If your benefits change because of the information in your six-month report, ~~((we determine the date the change takes effect as described under WAC 388-418-0020))~~ the change takes effect in the seventh month of your certification or review period even if this does not provide you ten days notice before we change your benefits.

(5) If you do not complete your required six-month report, your benefits end at the end of the sixth month of your review or certification period.

(6) Late reports. If you complete the report after the end of the sixth month of your certification or review period, we process the report as described below based on when we receive the report:

(a) Reports completed by the last day of the month after the month the report was due: We determine your eligibility for ongoing benefits. If you are eligible, we reinstate your benefits based on the information in the report.

(b) Reports completed after the last day of the month after the month the report was due: We treat this report as a request to send you an application. For us to determine if you are eligible for benefits, you must complete the application process as described in chapter 388-406 WAC.

AMENDATORY SECTION (Amending WSR 04-19-134, filed 9/21/04, effective 10/1/04)

WAC 388-418-0020 How does the department determine the date a change affects my benefits? (1) Unless otherwise specified, the rules in this chapter refer to cash, medical assistance, and Basic Food benefits.

(2) If you report a change that happened between the date you applied for benefits and the date we interview you under WAC 388-452-0005, we take this change into consideration when we process your application for benefits.

(3) If we learn about a change in your circumstances from another person, agency, or by matching with any num-

ber of systems, we determine the impact this change has on your benefits. We may request additional information under WAC 388-490-0005 or update your benefits based on this information.

(4) If you report a change in your income that we expect to continue at least a month beyond the month when you reported the change, we recalculate the income we estimated under WAC 388-450-0215 based on this change.

~~((4))~~ (5) When a change causes an increase in benefits, you must provide proof of the change before we adjust your benefits.

(a) If you give us the proof within ten days from the date we requested it, we increase your benefits starting the month after the month you reported the change.

(b) If you give us the proof more than ten days after the date we requested it, we increase your benefits starting the month after the month we got the proof.

(c) If you are eligible for more benefits and we have already sent you benefits for that month, we provide you the additional benefits within ten days of the day we got the proof.

~~((5))~~ (6) When a change causes a decrease in benefits, we reduce your benefit amount without asking for proof.

(a) If you report ~~((the))~~ a change within the time limits in WAC 388-418-0007, and you are not reporting this as part of a six-month report, we decrease your benefits starting the first month following the advance notice period. The advance notice period:

(i) Begins on the day we send you a letter about the change, and

(ii) Is determined according to the rules in WAC 388-458-0025.

(b) If you do not report a change you must tell us about under WAC 388-418-0005, or you report a change later than we require under WAC 388-418-0007, we determine your eligibility as if you had reported this on time. If you received more benefits than you should, we set up an overpayment as described under chapter 388-410 WAC.

~~((6))~~ (7) If we are not sure how the change will affect your benefits, we send you a letter as described in WAC 388-458-0020 requesting information from you.

(a) We give you ten days to provide the information. If you need more time, you can ask for it.

(b) If you do not give us the information in time, we will stop your benefits after giving you advance notice, if required, as described in WAC 388-458-0030.

~~((7))~~ (8) Within ten days of the day we learn about a change, we send advance notice according to the rules in chapter 388-458 WAC and take necessary action to provide you the correct ~~((the))~~ benefits. If you request a hearing about a proposed decrease in benefits before the effective date or within the notice period as described in WAC 388-458-0040, we wait to take action on the change.

~~((8))~~ (9) If you disagree with a decision we made to change your benefits, you may request a fair hearing under chapter 388-02 WAC. The fair hearing rules in chapter 388-02 WAC do not apply for a "mass change." A mass change is when we change the rules that impact all recipients and applicants.

~~((9))~~ (10) When you request a hearing and get continued benefits:

(a) We keep giving you the same benefits you got before the advance notice of reduction until the earliest of the following events occur:

(i) For Basic Food only, your certification period expires;

(ii) The end of the month the fair hearing decision is mailed;

(iii) You state in writing that you do not want continued benefits;

(iv) You withdraw your fair hearing request in writing;

or

(v) You abandon your fair hearing request; or

(vi) An administrative law judge issues a written order that ends continued benefits prior to the fair hearing.

(b) We establish an overpayment claim according to the rules in chapter 388-410 WAC when the hearing decision agrees with the action we took.

~~((10))~~ (11) Some changes have a specific effective date as follows:

(a) When cash assistance benefits increase because a person is added to your assistance unit, we use the effective date rules for applications in WAC 388-406-0055.

(b) When cash assistance benefits increase because you start paying shelter costs, we use the date the change occurred.

(c) When a change in law or regulation changes the benefit amount, we use the date specified by the law or regulation.

(d) When institutional medical assistance participation changes, we calculate the new participation amount beginning with the month your income or allowable expense changes.

WSR 05-06-089

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed March 1, 2005, 4:20 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-21-074.

Title of Rule and Other Identifying Information: WAC 388-418-0005 How will I know what changes I must report?

Hearing Location(s): Blake Office Park East (behind Goodyear Courtesy Tire), Rose Room, 4500 10th Avenue S.E., Lacey, WA, on April 5, 2005, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 6, 2005.

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., April 5, 2005.

Assistance for Persons with Disabilities: Contact Fred Swenson, DSHS Rules Consultant, by April 1, 2005, TTY (360) 664-6178 or (360) 664-6097.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal amends WAC 388-418-0005 [to] reflect department policy regarding what changes clients must report to the department and to update the language of the rule to meet requirements of RCW 44.04.280.

Reasons Supporting Proposal: The changes are necessary to reflect department policy on what changes must be reported for Basic Food, cash, and medical programs. Additionally, language changes were necessary in order to bring the rule into compliance with RCW 44.04.280.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 44.04.280.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 44.04.280.

Rule is necessary because of federal law, 7 C.F.R. 273.12.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Camp, 1009 College S.E., Lacey, WA 98504, (360) 725-4616.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not have an economic impact on small businesses, they only affect DSHS clients by establishing what changes clients must report to the department for Basic Food, cash, and medical 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." This rule filing adopts federal reporting requirements for the food stamp program as set in the Code of Federal Regulations, 7 C.F.R. § 273.12, and adopts reporting requirements for clients receiving cash or medical assistance.

February 23, 2005

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-21-026, filed 10/13/04, effective 11/13/04)

WAC 388-418-0005 How will I know what changes I must report? 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, Chore, 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), or ADATSA benefits, 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.

(3) If you receive Basic Food and all adults in your assistance unit are elderly persons or (~~disabled~~) individuals with disabilities 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 388-478-0035 and 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; or
- (c) Anyone who receives food benefits in your assistance unit must meet work requirements under WAC 388-444-

0030 and their hours at work go below twenty hours per week.

(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~~) are no longer pregnant.

(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 05-06-096
PROPOSED RULES
FOREST PRACTICES BOARD
 [Filed March 1, 2005, 4:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-23-097.

Title of Rule and Other Identifying Information: Amend Title 222 WAC to incorporate amendments to chapter 76.09 RCW, correct typographical errors, and clarify language without changing the effect of existing rules.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Room 172, Olympia, WA 98504-7012, on April 11, 2005, at 3:00 p.m.

Date of Intended Adoption: May 11, 2005.

Submit Written Comments to: Patricia Anderson, Department of Natural Resources, Forest Practices Division, 1111 Washington Street S.E., P.O. Box 47012, Olympia, WA 98504-7012, e-mail forest.practicesboard@wadnr.gov, fax (360) 902-1428, by April 11, 2005.

Assistance for Persons with Disabilities: Contact Forest Practices Division at (360) 902-1400, by April 1, 2005, TTY (360) 902-1125.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to amend existing forest practices rules to correct typographical errors, clarify language, and incorporate language of chapter 76.09 RCW.

Reasons Supporting Proposal: The proposal changes certain forest practices rules so that they are clear and understandable for users.

Statutory Authority for Adoption: RCW 76.09.040.

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

Name of Proponent: Forest Practices Board, governmental.

Name of Agency Personnel Responsible for Drafting: Gretchen Robinson, 1111 Washington Street S.E., Olympia, (360) 902-1705; Implementation: Jed Herman, 1111 Washington Street S.E., Olympia, (360) 902-1684; and Enforcement: Lenny Young, 1111 Washington Street S.E., Olympia, (360) 902-1744.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule amendments correct typographical errors, clarify language, and incorpo-

rate language of statute. It would not impose additional costs on businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The rule amendments correct typographical errors, clarify language, and incorporate language of statute. Therefore, it does not fall into the category of "significant legislative rule" per RCW 34.05.328.

February 28, 2005

Pay McElroy
Chair

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

WAC 222-10-030 *SEPA policies for potentially unstable slopes and landforms. In addition to SEPA policies established elsewhere in this chapter, the following policies apply to forest practices described in WAC 222-16-050 (1)(d) relating to construction or harvest on potentially unstable slopes or landforms.

(1) In order to determine whether such forest practices are likely to have a probable significant adverse impact, and therefore require an environmental impact statement, the applicant must submit the following additional information, prepared by a qualified expert. The expert must describe the potentially unstable landforms in and around the application site, and analyze:

(a) The likelihood that the proposed forest practices will cause movement on the potentially unstable slopes or landforms, or contribute to further movement of a potentially unstable slope or landform;

(b) The likelihood of delivery of sediment or debris to any public resources, or in a manner that would threaten public safety; and

(c) Any possible mitigation for the identified hazards and risks.

(2) The department's threshold determination will include an evaluation of whether the proposed forest practices:

(a) Are likely to increase the probability of a mass movement on or near the site;

(b) Would deliver sediment or debris to a public resource or would deliver sediment or debris in a manner that would threaten public safety; and

(c) Such movement and delivery are likely to cause significant adverse impacts.

If the department determines that (a), (b) and (c) of this subsection are likely to occur, then the forest practice is likely to have a probable significant adverse impact.

(3) The department will evaluate the proposal, using appropriate expertise and in consultation with other affected agencies and Indian tribes.

(4) Specific mitigation measures or conditions must be designed to avoid accelerating rates and magnitudes of mass wasting that could deliver sediment or debris to a public resource or could deliver sediment or debris in a manner that would threaten public safety.

(5) Qualified expert for the purposes of this section means a person licensed under chapter 18.220 RCW as either an engineering geologist or as a hydrogeologist (if the site

PROPOSED

warrants hydrologist expertise), with ~~((a master's degree in geology or geomorphology or a related field or a significant amount of postgraduate course or thesis work or other training in geomorphology or mass movement and, in either case, an additional))~~ 3 years of field experience in the evaluation of relevant problems in forested lands.

AMENDATORY SECTION (Amending WSR 02-11-075, filed 5/13/02, effective 6/13/02)

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

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

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

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

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

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

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

WAC 222-12-040 *Alternate plans—Policy. All forest practice operations must comply with both the act and the rules promulgated pursuant to the act, unless an alternate plan has been approved by the department.

(1) The alternate plan process can be used as a tool to deal with a variety of situations, including where the cumulative impacts of regulations disproportionately impact a landowner. In some instances an alternate plan may be used to make minor on-the-ground modifications, which result in significant operation efficiencies. The alternate plan process

may be used to address circumstances where a landowner has an economically inaccessible unit. The alternate plan process may also be used to facilitate voluntary landscape, riparian or stream restoration. In all cases, the alternate planning process will result in a plan that provides protection to public resources at least equal in overall effectiveness as provided by the act and rules while seeking to minimize constraints to the management of the affected lands.

(2) The legislature has found in RCW 76.13.100(2) that small forest landowners should also have the option of alternate management plans or alternate harvest restrictions on smaller harvest units that may have a relatively low impact on aquatic resources. These alternate plans are intended to provide flexibility to small forest landowners that will still provide protection of riparian functions based on specific field conditions or stream conditions on the landowner's property.

(3) Alternate plans do not replace other rules that recognize different types of landowner plans. For examples, see ((e.g.)) WAC ((222-08-035)) 222-08-160(3), 222-12-041, 222-16-080(6), 222-16-100(1), and 222-16-105.

(4) Landowners are encouraged to communicate with the departments of ecology, fish and wildlife, affected Indian tribes, the National Marine Fisheries Service, the United States Fish and Wildlife Service and other interested parties prior to submission of an application accompanied by an alternate plan.

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

WAC 222-12-045 *Adaptive management program. ***Adaptive management program.** In order to further the purposes of chapter 76.09 RCW, the board has adopted and will manage a formal science-based program, as set forth in WAC ~~((222-08-035))~~ 222-08-160(2). Refer to board manual section 22 for program guidance and further information.

(1) **Purpose:** The purpose of the program is to provide science-based recommendations and technical information to assist the board in determining if and when it is necessary or advisable to adjust rules and guidance for aquatic resources to achieve resource goals and objectives. The board may also use this program to adjust other rules and guidance. The goal of the program is to affect change when it is necessary or advisable to adjust rules and guidance to achieve the goals of the forests and fish report or other goals identified by the board. There are three desired outcomes: Certainty of change as needed to protect targeted resources; predictability and stability of the process of change so that landowners, regulators and interested members of the public can anticipate and prepare for change; and application of quality controls to study design and execution and to the interpreted results.

(2) **Program elements:** By this rule, the board establishes an active, ongoing program composed of the following initial elements, but not to exclude other program elements as needed:

(a) **Key questions and resource objectives:** Upon receiving recommendations from the TFW policy committee, or similar collaborative forum, the board will establish key questions and resource objectives and prioritize them.

(i) Projects designed to address the key questions shall be established in the order and subject to the priorities identified by the board.

(ii) Resource objectives are intended to ensure that forest practices, either singularly or cumulatively, will not significantly impair the capacity of aquatic habitat to:

(A) Support harvestable levels of salmonids;

(B) Support the long-term viability of other covered species; or

(C) Meet or exceed water quality standards (protection of beneficial uses, narrative and numeric criteria, and anti-degradation).

(iii) Resource objectives consist of functional objectives and performance targets. Functional objectives are broad statements regarding the major watershed functions potentially affected by forest practices. Performance targets are the measurable criteria defining specific, attainable target forest conditions and processes.

(iv) Resource objectives are intended for use in adaptive management, rather than in the regulatory process. Best management practices, as defined in the rules and manual, apply to all forest practices regardless of whether or not resource objectives are met at a given site.

(b) **Participants:** The board will manage the program and has empowered the following entities to participate in the program: The cooperative monitoring evaluation and research committee (CMER), the TFW policy committee (or similar collaborative forum), the adaptive management program administrator, and other participants as directed to conduct the independent scientific peer review process. The program will strive to use a consensus-based approach to make decisions at all stages of the process. Specific consensus-decision stages will be established by CMER and approved by the board. Ground rules will follow those established by the TFW process as defined in the board manual.

(i) **CMER.** By this rule, the board establishes a cooperative monitoring evaluation and research (CMER) committee to impose accountability and formality of process, and to conduct research and validation and effectiveness monitoring to facilitate achieving the resource objectives. The purpose of CMER is to advance the science needed to support adaptive management. CMER also has ongoing responsibility to continue research and education in terrestrial resource issues. CMER will be made up of members that have expertise in a scientific discipline that will enable them to be most effective in addressing forestry, fish, wildlife, and landscape process issues. Members will represent timber landowners, environmental interests, state agencies, county governments, federal agencies and tribal governments from a scientific standpoint, not a policy view. CMER members will be approved by the board. This will not preclude others from participating in and contributing to the CMER process or its subcommittees. CMER shall also develop and manage as appropriate:

(A) Scientific advisory groups and subgroups;

(B) Research and monitoring programs;

(C) A set of protocols and standards to define and guide execution of the process including, but not limited to, research and monitoring data, watershed analysis reports, interdisciplinary team evaluations and reports, literature reviews, and quality control/quality assurance processes;

(D) A baseline data set used to monitor change; and

(E) A process for policy approval of research, monitoring, and assessment projects and use of external information, including the questions to be answered and the timelines.

(ii) **TFW policy committee (policy).** TFW, or a similar collaborative forum, is managed by a policy committee (hereafter referred to in this section as "policy"). Policy membership is self-selecting, and at a minimum should include representatives of the following caucuses: Timber landowners (industrial and nonindustrial private landowners); environmental community; tribal governments; county governments; state departments (including fish and wildlife, ecology, and natural resources); and federal agencies (including National Marine Fisheries Service, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency and U.S. Forest Service). Policy members will participate without compensation or per diem.

(iii) **Adaptive management program administrator (program administrator).** The department will employ a full-time independent program administrator to oversee the program and support CMER. The program administrator will have credentials as a program manager, scientist, and researcher. The program administrator will make reports to the board and have other responsibilities as defined in the board manual.

(c) **Independent scientific peer review process.** By this rule, the board establishes an independent scientific peer review process to determine if the scientific studies that address program issues are scientifically sound and technically reliable; and provide advice on the scientific basis or reliability of CMER's reports. Products that must be reviewed include final reports of CMER funded studies, certain CMER recommendations, and pertinent studies not published in a CMER-approved, peer-reviewed journal. Other products that may require review include, but are not limited to, external information, work plans, requests for proposal, subsequent study proposals, the final study plan, and progress reports.

(d) **Process:** The following stages will be used to affect change for managing adaptive management proposals and approved projects. If consensus cannot be reached by participants at any stage, the issue will be addressed within the dispute resolution process.

(i) **Proposal initiation:** Adaptive management proposals can be initiated at this stage by any of the participants listed in (2)(b) of this subsection to the program administrator, or initiation may be proposed by the general public at board meetings. Proposals must provide the minimum information as outlined in the board manual and demonstrate how results of the proposal will address key questions and resource objectives or other program rule and/or guidance issues. The board may initiate proposals or research questions in the course of fulfilling their duties according to statute.

(ii) **Proposal approval and prioritization:** The program administrator will manage the proposal approval and prioritization process at this stage and consult with CMER on the program workplan. CMER proposals will be forwarded by the program administrator to policy and then to the board. The board will make the final determination regarding proposal approvals and prioritization. The board will act on proposal approval and prioritization in a timely manner.

(iii) **CMER implementation of proposal:** Board approved proposals are systematically implemented through CMER at this stage by the program administrator.

(iv) **Independent scientific peer review:** An independent scientific peer review process will be used at identified points within this stage of implementation depending upon the study and will be used on specified final studies or at the direction of the board.

(v) **CMER committee technical recommendations:** Upon completion, final CMER reports and information will be forwarded at this stage by the program administrator to policy in the form of a report that includes technical recommendations and a discussion of rule and/or guidance implications.

(vi) **Policy petitions for amendment:** Upon receipt of the CMER report, policy will prepare program rule amendments and/or guidance recommendations in the form of petitions for amendment. When completed, the petitions and the original CMER report and/or other information as applicable will be forwarded by the program administrator to the board for review and action. Policy recommendations to the board will be accompanied by formal petitions for rule making (RCW 34.05.330). Policy will use the CMER results to make specific petitions to the board for amending:

(A) The regulatory scheme of forest practices management (Title 222 WAC rules and board manual);

(B) Voluntary, incentive-based, and training programs affecting forestry;

(C) The resource objectives; and

(D) CMER itself, adaptive management procedures, or other mechanisms implementing the recommendations contained in the most current forests and fish report.

(vii) **Board action to adopt petitions for amendment:** Upon receiving a formal petition for amendment to rules and/or guidance, the board will take appropriate and timely action. There will be a public review of all petitions as applicable. The board will make the final determination.

(e) **Biennial fiscal and performance audits.** The board shall require biennial fiscal and performance audits of the program by the department or other appropriate and accepting independent state agency.

(f) **CMER five-year peer review process.** Every five years the board will establish a peer review process to review all work of CMER and other available, relevant data, including recommendations from the CMER staff. There will be a specified, but limited, period for public review and comment.

(g) **Funding.** Funding is essential to implement the adaptive management program, which is dependent on quality and relevant data. The department shall request biennial budgets to support the program priority projects and basic infrastructure needs including funding to staff the adaptive management program administrator position. A stable, long-term funding source is needed for these activities.

(h) **Dispute resolution process.** If consensus cannot be reached through the adaptive management program process, participants will have their issues addressed by this dispute resolution process. Potential failures include, but are not limited to: The inability of policy to agree on research priorities, program direction, or recommendations to the board for uses of monitoring and/or research after receiving a report from

CMER; the inability of CMER to produce a report and recommendation on schedule; and the failure of participants to act on policy recommendations on a specified schedule. Key attributes of the dispute resolution process are:

(i) Specific substantive and benchmark (schedule) triggers will be established by the board for each monitoring and research project for invoking dispute resolution;

(ii) The dispute resolution process will be staged in three parts and may be applied at any level of the adaptive management process. Any participant, or the board, may invoke each succeeding stage, if agreement is not reached by the previous stage, within the specified time (or if agreements are not substantially implemented) as follows:

(A) Stage one will be an attempt by CMER and policy to reach consensus. On technical issues, CMER shall have up to six months to reach a consensus unless otherwise agreed upon by policy. Parties may move the process to stage two after an issue has been before policy for six months unless otherwise agreed. The time periods commence from referral of technical issues to CMER, report by CMER to policy, or the raising of a nontechnical issue (or matter not otherwise referable to CMER) directly to policy.

(B) Stage two will be either informal mediation or formal arbitration. Within one month, one or the other will be picked, with the default being formal unless otherwise agreed. Stage two will be completed within three months (including the one month to select the process) unless otherwise agreed.

(C) If stage two does not result in consensus, stage three will be action by the board. The board will consider policy and CMER reports, and majority and minority thinking regarding the results and uses of the results can be brought forward to the board. The board will make the final determination regarding dispute resolution.

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

WAC 222-12-046 Cumulative effects. The purpose of this section is to identify how the forest practices rules address changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices. This interaction is referred to as "cumulative effects." The following approaches have been taken:

(1) Title 222 WAC establishes minimum standards for all forest practices, regardless of the class of forest practices application.

(2) Forest practices which have a potential for a substantial impact on the environment are classified as Class IV-Special or Class IV-General by WAC 222-16-050 and receive an evaluation as to whether or not a detailed statement must be prepared pursuant to chapter 43.21C RCW.

(3) Certain rules are designed to focus on specific aspects of cumulative effects of forest practices. For example:

(a) WAC ((222-08-035)) 222-08-160 requires continuing review of the forest practices rules and voluntary processes and adopts the concept of adaptive management. WAC 222-12-045 also adopts adaptive management.

(b) WAC 222-12-040 allows alternate plans that provide protection to public resources at least equal in overall effectiveness to the protection provided in the Forest Practices Act and rules.

(c) WAC 222-24-051 allows the department to require road maintenance and abandonment plans.

(d) WAC 222-30-025 addresses harvest unit size and separation requirements.

(e) Chapter 222-22 WAC addresses cumulative effects on the public resources of fish, water, and capital improvements of the state or its political subdivisions.

(f) Chapter 222-46 WAC establishes the enforcement policy for forest practices.

The board shall continue consultation with the departments of ecology, fish and wildlife, natural resources, forest landowners, and federally recognized tribes to further protect cultural resources and wildlife resource issues.

AMENDATORY SECTION (Amending Order 263, filed 6/16/76)

WAC 222-12-080 Administrative and judicial appeals. (~~Forest landowners, timber owners, operators, eounties and any aggrieved parties as defined by the Forest Practices Act may appeal to the forest practices appeals board certain actions and omissions of the department, including: Approval or disapproval of an application; any conditions attached to approval of an application, notices to comply, stop work orders, civil penalties assessed or notices of violation. Provided, That no notices to comply may be appealed to the appeals board unless first appealed to the department under RCW 76.09.090. The~~) (1) Certain decisions of the department may be appealed to the forest practices appeals board under chapter 76.09 RCW except that notices to comply may not be appealed to the forest practices appeals board unless first appealed to the department under RCW 76.09.090. Proceedings at the forest practices appeals board are governed by the Administrative Procedure Act, chapter 34.05 RCW, and Title 223 WAC.

(2) Forest practices applications and notifications related to qualifying projects under chapter 43.21L RCW may be appealed to the environmental and land use hearings board. Proceedings at the environmental and land use hearings board are governed by chapter 43.21L RCW and chapter 199-08 WAC.

(3) A petition for judicial review of a decision of the appeals boards may be (~~appealed to the superior court~~) filed in accordance with the Administrative Procedure Act, chapter (~~34.04~~) 34.05 RCW. In addition, RCW 43.21L.140 governs judicial review of a final decision of the environmental and land use hearings board.

AMENDATORY SECTION (Amending WSR 04-05-087, filed 2/17/04, effective 3/19/04)

WAC 222-12-090 Forest practices board manual. When approved by the board the manual serves as an advisory technical supplement to these forest practices rules. The department, in cooperation with the departments of fish and wildlife, agriculture, ecology, and such other agencies, affected Indian tribes, or interested parties as may have

appropriate expertise, is directed to prepare, and submit to the board for approval, revisions to the forest practices board manual. The manual shall include:

(1) **Method for determination of adequate shade requirements on streams** needed for use with WAC 222-30-040.

(2) Standards for identifying channel migration zones and bankfull channel features.

(3) **Guidelines** for forest roads.

(4) **Guidelines** for clearing slash and debris from Type Np and Ns Waters.

(5) **Guidelines** for landing location and construction.

(6) **Guidelines** for determining acceptable stocking levels.

(7) **Guidelines** for riparian management zones.

(8) **Guidelines** for wetland delineation.

(9) **Guidelines** for wetland replacement or substitution.

(10) A list of nonnative wetland plant species.

(11) The standard methodology, which shall specify the quantitative methods, indices of resource conditions, and definitions, for conducting watershed analysis under chapter 222-22 WAC. The department, in consultation with Timber/Fish/Wildlife's Cooperative Monitoring, Evaluation and Research Committee (CMER), may make minor modifications to the version of the standard methodology approved by the board. Substantial amendments to the standard methodology requires approval by the board.

(12) **Guidelines** for forest chemicals.

(a) A list of special concerns related to aerial application of pesticides developed under WAC 222-16-070(3).

(b) Guidelines for aerial applications of pesticides and other forest chemicals under chapter 222-38 WAC.

(13) **Guidelines** for determining fish use for the purpose of typing waters under WAC 222-16-031.

(14) **Survey protocol for marbled murrelets.** The Pacific Seabird Group survey protocol dated January 6, 2003, and formally titled *Methods for Surveying Marbled Murrelets in Forests: A Revised Protocol for Land Management and Research*, shall be used when surveying for marbled murrelets in a stand. Surveys are valid if they were conducted in compliance with the board-recognized Pacific Seabird Group survey protocols in effect at the beginning of the season in which the surveys were conducted.

(15) The department shall, in consultation with the department of fish and wildlife, develop **platform protocols** for use by applicants in estimating the number of platforms, and by the department in reviewing and classifying forest practices under WAC 222-16-050. These protocols shall include:

(a) A sampling method to determine platforms per acre in the field;

(b) A method to predict the number of platforms per acre based on information measurable from typical forest inventories. The method shall be derived from regression models or other accepted statistical methodology, and incorporate the best available data; and

(c) Other methods determined to be reliable by the department, in consultation with the department of fish and wildlife.

(16) **Guidelines** for evaluating potentially unstable slopes and landforms.

(17) **Guidelines** for the small forest landowner forestry riparian easement program.

~~((18) **Guidelines** for riparian open space program.))~~

(19) **Guidelines** for hardwood conversion.

(20) **Guidelines** for financial assurances.

(21) **Guidelines** for alternate plans.

(22) **Guidelines** for adaptive management program.

(23) **Guidelines** for field protocol to locate mapped divisions between stream types and perennial stream identification.

(24) **Guidelines** for interim modification of bull trout habitat overlay.

(25) **Guidelines** for bull trout presence survey protocol.

(26) **Guidelines** for placement strategy for woody debris in streams.

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 04-05-087, filed 2/17/04, effective 3/19/04)

WAC 222-16-010 General definitions.* Unless otherwise required by context, as used in these rules:

"**Act**" means the Forest Practices Act, chapter 76.09 RCW.

"**Affected Indian tribe**" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"**Alluvial fan**" see "sensitive sites" definition.

"**Appeals board**" means the forest practices appeals board established in the act.

"**Aquatic resources**" means water quality, fish, the Columbia torrent salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton olympian*), the Dunn's salamander (*Plethodon dunni*), the Van Dyke's salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*) and their respective habitats.

"**Area of resource sensitivity**" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"**Bankfull depth**" means the average vertical distance between the channel bed and the estimated water surface elevation required to completely fill the channel to a point above which water would enter the floodplain or intersect a terrace or hillslope. In cases where multiple channels exist, the bankfull depth is the average depth of all channels along the cross-section. (See board manual section 2.)

"**Bankfull width**" means:

(a) For streams - the measurement of the lateral extent of the water surface elevation perpendicular to the channel at bankfull depth. In cases where multiple channels exist, bankfull width is the sum of the individual channel widths along the cross-section (see board manual section 2).

(b) For lakes, ponds, and impoundments - line of mean high water.

(c) For tidal water - line of mean high tide.

(d) For periodically inundated areas of associated wetlands - line of periodic inundation, which will be found by examining the edge of inundation to ascertain where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.

"**Basal area**" means the area in square feet of the cross section of a tree bole measured at 4 1/2 feet above the ground.

"**Bedrock hollows**" (colluvium-filled bedrock hollows, or hollows; also referred to as zero-order basins, swales, or bedrock depressions) means landforms that are commonly spoon-shaped areas of convergent topography within unchannelled valleys on hillslopes. (See board manual section 16 for identification criteria.)

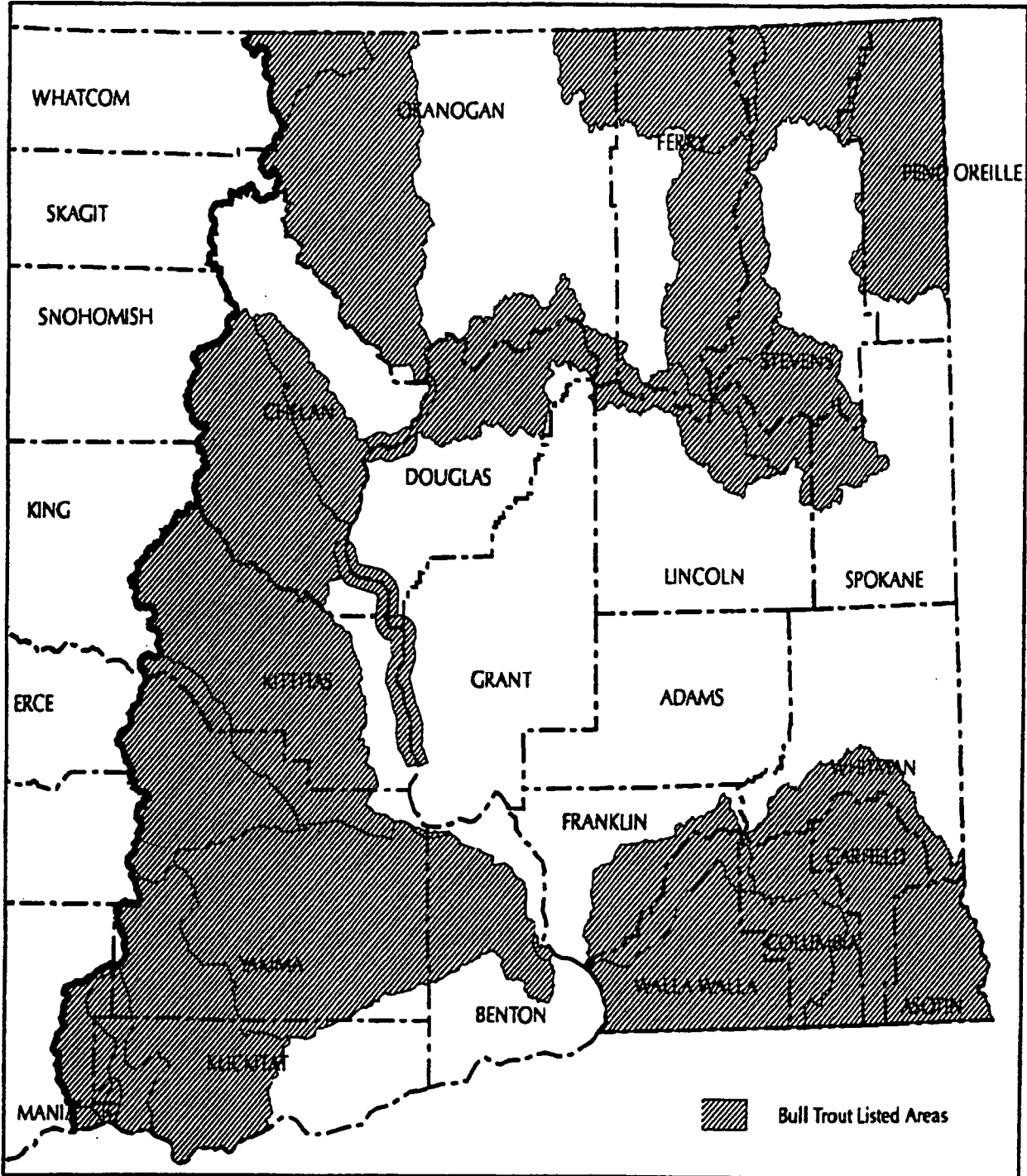
"**Board**" means the forest practices board established by the act.

"**Bog**" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, Labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western hemlock, lodgepole pine, western red cedar, ~~((whitepine;))~~ western white pine, Oregon crabapple, or quaking aspen, and may be associated with open water. This includes nutrient-poor fens. (See board manual section 8.)

"**Borrow pit**" (~~shall~~) means an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"**Bull trout habitat overlay**" means those portions of Eastern Washington streams containing bull trout habitat as identified on the department of fish and wildlife's bull trout map. Prior to the development of a bull trout field protocol and the habitat-based predictive model, the "bull trout habitat overlay" map may be modified to allow for locally-based corrections using current data, field knowledge, and best professional judgment. A landowner may meet with the departments of natural resources, fish and wildlife and, in consultation with affected tribes and federal biologists, determine whether certain stream reaches have habitat conditions that are unsuitable for supporting bull trout. If such a determination is mutually agreed upon, documentation submitted to the department will result in the applicable stream reaches no longer being included within the definition of bull trout habitat overlay. Conversely, if suitable bull trout habitat is discovered outside the current mapped range, those waters will be included within the definition of "bull trout habitat overlay" by a similar process.

Bull Trout Overlay Map



PROPOSED

"Channel migration zone (CMZ)" means the area where the active channel of a stream is prone to move and this results in a potential near-term loss of riparian function and associated habitat adjacent to the stream((--(See the board manual section 2 for descriptions and illustrations of CMZs, delineation guidelines))), except as modified by a permanent levee or dike. For this purpose, near-term means the time scale required to grow a mature forest. (See board manual

section 2 for descriptions and illustrations of CMZs and delineation guidelines.)

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Columbia River Gorge National Scenic Area or CRGNSA" means the area established pursuant to the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(a).

"CRGNSA special management area" means the areas designated in the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §544b(b) or revised pursuant to 16 U.S.C. §544b(c). For purposes of this rule, the special management area shall not include any parcels excluded by 16 U.S.C. §544f(o).

"CRGNSA special management area guidelines" means the guidelines and land use designations for forest practices developed pursuant to 16 U.S.C. §544f contained in the CRGNSA management plan developed pursuant to 15 U.S.C. §544d.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: Provided, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"Constructed wetlands" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"Contamination" means introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Convergent headwalls" (or headwalls) means tear-drop-shaped landforms, broad at the ridgetop and terminating where headwaters converge into a single channel; they are broadly concave both longitudinally and across the slope, but may contain sharp ridges separating the headwater channels. (See board manual section 16 for identification criteria.)

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local ((government)) governmental entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" ((shall)) means a bona fide conversion to an active use which is incompatible with timber growing.

"Cooperative habitat enhancement agreement (CHEA)" see WAC 222-16-105.

"Critical habitat (federal)" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior or Commerce under Sections 3 (5)(A) and 4 (a)(3) of the Federal Endangered Species Act.

"Critical nesting season" means for marbled murrelets - April 1 to August 31.

"Critical habitat (state)" means those habitats designated by the board in accordance with WAC 222-16-080.

"Cultural resources" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"Cumulative effects" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"Daily peak activity" means for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

"Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practices activities which would reasonably be expected to cause significant damage to a public resource.

"Deep-seated landslides" means landslides in which most of the area of the slide plane or zone lies below the maximum rooting depth of forest trees, to depths of tens to hundreds of feet. (See board manual section 16 for identification criteria.)

"Demographic support" means providing sufficient suitable spotted owl habitat within the SOSEA to maintain the viability of northern spotted owl sites identified as necessary to meet the SOSEA goals.

"Department" means the department of natural resources.

"Desired future condition (DFC)" is a reference point on a pathway and not an endpoint for stands. DFC means the stand conditions of a mature riparian forest at 140 years of age, the midpoint between 80 and 200 years. Where basal area is the only stand attribute used to describe 140-year old stands, these are referred to as the "Target Basal Area."

"Diameter at breast height (dbh)" means the diameter of a tree at 4 1/2 feet above the ground measured from the uphill side.

"Dispersal habitat" see WAC 222-16-085(2).

"Dispersal support" means providing sufficient dispersal habitat for the interchange of northern spotted owls within or across the SOSEA, as necessary to meet SOSEA goals. Dispersal support is provided by a landscape consisting of stands of dispersal habitat interspersed with areas of higher quality habitat, such as suitable spotted owl habitat

PROPOSED

found within RMZs, WMZs or other required and voluntary leave areas.

"**Drainage structure**" means a construction technique or feature that is built to relieve surface runoff and/or intercepted ground water from roadside ditches to prevent excessive buildup in water volume and velocity. A drainage structure is not intended to carry any typed water. Drainage structures include structures such as: Cross drains, relief culverts,

ditch diversions, water bars, or other such structures demonstrated to be equally effective.

"**Eastern Washington**" means the geographic area in Washington east of the crest of the Cascade Mountains from the international border to the top of Mt. Adams, then east of the ridge line dividing the White Salmon River drainage from the Lewis River drainage and east of the ridge line dividing the Little White Salmon River drainage from the Wind River drainage to the Washington-Oregon state line.

Eastern Washington Definition Map



"**Eastern Washington timber habitat types**" means elevation ranges associated with tree species assigned for the purpose of riparian management according to the following:

Timber Habitat Types	Elevation Ranges
ponderosa pine	0 - 2500 feet
mixed conifer	2501 - 5000 feet
high elevation	above 5000 feet

"**Edge**" of any water means the outer edge of the water's bankfull width or, where applicable, the outer edge of the associated channel migration zone.

"**End hauling**" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"**Equipment limitation zone**" means a 30-foot wide zone measured horizontally from the outer edge of the bankfull width of a Type Np or Ns Water. It applies to all perennial and seasonal nonfish bearing streams.

"**Erodible soils**" means those soils that, when exposed or displaced by a forest practices operation, would be readily moved by water.

"**Even-aged harvest methods**" means the following harvest methods:

- Clearcuts;
 - Seed tree harvests in which twenty or fewer trees per acre remain after harvest;
 - Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;
 - Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;
 - Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;
 - Partial cutting in which fewer than fifty trees per acre remain after harvest;
 - Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and
 - Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.
- Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting

green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Fen" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"Fertilizers" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"Fill" means the placement of earth material or aggregate for road or landing construction or other similar activities.

"Fish" means for purposes of these rules, species of the vertebrate taxonomic groups of *Cephalospidomorphi* and *Osteichthyes*.

"Fish habitat" means habitat, which is used by fish at any life stage at any time of the year including potential habitat likely to be used by fish, which could be recovered by restoration or management and includes off-channel habitat.

"Flood level - 100 year." Is a calculated flood event flow based on an engineering computation of flood magnitude that has a 1 percent chance of occurring in any given year. For purposes of field interpretation, landowners may use the following methods:

Flow information from gauging stations;

Field estimate of water level based on guidance for "Determining the 100-Year Flood Level" in the forest practices board manual section 2.

The 100-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

"Forest land owner" (~~shall~~) means any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: Provided, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

Road and trail construction;

Harvesting, final and intermediate;

Precommercial thinning;

Reforestation;

Fertilization;

Prevention and suppression of diseases and insects;

Salvage of trees; and

Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest road" means ways, lanes, roads, or driveways on forest land used since 1974 for forest practices or forest management activities such as fire control. "Forest roads" does not include skid trails, highways, or county roads except where the county is a forest landowner or operator.

"Forest trees" (~~excludes~~) does not include hardwood trees cultivated by agricultural methods in growing cycles shorter than ((ten)) 15 years((: Provided, That Christmas trees are forest trees and: Provided further, That this exclusion applies only to)) if the trees were planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees. Forest trees includes Christmas trees but does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

"Full bench road" means a road constructed on a side hill without using any of the material removed from the hillside as a part of the road. This construction technique is usually used on steep or unstable slopes.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Ground water recharge areas for glacial deep-seated slides" means the area upgradient that can contribute water to the landslide, assuming that there is an impermeable perching layer in or under a deep-seated landslide in glacial deposits. (See board manual section 16 for identification criteria.)

"Headwater spring" means a permanent spring at the head of a perennial channel. Where a headwater spring can be found, it will coincide with the uppermost extent of Type Np Water.

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Horizontal distance" means the distance between two points measured at a 0% slope.

"Hyporheic" means an area adjacent to and below channels where interstitial water is exchanged with channel

PROPOSED

water and water movement is mainly in the downstream direction.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

- Mass wasting;
- Surface and road erosion;
- Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);
- Large organic debris;
- Shading; and
- Stream bank and bed stability.

"Inner gorges" means canyons created by a combination of the downcutting action of a stream and mass movement on the slope walls; they commonly show evidence of recent movement, such as obvious landslides, vertical tracks of disturbance vegetation, or areas that are concave in contour and/or profile. (See board manual section 16 for identification criteria.)

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practices activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

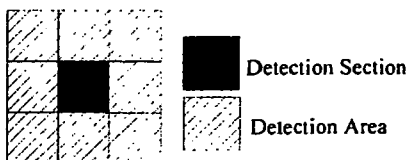
"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local (government) governmental entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Marbled murrelet detection area" means an area of land associated with a visual or audible detection of a marbled murrelet, made by a qualified surveyor which is documented and recorded in the department of fish and wildlife data base. The marbled murrelet detection area shall be comprised of the section of land in which the marbled murrelet detection was made and the eight sections of land immediately adjacent to that section.



"Marbled murrelet nesting platform" means any horizontal tree structure such as a limb, an area where a limb branches, a surface created by multiple leaders, a deformity, or a debris/moss platform or stick nest equal to or greater than 7 inches in diameter including associated moss if present, that is 50 feet or more above the ground in trees 32 inches dbh and greater (generally over 90 years of age) and is capable of supporting nesting by marbled murrelets.

"Median home range circle" means a circle, with a specified radius, centered on a spotted owl site center. The radius for the median home range circle in the Hoh-Clearwater/Coastal Link SOSEA is 2.7 miles; for all other SOSEAs the radius is 1.8 miles.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Multiyear permit" means a permit to conduct forest practices which is effective for longer than two years but no longer than five years.

"Northern spotted owl site center" means the location of status 1, 2 or 3 northern spotted owls based on the following definitions:

- Status 1: Pair or reproductive - a male and female heard and/or observed in close proximity to each other on the same visit, a female detected on a nest, or one or both adults observed with young.
- Status 2: Two birds, pair status unknown - the presence or response of two birds of opposite sex where pair status cannot be determined and where at least one member meets the resident territorial single requirements.
- Status 3: Resident territorial single - the presence or response of a single owl within the same general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or three or more responses over several years (i.e., two responses in year one and one response in year two, for the same general area).

In determining the existence, location, and status of northern spotted owl site centers, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines or protocols and quality control methods established by and available from the department of fish and wildlife.

"Notice to comply" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"Occupied marbled murrelet site" means:

(1) A contiguous area of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occur:

- (a) A nest is located; or
- (b) Downy chicks or eggs or egg shells are found; or

PROPOSED

(c) Marbled murrelets are detected flying below, through, into or out of the forest canopy; or

(d) Birds calling from a stationary location within the area; or

(e) Birds circling above a timber stand within one tree height of the top of the canopy; or

(2) A contiguous forested area, which does not meet the definition of suitable marbled murrelet habitat, in which any of the behaviors or conditions listed above has been documented by the department of fish and wildlife and which is distinguishable from the adjacent forest based on vegetative characteristics important to nesting marbled murrelets.

(3) For sites defined in (1) and (2) above, the sites will be presumed to be occupied based upon observation of circling described in (1)(e), unless a two-year survey following the 2003 Pacific Seabird Group (PSG) protocol has been completed and an additional third-year of survey following a method listed below is completed and none of the behaviors or conditions listed in (1)(a) through (d) of this definition are observed. The landowner may choose one of the following methods for the third-year survey:

(a) Conduct a third-year survey with a minimum of nine visits conducted in compliance with 2003 PSG protocol. If one or more marbled murrelets are detected during any of these nine visits, three additional visits conducted in compliance with the protocol of the first nine visits shall be added to the third-year survey. Department of fish and wildlife shall be consulted prior to initiating third-year surveys; or

(b) Conduct a third-year survey designed in consultation with the department of fish and wildlife to meet site specific conditions.

(4) For sites defined in (1) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

(a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or

(b) The beginning of any gap greater than 300 feet wide lacking one or more of the vegetative characteristics listed under "suitable marbled murrelet habitat"; or

(c) The beginning of any narrow area of "suitable marbled murrelet habitat" less than 300 feet in width and more than 300 feet in length.

(5) For sites defined under (2) above, the outer perimeter of the occupied site shall be presumed to be the closer, measured from the point where the observed behaviors or conditions listed in (1) above occurred, of the following:

(a) 1.5 miles from the point where the observed behaviors or conditions listed in (1) above occurred; or

(b) The beginning of any gap greater than 300 feet wide lacking one or more of the distinguishing vegetative characteristics important to murrelets; or

(c) The beginning of any narrow area of suitable marbled murrelet habitat, comparable to the area where the observed behaviors or conditions listed in (1) above occurred, less than 300 feet in width and more than 300 feet in length.

(6) In determining the existence, location and status of occupied marbled murrelet sites, the department shall consult with the department of fish and wildlife and use only those sites documented in substantial compliance with guidelines

or protocols and quality control methods established by and available from the department of fish and wildlife.

"Old forest habitat" see WAC 222-16-085 (1)(a).

"Operator" ((shall)) means any person engaging in forest practices except an employee with wages as his/her sole compensation.

"Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: Provided, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"Other forest chemicals" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"Pesticide" means any insecticide, herbicide, fungicide, or rodenticide, but does not include nontoxic repellents or other forest chemicals.

"Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"Preferred tree species" means the following species listed in descending order of priority for each timber habitat type:

Ponderosa pine habitat type

all hardwoods
ponderosa pine
western larch
Douglas-fir
western red cedar

Mixed conifer habitat type

all hardwoods
western larch
ponderosa pine
western red cedar
western white pine
Douglas-fir
lodgepole pine

"Public resources" means water, fish, and wildlife and in addition ((shall)) means capital improvements of the state or its political subdivisions.

"Qualified surveyor" means an individual who has successfully completed the marbled murrelet field training course offered by the department of fish and wildlife or its equivalent.

"Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"Resource characteristics" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"Riparian function" includes bank stability, the recruitment of woody debris, leaf litter fall, nutrients, sediment filtering, shade, and other riparian features that are important to both riparian forest and aquatic system conditions.

"Riparian management zone (RMZ)" means:

(1) For Western Washington

(a) The area protected on each side of a Type S or F Water measured horizontally from the outer edge of the bankfull width or the outer edge of the CMZ, whichever is greater (see table below); and

Site Class	Western Washington Total RMZ Width
I	200'
II	170'
III	140'
IV	110'
V	90'

(b) The area protected on each side of Type Np Waters, measured horizontally from the outer edge of the bankfull width. (See WAC 222-30-021(2).)

(2) For Eastern Washington

(a) The area protected on each side of a Type S or F Water measured horizontally from the outer edge of the bankfull width or the outer edge of the CMZ, whichever is greater (see table below); and

Site Class	Eastern Washington Total RMZ Width
I	130'
II	110'

Site Class	Eastern Washington Total RMZ Width
III	90' or 100*
IV	75' or 100*
V	75' or 100*

* Dependent upon stream size. (See WAC 222-30-022.)

(b) The area protected on each side of Type Np Waters, measured horizontally from the outer edge of the bankfull width. (See WAC 222-30-022(2).)

(3) For exempt 20 acre parcels, a specified area alongside Type S and F Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"RMZ core zone" means:

(1) For Western Washington, the 50 foot buffer of a Type S or F Water, measured horizontally from the outer edge of the bankfull width or the outer edge of the channel migration zone, whichever is greater. (See WAC 222-30-021.)

(2) For Eastern Washington, the 30 foot buffer of a Type S or F Water, measured horizontally from the outer edge of the bankfull width or the outer edge of the channel migration zone, whichever is greater. (See WAC 222-30-022.)

"RMZ inner zone" means:

(1) For Western Washington, the area measured horizontally from the outer boundary of the core zone of a Type S or F Water to the outer limit of the inner zone. The outer limit of the inner zone is determined based on the width of the affected water, site class and the management option chosen for timber harvest within the inner zone. (See WAC 222-30-021.)

(2) For Eastern Washington, the area measured horizontally from the outer boundary of the core zone 45 feet (for streams less than 15 feet wide) or 70 feet (for streams more than 15 feet wide) from the outer boundary of the core zone. (See WAC 222-30-022.)

"RMZ outer zone" means the area measured horizontally between the outer boundary of the inner zone and the RMZ width as specified in the riparian management zone definition above. RMZ width is measured from the outer edge of the bankfull width or the outer edge of the channel migration zone, whichever is greater. (See WAC 222-30-021 and 222-30-022.)

"Road construction" means the establishment of any new sub-grade including widening, realignment, or modification of an existing road prism, with the exception of replacing or installing drainage structures, for the purposes of managing forest land under Title 222 WAC.

"Road maintenance" means any road work specifically related to maintaining water control or road safety and visibility (such as; grading, spot rocking, resurfacing, roadside vegetation control, water barring, ditch clean out, replacing or installing relief culverts, cleaning culvert inlets and outlets) on existing forest roads.

"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of

PROPOSED

PROPOSED

the state department of agriculture may declare by regulation to be a pest.

"**Salvage**" means the removal of snags, down logs, windthrow, or dead and dying material.

"**Scarification**" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"**Sensitive sites**" are areas near or adjacent to Type Np Water and have one or more of the following:

(1) **Headwall seep** is a seep located at the toe of a cliff or other steep topographical feature and at the head of a Type Np Water which connects to the stream channel network via overland flow, and is characterized by loose substrate and/or fractured bedrock with perennial water at or near the surface throughout the year.

(2) **Side-slope seep** is a seep within 100 feet of a Type Np Water located on side-slopes which are greater than 20 percent, connected to the stream channel network via overland flow, and characterized by loose substrate and fractured bedrock, excluding muck with perennial water at or near the surface throughout the year. Water delivery to the Type Np channel is visible by someone standing in or near the stream.

(3) **Type Np intersection** is the intersection of two or more Type Np Waters.

(4) **Headwater spring** means a permanent spring at the head of a perennial channel. Where a headwater spring can be found, it will coincide with the uppermost extent of Type Np Water.

(5) **Alluvial fan** means ((an-erosional)) a depositional land form consisting of cone-shaped deposit of water-borne, often coarse-sized sediments.

(a) The upstream end of the fan (cone apex) is typically characterized by a distinct increase in channel width where a stream emerges from a narrow valley;

(b) The downstream edge of the fan is defined as the sediment confluence with a higher order channel; and

(c) The lateral margins of a fan are characterized by distinct local changes in sediment elevation and often show disturbed vegetation.

Alluvial fan does not include features that were formed under climatic or geologic conditions which are not currently present or that are no longer dynamic.

"**Shorelines of the state**" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"**Side casting**" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"**Site class**" means a grouping of site indices that are used to determine the 50-year or 100-year site class. In order to determine site class, the landowner will obtain the site class index from the state soil survey, place it in the correct index range shown in the two tables provided in this definition, and select the corresponding site class. The site class will then drive the RMZ width. (See WAC 222-30-021 and 222-30-022.)

(1) For Western Washington

Site class	50-year site index range (state soil survey)
I	137+
II	119-136
III	97-118
IV	76-96
V	<75

(2) For Eastern Washington

Site class	100-year site index range (state soil survey)	50-year site index range (state soil survey)
I	120+	86+
II	101-120	72-85
III	81-100	58-71
IV	61-80	44-57
V	≤60	<44

(3) For purposes of this definition, the site index at any location will be the site index reported by the *Washington State Department of Natural Resources State Soil Survey*, (soil survey) and detailed in the associated forest soil summary sheets. If the soil survey does not report a site index for the location or indicates noncommercial or marginal forest land, or the major species table indicates red alder, the following apply:

(a) If the site index in the soil survey is for red alder, and the whole RMZ width is within that site index, then use site class V. If the red alder site index is only for a portion of the RMZ width, or there is on-site evidence that the site has historically supported conifer, then use the site class for conifer in the most physiographically similar adjacent soil polygon.

(b) In Western Washington, if no site index is reported in the soil survey, use the site class for conifer in the most physiographically similar adjacent soil polygon.

(c) In Eastern Washington, if no site index is reported in the soil survey, assume site class III, unless site specific information indicates otherwise.

(d) If the site index is noncommercial or marginally commercial, then use site class V.

See also section 7 of the board manual.

"**Site preparation**" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"**Skid trail**" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"**Slash**" means pieces of woody material containing more than 3 cubic feet resulting from forest practices activities.

"**SOSEA goals**" means the goals specified for a spotted owl special emphasis area as identified on the SOSEA maps (see WAC 222-16-086). SOSEA goals provide for demographic and/or dispersal support as necessary to complement the northern spotted owl protection strategies on federal land within or adjacent to the SOSEA.

"Spoil" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"Spotted owl dispersal habitat" see WAC 222-16-085(2).

"Spotted owl special emphasis areas (SOSEA)" means the geographic areas as mapped in WAC 222-16-086. Detailed maps of the SOSEAs indicating the boundaries and goals are available from the department at its regional offices.

"Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"Stream-adjacent parallel roads" means roads (including associated right of way clearing) in a riparian management zone on a property that have an alignment that is parallel to the general alignment of the stream, including roads used by others under easements or cooperative road agreements. Also included are stream crossings where the alignment of the road continues to parallel the stream for more than 250 feet on either side of the stream. Not included are federal, state, county or municipal roads that are not subject to forest practices rules, or roads of another adjacent landowner.

"Sub-mature habitat" see WAC 222-16-085 (1)(b).

"Suitable marbled murrelet habitat" means a contiguous forested area containing trees capable of providing nesting opportunities:

(1) With all of the following indicators unless the department, in consultation with the department of fish and wildlife, has determined that the habitat is not likely to be occupied by marbled murrelets:

(a) Within 50 miles of marine waters;

(b) At least 40% of the dominant and codominant trees are Douglas-fir, western hemlock, western red cedar or sitka spruce;

(c) Two or more nesting platforms per acre;

(d) At least 7 acres in size, including the contiguous forested area within 300 feet of nesting platforms, with similar forest stand characteristics (age, species composition, forest structure) to the forested area in which the nesting platforms occur.

"Suitable spotted owl habitat" see WAC 222-16-085(1).

"Temporary road" means a forest road that is constructed and intended for use during the life of an approved forest practices application/notification. All temporary roads must be abandoned in accordance to WAC 222-24-052(3).

"Threaten public safety" means to increase the risk to the public at large from snow avalanches, identified in consultation with the department of transportation or a local government, or landslides or debris torrents caused or triggered by forest practices.

"Threatened or endangered species" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior or Commerce, and all species of wildlife designated as "threatened" or "endangered" by the Washington fish and wildlife commission.

"Timber" ((~~shall~~)) means forest trees, standing or down, of a commercial species, including Christmas trees. However, timber does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

"Unconfined avulsing stream" means generally fifth order or larger waters that experience abrupt shifts in channel location, creating a complex flood plain characterized by extensive gravel bars, disturbance species of vegetation of variable age, numerous side channels, wall-based channels, oxbow lakes, and wetland complexes. Many of these streams have dikes and levees that may temporarily or permanently restrict channel movement.

"Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"Watershed administrative unit (WAU)" means an area shown on the map specified in WAC 222-22-020(1).

"Watershed analysis" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"Weed" is any plant which tends to overgrow or choke out more desirable vegetation.

"Western Washington" means the geographic area of Washington west of the Cascade crest and the drainages defined in Eastern Washington.

"Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"Wetland functions" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"Wetland management zone" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"Wildlife reserve trees" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"**Windthrow**" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

"**Yarding corridor**" means a narrow, linear path through a riparian management zone to allow suspended cables necessary to support cable logging methods or suspended or partially suspended logs to be transported through these areas by cable logging methods.

"**Young forest marginal habitat**" see WAC 222-16-085 (1)(b).

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

WAC 222-16-030 Water typing system. Until the fish habitat water type maps described below are adopted by the board, the Interim Water Typing System established in WAC 222-16-031 will continue to be used. The department in cooperation with the departments of fish and wildlife, and ecology, and in consultation with affected Indian tribes will classify streams, lakes and ponds. The department will prepare water type maps showing the location of Type S, F, and N (Np and Ns) Waters within the forested areas of the state. The maps will be based on a multiparameter, field-verified geographic information system (GIS) logistic regression model. The multiparameter model will be designed to identify fish habitat by using geomorphic parameters such as basin size, gradient, elevation and other indicators. The modeling process shall be designed to achieve a level of statistical accuracy of 95% in separating fish habitat streams and non-fish habitat streams. Furthermore, the demarcation of fish and nonfish habitat waters shall be equally likely to over and under estimate the presence of fish habitat. These maps shall be referred to as "fish habitat water typing maps" and shall, when completed, be available for public inspection at region offices of the department.

Fish habitat water type maps will be updated every five years where necessary to better reflect observed, in-field conditions. Except for these periodic revisions of the maps, on-the-ground observations of fish or habitat characteristics will generally not be used to adjust mapped water types. However, if an on-site interdisciplinary team using nonlethal methods identifies fish, or finds that habitat is not accessible due to naturally occurring conditions and no fish reside above the blockage, then the water type will be immediately changed to reflect the findings of the interdisciplinary team. The finding will be documented on a water type update form provided by the department and the fish habitat water type map will be updated as soon as practicable. If a dispute arises concerning a water type the department shall make available informal conferences, as established in WAC 222-46-020 which shall include the departments of fish and wildlife, and ecology, and affected Indian tribes and those contesting the adopted water types.

The waters will be classified using the following criteria:

***(1) "Type S Water"** means all waters, within their bankfull width, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW including periodically inundated areas of their associated wetlands.

***(2) "Type F Water"** means segments of natural waters other than Type S Waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or are described by one of the following four categories:

(a) Waters, which are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Waters, which are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type F Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality. The department may allow additional harvest beyond the requirements of Type F Water designation provided the department determines after a landowner-requested on-site assessment by the department of fish and wildlife, department of ecology, the affected tribes and interested parties that:

(i) The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and

(ii) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery;

(c) Waters, which are within a federal, state, local, or private campground having more than 10 camping units: Provided, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands avail-

PROPOSED

able for public use and comes within 100 feet of a camping unit, trail or other park improvement;

(d) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:

(i) The site must be connected to a fish habitat stream and accessible during some period of the year; and

(ii) The off-channel water must be accessible to fish.

(3) **"Type Np Water"** means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see board manual section 23), then Type Np Waters begin at a point along the channel where the contributing basin area is:

(a) At least 13 acres in the Western Washington coastal zone (which corresponds to the Sitka spruce zone defined in Franklin and Dyrness, 1973);

(b) At least 52 acres in other locations in Western Washington; or

(c) At least 300 acres in Eastern Washington.

(4) **"Type Ns Water"** means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np Waters.

* (5) For purposes of this section:

(a) "Residential unit" means a home, apartment, residential condominium unit or mobile home, serving as the principal place of residence.

(b) "Camping unit" means an area intended and used for:

(i) Overnight camping or picnicking by the public containing at least a fireplace, picnic table and access to water and sanitary facilities; or

(ii) A permanent home or condominium unit or mobile home not qualifying as a "residential unit" because of part time occupancy.

(c) "Public accommodation facility" means a business establishment open to and licensed to serve the public, such as a restaurant, tavern, motel or hotel.

(d) "Natural waters" only excludes water conveyance systems which are artificially constructed and actively maintained for irrigation.

(e) "Seasonal low flow" and "seasonal low water" mean the conditions of the 7-day, 2-year low water situation, as measured or estimated by accepted hydrologic techniques recognized by the department.

(f) "Channel width and gradient" means a measurement over a representative section of at least 500 linear feet with at least 10 evenly spaced measurement points along the normal stream channel but excluding unusually wide areas of negli-

gible gradient such as marshy or swampy areas, beaver ponds and impoundments. Channel gradient may be determined utilizing stream profiles plotted from United States geological survey topographic maps (see board manual section 23).

(g) "Intermittent streams" means those segments of streams that normally go dry.

(h) "Fish habitat" means habitat which is used by any fish at any life stage at any time of the year, including potential habitat likely to be used by fish which could be recovered by restoration or management and includes off-channel habitat.

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

WAC 222-16-031 Interim water typing system. Until the fish habitat water type maps mentioned above are available, waters will be classified according to the interim water typing system described below. If a dispute arises concerning a water type, the department shall make available informal conferences, which shall include the departments of fish and wildlife, ecology, and affected Indian tribes and those contesting the adopted water types. These conferences shall be established under procedures established in WAC 222-46-020.

For the purposes of this interim water typing system see the following table:

Water Type Conversion Table

Permanent Water Typing	Interim Water Typing
Type "S"	Type 1 Water
Type "F"	Type 2 and 3 Water
Type "Np"	Type 4 Water
Type "Ns"	Type 5 Water

* (1) **"Type 1 Water"** means all waters, within their ordinary high-water mark, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW, but not including those waters' associated wetlands as defined in chapter 90.58 RCW.

* (2) **"Type 2 Water"** means segments of natural waters which are not classified as Type 1 Water and have a high fish, wildlife, or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands, which:

(a) Are diverted for domestic use by more than 100 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and only considered Type 2 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type 2 Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality. The department may allow additional harvest beyond the requirements of Type 2 Water designation provided by the department of fish and wildlife,

department of ecology, the affected tribes and interested parties that:

(i) The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and

(ii) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery;

(c) Are within a federal, state, local or private campground having more than 30 camping units: Provided, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit.

(d) Are used by fish for spawning, rearing or migration.

• Waters having the following characteristics are presumed to have highly significant fish populations:

(i) Stream segments having a defined channel 20 feet or greater within the bankfull width and having a gradient of less than 4 percent.

(ii) Lakes, ponds, or impoundments having a surface area of 1 acre or greater at seasonal low water; or

(e) Are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:

(i) The site must be connected to a fish bearing stream and be accessible during some period of the year; and

(ii) The off-channel water must be accessible to fish through a drainage with less than a 5% gradient.

* (3) **"Type 3 Water"** means segments of natural waters which are not classified as Type 1 or 2 Waters and have a moderate to slight fish, wildlife, ~~(and)~~ or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands which:

(a) Are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 3 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are used by fish for spawning, rearing or migration. The requirements for determining fish use are described in the board manual section 13. If fish use has not been determined:

(i) Waters having any of the following characteristics are presumed to have fish use:

(A) Stream segments having a defined channel of 2 feet or greater within the bankfull width in Western Washington; or 3 feet or greater in width in Eastern Washington; and having a gradient of 16 percent or less((-);

(B) Stream segments having a defined channel ((€)) of 2 feet or greater within the bankfull width in Western Washington; or 3 feet or greater within the bankfull width in Eastern Washington, and having a gradient greater than 16 percent and less than or equal to 20 percent, and having greater than 50 acres in contributing basin size in Western Washington or

greater than 175 acres contributing basin size in Eastern Washington, based on hydrographic boundaries;

(C) Ponds or impoundments having a surface area of less than 1 acre at seasonal low water and having an outlet to a fish stream;

(D) Ponds of impoundments having a surface area greater than 0.5 acre at seasonal low water.

(ii) The department shall waive or modify the characteristics in (i) of this subsection where:

(A) Waters have confirmed, long term, naturally occurring water quality parameters incapable of supporting fish;

(B) Snowmelt streams have short flow cycles that do not support successful life history phases of fish. These streams typically have no flow in the winter months and discontinue flow by June 1; or

(C) Sufficient information about a geomorphic region is available to support a departure from the characteristics in (i) of this subsection, as determined in consultation with the department of fish and wildlife, department of ecology, affected tribes and interested parties.

* (4) **"Type 4 Water"** means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type 4 Waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see board manual, section 23), then Type 4 Waters begin at a point along the channel where the contributing basin area is:

(a) At least 13 acres in the Western Washington coastal zone (which corresponds to the Sitka spruce zone defined in Franklin and Dyrness, 1973);

(b) At least 52 acres in other locations in Western Washington;

(c) At least 300 acres in Eastern Washington.

* (5) **"Type 5 Waters"** means all segments of natural waters within the bankfull width of the defined channels that are not Type 1, 2, 3, or 4 Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of the year and are not located downstream from any stream reach that is a Type 4 Water. Type 5 Waters must be physically connected by an above-ground channel system to Type 1, 2, 3, or 4 Waters.

* (6) For purposes of this section:

(a) **"Residential unit"** means a home, apartment, residential condominium unit or mobile home, serving as the principal place of residence.

(b) **"Camping unit"** means an area intended and used for:

(i) Overnight camping or picnicking by the public containing at least a fireplace, picnic table and access to water and sanitary facilities; or

(ii) A permanent home or condominium unit or mobile home not qualifying as a "residential unit" because of part time occupancy.

(c) **"Public accommodation facility"** means a business establishment open to and licensed to serve the public, such as a restaurant, tavern, motel or hotel.

(d) "Natural waters" only excludes water conveyance systems which are artificially constructed and actively maintained for irrigation.

(e) "Seasonal low flow" and "seasonal low water" mean the conditions of the 7-day, 2-year low water situation, as measured or estimated by accepted hydrologic techniques recognized by the department.

(f) "Channel width and gradient" means a measurement over a representative section of at least 500 linear feet with at least 10 evenly spaced measurement points along the normal stream channel but excluding unusually wide areas of negligible gradient such as marshy or swampy areas, beaver ponds and impoundments. Channel gradient may be determined utilizing stream profiles plotted from United States geological survey topographic maps. (See board manual section 23.)

AMENDATORY SECTION (Amending WSR 02-17-099, filed 8/20/02, effective 9/20/02)

WAC *222-16-050 Classes of forest practices. There are 4 classes of forest practices created by the act. All forest practices (including those in Classes I and II) must be conducted in accordance with the forest practices rules.

(1) "**Class IV - special.**" Except as provided in WAC 222-16-051, application to conduct forest practices involving the following circumstances requires an environmental checklist in compliance with the State Environmental Policy Act (SEPA), and SEPA guidelines, as they have been determined to have potential for a substantial impact on the environment. It may be determined that additional information or a detailed environmental statement is required before these forest practices may be conducted.

***(a)** Aerial application of pesticides in a manner identified as having the potential for a substantial impact on the environment under WAC 222-16-070 or ground application of a pesticide within a Type A or B wetland.

(b) Specific forest practices listed in WAC 222-16-080 on lands designated as critical habitat (state) of threatened or endangered species.

(c) Harvesting, road construction, aerial application of pesticides and site preparation on all lands within the boundaries of any national park, state park, or any park of a local governmental entity, except harvest of less than 5 MBF within any developed park recreation area and park managed salvage of merchantable forest products.

***(d)** Timber harvest, or construction of roads, landings, gravel pits, rock quarries, or spoil disposal areas, on potentially unstable slopes or landforms described in (i) below that has the potential to deliver sediment or debris to a public resource or that has the potential to threaten public safety, and which has been field verified by the department (see WAC 222-10-030 SEPA policies for potential unstable slopes and landforms).

(i) For the purpose of this rule, potentially unstable slopes or landforms are one of the following: (See the board manual section 16 for more descriptive definitions.)

(A) Inner gorges, convergent headwalls, or bedrock hollows with slopes steeper than 35 degrees (70%);

(B) Toes of deep-seated landslides, with slopes steeper than 33 degrees (65%);

(C) Ground water recharge areas for glacial deep-seated landslides;

(D) Outer edges of meander bends along valley walls or high terraces of an unconfined meandering stream; or

(E) Any areas containing features indicating the presence of potential slope instability which cumulatively indicate the presence of unstable slopes.

(ii) The department will base its classification of the application/notification on professional knowledge of the area, information such as soils, geologic or hazard zonation maps and reports or other information provided by the applicant.

(iii) An application would not be classified as Class IV-Special for potentially unstable slopes or landforms under this subsection if:

(A) The proposed forest practice is located within a WAU that is subject to an approved watershed analysis;

(B) The forest practices are to be conducted in accordance with an approved prescription from the watershed analysis (or as modified through the 5-year review process); and

(C) The applicable prescription is specific to the site or situation, as opposed to a prescription that calls for additional analysis. The need for an expert to determine whether the site contains specific landforms will not be considered "additional analysis," as long as specific prescriptions are established for such landforms.

***(e)** Timber harvest, in a watershed administrative unit not subject to an approved watershed analysis under chapter 222-22 WAC, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on snow avalanche slopes within those areas designated by the department, in consultation with department of transportation and local government, as high avalanche hazard where there is the potential to deliver sediment or debris to a public resource, or the potential to threaten public safety.

(f) Timber harvest, construction of roads, landings, rock quarries, gravel pits, borrow pits, and spoil disposal areas on archaeological or historic sites registered with the Washington state office of archaeology and historic preservation, or on sites containing evidence of Native American cairns, graves, or glyptic records, as provided for in chapters 27.44 and 27.53 RCW. The department shall consult with affected Indian tribes in identifying such sites.

***(g)** Forest practices subject to an approved watershed analysis conducted under chapter 222-22 WAC in an area of resource sensitivity identified in that analysis which deviates from the prescriptions (which may include an alternate plan) in the watershed analysis.

***(h)** Filling or draining of more than 0.5 acre of a wetland.

(2) "Class IV - general." Applications involving the following circumstances are "Class IV - general" forest practices unless they are listed in "Class IV - special." (~~Upon receipt of an application, the department will determine the lead agency for purposes of compliance with the State Environmental Policy Act pursuant to WAC 197-11-924 and 197-11-938(4) and RCW 43.21C.037(2). Such applications are subject to a 30-day period for approval unless the lead agency determines a detailed statement under RCW 43.21C.030~~)

~~(2)(c) is required. Upon receipt, if the department determines the application is for a proposal that will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the department shall notify the applicable county/city under WAC 197-11-924 that the department has determined according to WAC 197-11-938(4) that the county/city is the lead agency for purposes of compliance with State Environmental Policy Act.)~~

(a) Forest practices (other than those in Class I) on lands platted after January 1, 1960, ~~((¶))~~ as provided in chapter 58.17 RCW;

(b) Forest practices (other than those in Class I) on lands that have been or are being converted to another use(-);

~~((b))~~ (c) Forest practices which would otherwise be Class III, but which are taking place on lands which are not to be reforested because of likelihood of future conversion to urban development. (See WAC 222-16-060 and 222-34-050(-)); or

(d) Forest practices involving timber harvesting or road construction on lands that are contained within urban growth areas, designated pursuant to chapter 36.70A RCW, except where the forest landowner provides one of the following:

(i) A written statement of intent signed by the forest landowner not to convert to a use other than commercial forest products operations for ten years accompanied by either a written forest management plan acceptable to the department or documentation that the land is enrolled under the provisions of chapter 84.33 RCW; or

(ii) A conversion option harvest plan approved by the local governmental entity and submitted to the department as part of the application.

Upon receipt of an application, the department will determine the lead agency for purposes of compliance with the State Environmental Policy Act pursuant to WAC 197-11-924 and 197-11-938(4) and RCW 43.21C.037(2). Such applications are subject to a 30-day period for approval unless the lead agency determines a detailed statement under RCW 43.21C.030 (2)(c) is required. Upon receipt, if the department determines the application is for a proposal that will require a license from a county/city acting under the powers enumerated in RCW 76.09.240, the department shall notify the applicable county/city under WAC 197-11-924 that the department has determined according to WAC 197-11-938(4) that the county/city is the lead agency for purposes of compliance with the State Environmental Policy Act.

(3) "Class I." Those operations that have been determined to have no direct potential for damaging a public resource are Class I forest practices. When the conditions listed in "Class IV - Special" are not present, these operations may be commenced without notification or application.

(a) Culture and harvest of Christmas trees and seedlings.

*(b) Road maintenance except: (i) Replacement of bridges and culverts across Type S, F or flowing Type Np Waters; or (ii) movement of material that has a direct potential for entering Type S, F or flowing Type Np Waters or Type A or B Wetlands.

*(c) Construction of landings less than 1 acre in size, if not within a shoreline area of a Type S Water, the riparian management zone of a Type F Water, the bankfull width of a

Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.

*(d) Construction of less than 600 feet of road on a side-slope of 40 percent or less if the limits of construction are not within the shoreline area of a Type S Water, the riparian management zone of a Type F Water, the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.

*(e) Installation or removal of a portable water crossing structure where such installation does not take place within the shoreline area of a Type S Water and does not involve disturbance of the beds or banks of any waters.

*(f) Initial installation and replacement of relief culverts and other drainage control facilities not requiring a hydraulic permit.

(g) Rocking an existing road.

(h) Loading and hauling timber from landings or decks.

(i) Precommercial thinning and pruning, if not within the CRGNSA special management area.

(j) Tree planting and seeding.

(k) Cutting and/or removal of less than 5,000 board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence posts, etc.) in any 12-month period, if not within the CRGNSA special management area.

(l) Emergency fire control and suppression.

(m) Slash burning pursuant to a burning permit (RCW 76.04.205).

*(n) Other slash control and site preparation not involving either off-road use of tractors on slopes exceeding 40 percent or off-road use of tractors within the shorelines of a Type S Water, the riparian management zone of any Type F Water, or the bankfull width of a Type Np Water, a wetland management zone, a wetland, or the CRGNSA special management area.

*(o) Ground application of chemicals, if not within the CRGNSA special management area. (See WAC 222-38-020 and 222-38-030.)

*(p) Aerial application of chemicals (except insecticides), outside of the CRGNSA special management area when applied to not more than 40 contiguous acres if the application is part of a combined or cooperative project with another landowner and where the application does not take place within 100 feet of lands used for farming, or within 200 feet of a residence, unless such farmland or residence is owned by the forest landowner. Provisions of chapter 222-38 WAC shall apply.

(q) Forestry research studies and evaluation tests by an established research organization.

*(r) Any of the following if none of the operation or limits of construction takes place within the shoreline area of a Type S Water or the riparian management zone of a Type F Water, the bankfull width of a Type Np Water or flowing Type Ns Water, or within the CRGNSA special management area and the operation does not involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent:

(i) Any forest practices within the boundaries of existing golf courses.

(ii) Any forest practices within the boundaries of existing cemeteries which are approved by the cemetery board.

(iii) Any forest practices involving a single landowner where contiguous ownership is less than two acres in size.

(s) Removal of beaver structures from culverts on ~~((active and inactive))~~ forest roads. A hydraulics project approval from the Washington department of fish and wildlife may be required.

(4) "Class II." Certain forest practices have been determined to have a less than ordinary potential to damage a public resource and may be conducted as Class II forest practices: Provided, That no forest practice enumerated below may be conducted as a Class II forest practice if the operation requires a hydraulic project approval (RCW ~~((75.20.100))~~ 77.55.100) or is within a "shorelines of the state," or involves owner of perpetual timber rights subject to RCW 76.09.067 (other than renewals). Such forest practices require an application. No forest practice enumerated below may be conducted as a "Class II" forest practice if it takes place on lands platted after January 1, 1960, as provided in chapter 58.17 RCW, or on lands that have been or are being converted to another use. No forest practice enumerated below involving timber harvest or road construction may be conducted as a "Class II" if it takes place within urban growth areas designated pursuant to chapter 37.70A RCW. Such forest practices require a Class IV application. Class II forest practices are the following:

(a) Renewal of a prior Class II notification where no change in the nature and extent of the forest practices is required under rules effective at the time of renewal.

(b) Renewal of a previously approved Class III or IV forest practices application where:

(i) No modification of the uncompleted operation is proposed;

(ii) No notices to comply, stop work orders or other enforcement actions are outstanding with respect to the prior application; and

(iii) No change in the nature and extent of the forest practice is required under rules effective at the time of renewal. Renewal of a previously approved multiyear permit for forest practices within a WAU with an approved watershed analysis requires completion of a necessary 5-year review of the watershed analysis.

*(c) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone, within a wetland, or within the CRGNSA special management area:

(i) Construction of advance fire trails.

(ii) Opening a new pit of, or extending an existing pit by, less than 1 acre.

*(d) Salvage of logging residue if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone or within a wetland; and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent.

*(e) Any of the following if none of the operation or limits of construction takes place within the riparian management zone of a Type F Water, within the bankfull width of a Type Np Water, within a wetland management zone, within a

wetland, or within the CRGNSA special management area, and if none of the operations involve off-road use of tractor or wheeled skidding systems on a sideslope of greater than 40 percent, and if none of the operations are located on lands with a likelihood of future conversion (see WAC 222-16-060):

(i) West of the Cascade summit, partial cutting of 40 percent or less of the live timber volume.

(ii) East of the Cascade summit, partial cutting of 5,000 board feet per acre or less.

(iii) Salvage of dead, down, or dying timber if less than 40 percent of the total timber volume is removed in any 12-month period.

(iv) Any harvest on less than 40 acres.

(v) Construction of 600 or more feet of road, provided that the department shall be notified at least 2 business days before commencement of the construction.

(5) "Class III." Forest practices not listed under Classes IV, I or II above are "Class III" forest practices. Among Class III forest practices are the following:

(a) Those requiring hydraulic project approval (RCW ~~((75.20.100))~~ 77.55.100).

*(b) Those within the shorelines of the state other than those in a Class I forest practice.

*(c) Aerial application of insecticides, except where classified as a Class IV forest practice.

*(d) Aerial application of chemicals (except insecticides), except where classified as Class I or IV forest practices.

*(e) Harvest or salvage of timber except where classed as Class I, II or IV forest practices.

*(f) All road construction and reconstruction except as listed in Classes I, II and IV forest practices.

(g) Opening of new pits or extensions of existing pits over 1 acre.

*(h) Road maintenance involving:

(i) Replacement of bridges or culverts across Type S, F or flowing Type Np Waters; or

(ii) Movement of material that has a direct potential for entering Type S, F or flowing Type Np Waters or Type A or B Wetlands.

(i) Operations involving owner of perpetual timber rights subject to RCW 76.09.067.

(j) Site preparation or slash abatement not listed in Classes I or IV forest practices.

(k) Harvesting, road construction, site preparation or aerial application of pesticides on lands which contain cultural, historic or archaeological resources which, at the time the application or notification is filed, are:

(i) On or are eligible for listing on the National Register of Historic Places; or

(ii) Have been identified to the department as being of interest to an affected Indian tribe.

(l) Harvesting exceeding 19 acres in a designated difficult regeneration area.

(m) Utilization of an alternate plan. See WAC 222-12-040.

*(n) Any filling of wetlands, except where classified as Class IV forest practices.

*(o) Multiyear permits.

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

WAC 222-16-070 Pesticide uses with the potential for a substantial impact on the environment. *To identify forest practices involving pesticide uses that have the potential for a substantial impact on the environment, the department shall apply the process prescribed in this section. See WAC 222-16-050 (1)(a).

(1) Pesticide list - The department shall maintain a list of all pesticides registered under chapter 15.58 RCW for use in forest practices. The department shall conduct, in consultation with the departments of ecology, health, agriculture, and fish and wildlife, an annual review of the list for the purpose of including new pesticides and/or removing those pesticides which have been prohibited from use. The list shall be available to the public at each of the department's offices. A list of the department's offices and their addresses appears at WAC 332-10-030. In preparing the pesticide list, the department shall include information on the following characteristics:

(a) Active ingredients, name brand or trade mark, labeled uses, pesticide type, EPA-registration number;

(b) Toxicity of the pesticide based on the Environmental Protection Agency (EPA) label warning under 40 C.F.R. 156.10 (h)(1), listed as "caution," "warning," "danger," or "danger - poison" except as modified to consider aquatic or mammalian toxicity; and

(c) Whether the pesticide is a state restricted use pesticide for the protection of ground water under WAC ((16-228-164(1))) 16-228-1231.

(2) Key for evaluating applications. To determine whether aerial application of a pesticide has the potential for a substantial impact on the environment, the department shall apply the following analysis:

KEY FOR EVALUATION OF SITE SPECIFIC USE OF AERIALLY APPLIED PESTICIDES

Question	Question	Resp	Action
1 (a)	Is the pesticide on the pesticide list (WAC 222-16-070(1))?	Yes No	go to 2 go to 1(b)
1 (b)	Is the pesticide being used under a Dept of Agriculture Experimental Use Permit (WAC ((16-228-125)) <u>16-228-1460</u>)?	Yes No	Class III Class IV Sp
2	Is the toxicity rating for the pesticide to be used "Danger - Poison" as designated in the pesticide list (WAC 222-16-070 (1)(b))?	Yes No	Class IV Sp go to 3(a)
3 (a)	Is <u>Bacillus thuringiensis</u> (BT) the only pesticide being used on this application?	Yes No	go to 3(b) go to 4(a)
3 (b)	Is there a Threatened or Endangered species or the critical habitat (Federal) or critical habitat (State) of a species within the application area that is susceptible to the BT strain being used?	Yes No	Class IV Sp Class III

KEY FOR EVALUATION OF SITE SPECIFIC USE OF AERIALLY APPLIED PESTICIDES

Question	Question	Resp	Action
4 (a)	Is this operation occurring over ground water with a high susceptibility to contamination as specified in EPA 910/ ((9-87-189)) <u>9-87-169</u> or in documentation provided by the department of ecology?	Yes No	go to 4(b) go to 5(a)
4 (b)	Is this pesticide a state restricted use pesticide for the protection of ground water under WAC ((16-228-164(1))) <u>16-228-1231</u> ?	Yes No	Class IV Sp go to 5(a)
5 (a)	Is the operation adjacent (within 100 ft.) of surface water?	Yes No	go to 5(b) go to 5(e)
5 (b)	Determine the toxicity rating from the pesticide list: *Is the toxicity rating "Caution" or "Warning"? *Is the toxicity rating "Danger"?	Yes Yes	go to 5(c) go to 5(d)
5 (c)	Is there a Group A or B water surface water system (WAC 246-290-020) intake OR a fish hatchery intake within one half mile downstream of the operation?	Yes No	Class IV Sp go to 5(e)
5 (d)	Is there a Group A or B water surface system intake OR a fish hatchery intake within 1 mile downstream of the operation?	Yes No	Class IV Sp go to 5(e)
5 (e)	Is the operation within 200 feet of the intake of a Group A or B spring water system?	Yes No	Class IV Sp go to 5(f)
5 (f)	Is the operation applying a pesticide in a Type A or B wetland?	Yes No	Class IV Sp go to 6(a)
6 (a)	Does any portion of the planned operation cover 240 or more contiguous acres? Pesticide treatment units will be considered contiguous if they are separated by less than 300 feet or treatment dates of adjacent units are less than 90 days apart.	Yes No	Class IV Sp go to 6(b)
6 (b)	Is there a Threatened or Endangered species or the critical habitat (Federal) or critical habitat (State) of a species within the application area?	Yes No	Class IV Sp go to 6(c)
6 (c)	If there is a special concern identified for this pesticide in the Board manual, does it apply to this application?	Yes No	Class IV Sp Class III

(3) Special concerns (see WAC 222-16-070 (2)(c)) shall be evaluated by the department of agriculture. Information regarding special concerns shall be presented to the board for review. Approved special concerns shall be included in the board manual. Special concerns shall include situations where use of pesticides has the potential for a substantial impact on the environment, beyond those covered specifically in the key in subsection (2) of this section.

PROPOSED

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

WAC 222-16-080 Critical habitats (state) of threatened and endangered species. (1) Critical habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle (*Haliaeetus leucocephalus*) - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of fish and wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf (*Canis lupus*) - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of fish and wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear (*Ursus arctos*) - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of fish and wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain (woodland) caribou (*Rangifera tarandus*) - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of fish and wildlife.

(e) Oregon silverspot butterfly (*Speyeria zerene hippolyta*) - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of fish and wildlife.

(f) Peregrine falcon (*Falco peregrinus*) - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of fish and wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane (*Grus canadensis*) - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of fish and wildlife.

(h) Northern spotted owl((-)) (*Strix occidentalis caurina*)

(i) **Within a SOSEA boundary** (see maps in WAC 222-16-086), except as indicated in (h)(ii) of this subsection, harvesting, road construction, or aerial application of pesticides on suitable spotted owl habitat within a median home range circle that is centered within the SOSEA or on adjacent federal lands.

(ii) **Within the Entiat SOSEA**, harvesting, road construction, or aerial application of pesticides within the areas indicated for demographic support (see WAC 222-16-086(2)) on suitable spotted owl habitat located within a median home range circle that is centered within the demographic support area.

(iii) **Outside of a SOSEA**, harvesting, road construction, or aerial application of pesticides, between March 1 and August 31 on the seventy acres of highest quality suitable

spotted owl habitat surrounding a northern spotted owl site center located outside a SOSEA. The highest quality suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife. Consideration shall be given to habitat quality, proximity to the activity center and contiguity.

(iv) **Small parcel northern spotted owl exemption.** Forest practices proposed on the lands owned or controlled by a landowner whose forest land ownership within the SOSEA is less than or equal to 500 acres and where the forest practice is not within 0.7 mile of a northern spotted owl site center shall not be considered to be on lands designated as critical habitat (state) for northern spotted owls.

(i) Western pond turtle (*Clemmys marmorata*) - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(j) Marbled murrelet((-)) (*Brachyramphus marmoratus*)

(i) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within an occupied marbled murrelet site.

(ii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within suitable marbled murrelet habitat within a marbled murrelet detection area.

(iii) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within suitable marbled murrelet habitat containing 7 platforms per acre outside a marbled murrelet detection area.

(iv) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction outside a marbled murrelet detection area within a marbled murrelet special landscape and within suitable marbled murrelet habitat with 5 or more platforms per acre.

(v) Harvesting within a 300 foot managed buffer zone adjacent to an occupied marbled murrelet site that results in less than a residual stand stem density of 75 trees per acre greater than 6 inches in dbh; provided that 25 of which shall be greater than 12 inches dbh including 5 trees greater than 20 inches in dbh, where they exist. The primary consideration for the design of managed buffer zone widths and leave tree retention patterns shall be to mediate edge effects. The width of the buffer zone may be reduced in some areas to a minimum of 200 feet and extended to a maximum of 400 feet as long as the average of 300 feet is maintained.

(vi) Except that the following shall not be critical habitat (state):

(A) Where a landowner owns less than 500 acres of forest land within 50 miles of saltwater and the land does not contain an occupied marbled murrelet site; or

(B) Where a protocol survey (see WAC 222-12-090(14)) has been conducted and no murrelets were detected. The landowner is then relieved from further survey requirements. However, if an occupied marbled murrelet site is established, this exemption is void.

(2) The following critical habitats (federal) designated by the United States Secretary of the Interior or Commerce, or specific forest practices within those habitats, have been determined to have the potential for a substantial impact on

the environment and therefore are designated as critical habitats (state) of threatened or endangered species.

(3) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington fish and wildlife commission and/or the United States Secretary of the Interior or Commerce, the department shall after consultation with the department of fish and wildlife, prepare and submit to the board a proposed list of critical habitats (state) of threatened or endangered species. This list shall be submitted to the board within 30 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b).

(4) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior or Commerce which have the potential for a substantial impact on the environment, the department shall, after consultation with the department of fish and wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for inclusion in Class IV - Special forest practices. The department shall submit the list to the board within 30 days of the date the United States Secretary of the Interior or Commerce publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats included by the board in Class IV - Special shall be added to the list in subsection (2) of this section. See WAC 222-16-050 (1)(b).

(5)(a) Except for bald eagles under subsection (1)(a) of this section, the critical habitats (state) of threatened and endangered species and specific forest practices designated in subsections (1) and (2) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington fish and wildlife commission and by the United States Secretary of Interior or Commerce.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of fish and wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(6) Regardless of any other provision in this section, forest practices applications shall not be classified as Class IV-Special based on critical habitat (state) (WAC 222-16-080 WAC 222-16-050 (1)(b)) for a species, if the forest practices are consistent with one or more of the following:

(a) Documents addressing the needs of the affected species provided such documents have received environmental review with an opportunity for public comment under the National Environmental Policy Act, 42 U.S.C. section 4321 et seq.:

(i) A habitat conservation plan and incidental take permit; or an incidental take statement covering such species approved by the Secretary of the Interior or Commerce pursuant to 16 U.S.C. § 1536(b) or 1539(a); or

(ii) An "unlisted species agreement" covering such species approved by the U.S. Fish and Wildlife Service or National Marine Fisheries Service; or

(iii) Other conservation agreement entered into with a federal agency pursuant to its statutory authority for fish and wildlife protection that addresses the needs of the affected species; or

(iv) A rule adopted by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service for the conservation of an affected species pursuant to 16 U.S.C. section 1533(d); or

(b) Documents addressing the needs of the affected species so long as they have been reviewed under the State Environmental Policy Act;

(i) A landscape management plan; or

(ii) Another cooperative or conservation agreement entered into with a state resource agency pursuant to its statutory authority for fish and wildlife protection;

(c) A special wildlife management plan (SWMP) developed by the landowner and approved by the department in consultation with the department of fish and wildlife;

(d) A bald eagle management plan approved under WAC 232-12-292;

(e) A landowner option plan (LOP) for northern spotted owls developed pursuant to WAC 222-16-100(1);

(f) A cooperative habitat enhancement agreement (CHEA) developed pursuant to WAC 222-16-105; or

(g) A take avoidance plan issued by the U.S. Fish and Wildlife Service or the National Marine Fisheries Service prior to March 20, 2000.

In those situations where one of the options above has been used, forest practices applications may still be classified as Class IV-Special based upon the presence of one or more of the factors listed in WAC 222-16-050(1), other than critical habitat (state) for the species covered by the existing plan.

(7) The department, in consultation with the department of fish and wildlife, shall review each SOSEA to determine whether the goals for that SOSEA are being met through approved plans, permits, statements, letters, or agreements referred to in subsection (6) of this section. Based on the consultation, the department shall recommend to the board the suspension, deletion, modification or reestablishment of the applicable SOSEA from the rules. The department shall conduct a review for a particular SOSEA upon approval of a landowner option plan, a petition from a landowner in the SOSEA, or under its own initiative.

(8) The department, in consultation with the department of fish and wildlife, shall report annually to the board on the status of the northern spotted owl to determine whether circumstances exist that substantially interfere with meeting the goals of the SOSEAs.

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

WAC 222-20-010 Applications and notifications—Policy. (1) **No Class II, III or IV forest practices** shall be commenced or continued unless the department has received a notification for Class II forest practices, or approved an application for Class III or IV forest practices pursuant to the act. Where the time limit for the department to act on the application has expired, and none of the conditions in *WAC 222-20-020(1)* exist, the operation may commence. (NOTE: OTHER LAWS AND RULES AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)

(2) **The department shall** prescribe the form and contents of the notification and application, which shall specify what information is needed for a notification, and the information required for the department to approve or disapprove the application.

(3) **Except as provided in subpart (4) below, applications and notifications** shall be signed by the landowner, the timber owner and the operator, or the operator and accompanied by a consent form signed by the timber owner and the landowner. A consent form may be another document if it is signed by the landowner(s) and it contains a statement acknowledging that he/she is familiar with the Forest Practices Act, including the provisions dealing with conversion to another use (RCW 76.09.060(3)).

(4) In lieu of a landowner's signature, where the timber rights have been transferred by deed to a perpetual owner who is different from the forest landowner, the owner of perpetual timber rights may sign a forest practices application or notification for operations not converting to another use and the statement of intent not to convert for a set period of time. The holder of perpetual timber rights shall serve the signed forest practices application or notification and the signed statement of intent on the forest landowner. The forest practices application shall not be considered complete until the holder of perpetual timber rights has submitted evidence acceptable to the department that such service has occurred.

(5) **Where an application** for a conversion is not signed by the landowner or accompanied by a consent form, as outlined in subsection (3) of this section, the department shall not approve the application. Applications and notifications for the development or maintenance of utility rights of way shall not be considered to be conversions.

(6) **Transfer of the approved application or notification** to a new landowner, timber owner or operator requires written notice by the original landowner or applicant to the department and should include the original application or notification number. This written notice shall be in a form acceptable to the department and shall contain an affirmation signed by the new landowner, timber owner, or operator, as applicable, that he/she agrees to be bound by all conditions on the approved application or notification. In the case of a transfer of an application previously approved without the

landowner's signature the new timber owner or operator must submit a bond securing compliance with the requirements of the forest practices rules as determined necessary by the department. If an application or notification indicates that the landowner or timber owner is also the operator, or an operator signed the application, no notice need be given regarding any change in subcontractors or similar independent contractors working under the supervision of the operator of record.

(7) **Applications and notifications** must be delivered to the department at the appropriate region office. Delivery should be in person or by registered or certified mail.

(8) **Applications and notifications** shall be considered received on the date and time shown on any registered or certified mail receipt, or the written receipt given at the time of personal delivery, or at the time of receipt by general mail delivery. Applications or notifications that are not complete, or are inaccurate will not be considered officially received until the applicant furnishes the necessary information to complete the application. A review statement from the U.S. Forest Service that evaluates compliance of the forest practices with the CRGNSA special management area guidelines is necessary information for an application or notification within the CRGNSA special management area. The review statement requirement shall be waived if the applicant can demonstrate the U.S. Forest Service received a complete plan application and failed to act within 45 days. An environmental checklist (WAC 197-11-315) is necessary information for all Class IV applications. A local (~~government~~) governmental entity clearing and/or grading permit is necessary information for all Class IV applications on lands that have been or will be converted to a use other than commercial timber production or on lands which have been platted after January 1, 1960, as provided in chapter 58.17 RCW, if the local (~~government~~) governmental entity has jurisdiction and has an ordinance requiring such permit. If a notification or application is delivered in person to the department by the operator or the operator's authorized agent, the department shall immediately provide a dated receipt. In all other cases, the department shall immediately mail a dated receipt to the applicant.

(9) **An operator's name**, if known, must be included on any forest practices application or notification. The landowner or timber owner must provide notice of hiring or change of operator to the department within 48 hours. The department shall promptly notify the landowner if the operator is subject to a notice of intent to disapprove under WAC 222-46-070. Once notified, the landowner will not permit the operator, who is subject to a notice of intent to disapprove, to conduct the forest practices specified in the application or notification, or any other forest practices until such notice of intent to disapprove is removed by the department.

(10) **Financial assurances** may be required by the department prior to the approval of any future forest practices application or notification to an operator or landowner under the provisions of WAC 222-46-090.

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

WAC 222-20-020 Application time limits. (1) A **properly completed application** shall be approved, conditioned or disapproved within 30 calendar days for Class III and Class IV forest practices, except:

(a) To the extent the department is prohibited from approving the application by the act.

(b) For "Class IV" applications when the department or the lead agency has determined that a detailed environmental statement must be made, the application must be approved, conditioned or disapproved within 60 days, unless the commissioner of public lands promulgates a formal order specifying a later date for completion of the detailed environmental statement and final action on the application. At least 10 days before promulgation of such an order extending the time, the applicant shall be given written notice that the department is requesting such extension; giving the reasons the process cannot be completed within such period; and stating that the applicant may comment in writing to the commissioner of public lands or obtain an informal conference with the department regarding the proposed extension.

(c) When they involve lands (~~platted after January 1, 1960, or lands to be converted~~) described in (c)(i) through (iv) of this subsection, the applicable time limit shall be no less than 14 business days from transmittal to the ~~((county))~~ local governmental entity unless the ~~((county))~~ local governmental entity has waived its right to object or has consented to approval of the application:

(i) Lands platted after January 1, 1960, as provided in chapter 58.17 RCW;

(ii) Lands that have been or are being converted to another use;

(iii) Lands which are not to be reforested because of likelihood of future conversion to urban development (see WAC 222-16-060 and 222-24-050); or

(iv) Forest practices involving timber harvesting or road construction on lands that are contained within urban growth areas, designated pursuant to chapter 36.70A RCW.

(2) **Unless the ~~((county))~~ local governmental entity** has waived its rights under the act or consents to approval, the department shall not approve an application involving lands platted after January 1, 1960, ~~((in the process of being platted or proposed to be))~~ as provided in chapter 58.17 RCW, or lands that have been or are being converted to another use until at least 14 business days from the date of transmittal to the ~~((county))~~ local governmental entity.

(3) **Where a notification** is submitted for operations which the department determines involve Class III or IV forest practices, the department shall issue a stop work order or take other appropriate action. If the operations were otherwise in compliance with the act and forest practices rules, no penalty should be imposed for those operations which occurred prior to the enforcement action: Provided, That no damage to a public resource resulted from such operations, and the operations commenced more than 5 days from receipt by the department of the notification.

(4) **If the department** fails to approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved and the oper-

ation may commence: Provided, That this provision shall not apply where:

(a) The ~~((county))~~ local governmental entity objects and the application involves lands platted after January 1, 1960, as provided in chapter 58.17 RCW, or lands ~~((to be))~~ that have been or are being converted where the county's right of objection is 14 business days which may be longer than the approval time limit.

(b) The department is prohibited from approving the application by the act.

(c) Compliance with the State Environmental Policy Act requires additional time.

(5) **If seasonal field** conditions prevent the department from being able to properly evaluate the application, the department may disapprove the application until field conditions allow for an on-site review.

(6) An application for a multiyear permit must be approved, conditioned or disapproved by the department within 45 days of receiving a complete application.

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

WAC 222-20-040 Approval conditions. (1) **Whenever an approved** application authorizes a forest practice which, because of soil condition, proximity to a water course or other unusual factor, has a potential for causing material damage to a public resource, as determined by the department, the applicant shall, when requested on the approved application, notify the department 2 business days before the commencement of actual operations.

(2) **All approvals are** subject to any conditions stipulated on the approved application and to any subsequent additional requirements set forth in a stop work order or a notice to comply.

(3) **Local ~~((government))~~ governmental entity** conditions.

(a) RCW 76.09.240~~((1))~~(4) allows a local ~~((government))~~ governmental entity to exercise limited land use planning or zoning authority on certain types of forest practices. This subsection is designed to ensure that local ~~((government))~~ governmental entities exercise this authority consistent with chapter 76.09 RCW and the rules in Title 222 WAC. The system provided for in this subsection is optional.

(b) This subsection only applies to Class IV general applications on lands that ~~((will be))~~ have been or are being converted to a use other than commercial timber production or to Class IV general applications on lands which have been platted after January 1, 1960, as provided in chapter 58.17 RCW.

(c) The department shall transmit the applications to the appropriate local ~~((government))~~ governmental entity within two business days from the date the department receives the application.

(d) The department shall condition the application consistent with the request of the local ~~((government))~~ governmental entity if:

(i) The local ~~((government))~~ governmental entity has adopted a clearing and/or grading ordinance that addresses the items listed in (e) of this subsection and requires a permit;

(ii) The local (~~government~~) governmental entity has issued a permit under the ordinance in (i) that contains the requested conditions; and

(iii) The local (~~government~~) governmental entity has entered into an interagency agreement with the department consistent with WAC 222-50-030 addressing enforcement of forest practices.

(e) The local (~~government~~) governmental entity conditions may only cover:

(i) The location and character of open space and/or vegetative buffers;

(ii) The location and design of roads;

(iii) The retention of trees for bank stabilization, erosion prevention, and/or storm water management; or

(iv) The protection of critical areas designated pursuant to chapter 36.70A RCW.

(f) Local (~~government~~) governmental entity conditions shall be filed with the department within twenty-nine days of the filing of the application with the department or within fourteen business days of the transmittal of the application to the local (~~government~~) governmental entity or one day before the department acts on the application, whichever is later.

(g) The department shall incorporate local (~~government~~) governmental entity conditions consistent with this subsection as conditions of the forest practices approval.

(h) Any exercise of local (~~government~~) governmental entity authority consistent with this subsection shall be considered consistent with the forest practices rules in this chapter.

(4) Lead agency mitigation measures.

(a) This subsection is designed to specify procedures for a mitigated DNS process that are consistent with chapters 76.09 and 43.21C RCW and the rules in Title 222 WAC and chapter 197-11 WAC.

(b) This subsection applies to all Class IV applications in which the department is not the lead agency under SEPA. (See WAC 197-11-758.)

(c) The department shall transmit the application to the lead agency within two business days from the date the department receives the application.

(d) The lead agency may specify mitigation measures pursuant to WAC 197-11-350.

(e) The lead agency threshold determination and any mitigation measures must be filed with the department within the later of (i) twenty-nine days of the receipt of the application by the department, (ii) fourteen business days of the transmittal of the application to the lead agency if the lead agency is a local (~~government~~) governmental entity; or (iii) one day before the department acts on the application.

(f) Unless the applicant clarifies or changes the application to include mitigation measures specified by the lead agency, the department must deny the application or require an EIS. (See WAC 197-11-738.)

(g) If the department does not receive a threshold determination from the lead agency by the time it must act on the application, the department shall deny the application.

(5) CRGNSA special management area.

(a) **Policy.** The states of Oregon and Washington have entered into a Compact preauthorized by Congress to imple-

ment the CRGNSA Act, 16 U.S.C. §§ 544, et seq. chapter 43.97 RCW, 16 U.S.C. § 544c. The purposes of the CRGNSA Act are:

(i) To establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and

(ii) To protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with paragraph (1). 16 U.S.C. § 544a.

The forest practices rules addressing forest practices in the CRGNSA special management area recognize the intent of Congress and the states expressed in the CRGNSA Act and Compact and the intent of the Washington state legislature in the Forest Practices Act. These rules are designed to recognize the public interest in sound natural resource protection provided by the Act and the Compact, including the protection to public resources, recreation, and scenic beauty. These rules are designed to achieve a comprehensive system of laws and rules for forest practices in the CRGNSA special management area which avoids unnecessary duplication, provides for interagency input and intergovernmental and tribal coordination and cooperation, considers reasonable land use planning goals contained in the CRGNSA management plan, and fosters cooperation among public resources managers, forest landowners, tribes and the citizens.

(b) The CRGNSA special management area guidelines shall apply to all forest practices within the CRGNSA special management area. Other forest practices rules also apply to these forest practices. To the extent these other rules are inconsistent with the guidelines, the more restrictive requirement controls. To the extent there is an incompatibility between the guidelines and another rule, the guidelines control. Copies of the guidelines can be obtained from the department Southeast and Southwest regional offices and Olympia office, as well as from the Columbia River Gorge commission and the U.S. Forest Service.

(c) The department shall review and consider the U.S. Forest Service review statement and shall consult with the U.S. Forest Service and the Columbia River Gorge commission prior to making any determination on an application or notification within the CRGNSA special management area.

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

WAC 222-20-050 Conversion to nonforest use. (1) If an application to harvest signed by the landowner indicates that within 3 years after completion, the forest land will be converted to a specified active use which is incompatible with timber growing, the reforestation requirements of these rules shall not apply and the information relating to reforestation on the application form need not be supplied. However, if such specified active use is not initiated within 3 years after such harvest is completed, the reforestation requirements (see chapter 222-34 WAC) shall apply and such reforestation shall be completed within 1 additional year.

(2) For Class II, III, and IV special forest practices, if a landowner wishes to maintain the option for conversion to a

PROPOSED

use other than commercial timber operation the landowner may request the appropriate local ((government)) governmental entity to approve a conversion option harvest plan. This plan, if approved by the local ((government)) governmental entity and followed by the landowner, shall release the landowner from the six-year moratorium on future development, but does not create any other rights. The conversion option harvest plan shall be attached to the application or notification as a condition. Violation of the conversion option harvest plan will result in the reinstatement of the local ((government)) governmental entity's right to the six-year moratorium. Reforestation requirements will not be waived in the conversion option harvest plan. Reforestation rules shall apply at the completion of the harvest operation as required in chapter 222-34 WAC. Nothing herein shall preclude the local ((government)) governmental entity from charging a fee to approve such a plan. (See RCW 76.09.060 (3)(b)(i).)

(3) If the application does not state that any land covered by the application will be or is intended to be converted to a specified active use incompatible with commercial timber operations ~~((and except as provided in subsection (2) of this section, the local government entity may, for six years after the date of the application, refuse to accept, process, or approve any or all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of the land subject to the application. (See)), or if harvesting takes place without an application, then the provisions of RCW 76.09.060 (3)(b)(i)((-)))~~ regarding the six-year moratorium apply.

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

WAC 222-20-060 Deviation from prior application or notification. Substantial deviation from a notification or an approved application requires a revised notification or application. Other deviations may be authorized by a supplemental directive, notice to comply or stop work order. The department shall notify the departments of fish and wildlife, and ecology, and affected Indian tribes and the appropriate ~~((county))~~ local governmental entity of any supplemental directive, notice to comply or stop work order involving a deviation from a prior notification or approved application, except where such notice has been waived.

NEW SECTION

WAC *222-20-075 Exotic forest insect or disease outbreaks. Forest practices applications or notifications are not required for forest practices conducted to control exotic forest insect or disease outbreaks, when conducted by or under the direction of the department of agriculture in carrying out an order of the governor or director of the state department of agriculture to implement pest control measures as authorized under chapter 17.24 RCW, and are not required when conducted by or under the direction of the department in carrying out emergency measures under a forest health emergency declaration by the commissioner of public lands as provided in RCW 76.06.130.

(1) For the purposes of this section, exotic forest insect or disease has the same meaning as defined in RCW 76.06.-020.

(2) In order to minimize adverse impacts to public resources, control measures must be based in integrated pest management, as defined in RCW 17.15.010, and must follow forest practices rules relating to road construction and maintenance, timber harvest, and forest chemicals, to the extent possible without compromising control objectives.

(3) Forest lands where trees have been cut as part of an exotic forest insect or disease control effort under this subsection are subject to reforestation requirements under RCW 76.09.070.

(4) The exemption from obtaining approved forest practices applications or notifications does not apply to forest practices conducted after the governor, the director of the department of agriculture, or the commissioner of public lands has declared that an emergency no longer exists because control objectives have been met, that there is no longer an imminent threat, or that there is no longer a good likelihood of control.

(5) Nothing under this section relieves agencies conducting or directing control efforts from requirements of the federal Clean Water Act as administered by the department of ecology under RCW 98.48.260.

AMENDATORY SECTION (Amending WSR 03-06-039, filed 2/26/03, effective 3/29/03)

WAC 222-21-030 Document standards. (1) Riparian easement. The riparian easement document must be substantially in the following form, but may be modified by the small forest landowner office wherever necessary to accomplish the purposes of RCW 76.13.120.

(This version assumes ownership of land and trees)

FORESTRY RIPARIAN EASEMENT

THIS GRANT OF A FORESTRY RIPARIAN EASEMENT is made on this _____ day of _____ 20____, by [a _____ corporation, limited liability company, partnership, limited partnership, limited liability partnership] [husband and wife] [individual][or others as appropriate] having an address at ("Grantor"), to and in favor of the State of Washington, acting by and through the Department of Natural Resources ("Grantee").

PROPOSED

1.0 RECITALS AND PURPOSE

1.1 This Easement is intended to implement the goals of the Forest Practices Salmon Recovery Act, ESHB 2091, sections 501 through 504, chapter 4, Laws of 1999 ("Salmon Recovery Act"). The goals include avoiding the further erosion of the small forest landowners' economic viability and willingness or ability to keep the lands in forestry use which would reduce the amount of habitat available for salmon recovery and conservation of other aquatic resources, through the establishment of a forestry riparian easement program to acquire easements from small forest landowners along riparian and other areas of value to the state for protection of aquatic resources.

1.2 This Easement is intended to protect the Qualifying Timber and riparian functions associated with the qualifying timber located on the Easement Premises as provided by the terms of this Easement as set forth in Exhibit B while preserving all lawful uses of the Easement Premises by Grantor consistent with the Easement objectives, and to provide Grantee with the ability to enforce the terms thereof.

1.3 The Easement Premises and Qualifying Timber are located, as described in Exhibit A; that the encumbrances, if any, are as set forth in Exhibit A, that all Exhibits referenced herein and attachments thereto are incorporated into this Easement as part of this Easement; and that the Grantor wishes to execute this Forestry Riparian Easement.

2.0 CONVEYANCE AND CONSIDERATION

2.1 In consideration of the mutual covenants contained herein, including without limitation the monetary consideration set forth in subsection 2.2 below, the Grantor does hereby voluntarily warrant and convey to the Grantee a Forestry Riparian Easement under the Salmon Recovery Act, which Easement shall remain in full force and effect from the date hereof until it expires on (month, date, year) [50 years from the date the complete and accurate forest practices application is submitted], which Easement shall consist of the rights and restrictions expressly set forth herein.

2.2 In consideration of this Easement, Grantee shall pay to Grantor the sum of _____ dollars (\$_____.00).

IN WITNESS WHEREOF Grantor and Grantee have executed this instrument on the day and year written.

GRANTOR:

Date: _____

By: _____

GRANTEE:

State of Washington

By and Through the Department of
Natural Resources

Date: _____

(Title)

(insert form of acknowledgement, as appropriate)

EXHIBIT A

A1 DESCRIPTION AND LOCATION OF QUALIFYING TIMBER

The Qualifying Timber includes the following categories of trees located within the Easement Premises:

[List the categories relevant to particular Easement, i.e., Permanent, Reserve, Replacement, Uneconomic, or Other Qualifying Timber.] The Qualifying Timber is located as shown in the documentation attached hereto as Attachment A-1.

A2 DESCRIPTION AND LOCATION OF EASEMENT PREMISES

The Easement Premises is [insert description using the standards developed under Section 504(9)(b) of the Salmon Recovery Act including the categories relevant to particular Easement, i.e., Riparian Area and Other Easement Premises] as shown in the documentation attached hereto as Attachment A-2 and is located in [insert legal subdivision/lot, etc., in which the Easement Premises exists.]

A3 BASELINE IDENTIFICATION, DESCRIPTION AND DOCUMENTATION OF PROPERTY, EASEMENT PREMISES AND QUALIFYING TIMBER

The parties agree that the current use, condition of the Easement Premises and the condition of the Qualifying Timber are documented in the inventory of their relevant features and identified in Attachment A-3 ("Baseline Documentation"), and that this documentation provides, collectively, an accurate representation at the time of this grant and is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant.

EXHIBIT B

FORESTRY RIPARIAN EASEMENT TERMS AND CONDITIONS

B1 DEFINITIONS

The terms used in this Easement, including without limitation the following, are defined by the forest practices rules incorporated in Attachment B-1 to this Exhibit.

- "Danger Tree"
- "Easement Premises"
- "Qualifying Timber"
- "Hazard Substances"
- "Riparian Areas"
- "Riparian Function"

B2 RIGHTS OF GRANTEE ******[Subsection B2.4 should be included only for multiple entry Easements.]******

To accomplish the purposes of this Easement, the following rights are conveyed to Grantee by this Easement:

PROPOSED

B2.1 To enforce the terms of this Easement as provided in subsection **B9**.

B2.2 To enter upon the Easement Premises, or to allow Grantee's agents or any experts consulted by Grantee in exercising its rights under this Easement to enter upon the Easement Premises in order to evaluate Grantor's compliance with this Easement, and to otherwise enforce the terms of this Easement.

B2.3 To convey, assign, or otherwise transfer Grantee's interests herein to another agency of the State of Washington, as provided for and limited by Section 504 of the Salmon Recovery Act.

B2.4 Where harvest of Reserve Qualifying Timber is allowed during the term of this Easement, to approve Replacement Qualifying Timber that will be protected by this Easement as provided in subsection **B3.5**.

B3 RESTRICTIONS ON GRANTOR ***[Subsection B3.6 should be included only for multiple entry Easements.]***

B3.1 Inconsistent Uses of Riparian Easement Premises

Any use of, or activity on, the Easement Premises inconsistent with the purposes and terms of this Easement, including without limitation converting to a use incompatible with growing timber, is prohibited, and Grantor acknowledges and agrees that it will not conduct, engage in, or permit any such use or activity.

B3.2 Property Outside the Easement Premises

Grantor may change its use of the property on which the Easement lies to any lawful use. Grantor shall provide Grantee sixty (60) days notice prior to changing the use of the property as a courtesy to Grantee.

B3.3 Qualifying Timber

Grantor shall not engage in any activity which would result in the cutting of Qualifying Timber or the removal of that timber from the Easement Premises, except as provided in this Easement. The parties further agree that use, harvest, and treatment of the Qualifying Timber are restricted according to the forest practices rules in Attachment B-1.

B3.4 Danger Trees and Salvage

Grantor may cut a Danger Tree, which shall be left in place within the Easement Premises or moved by Grantor inside the Easement Premises. Grantor shall notify DNR within seven (7) days that a Danger Tree has been felled. Grantor shall not engage in any activities pertaining to salvage of Qualifying Timber including without limitation blowdown except as provided for in the forest practices rules.

B3.5 Harvest of Reserve Qualifying Timber and Designation of Replacement Qualifying Timber on Riparian Area Easement Premises

Grantor shall not, during the term of this Easement, harvest or remove any Reserve Qualifying Timber except as permitted under the applicable forest practices rules. Grantor shall give Grantee at least thirty (30) days written notice prior to harvest or removal of Reserve Qualifying Timber, except that where a permit or approval is required from any governmental entity, such notice shall be given thirty (30) days before submission of the application for such permit or approval. Grantor shall mark Reserve Qualifying Timber and Replacement Qualifying Timber, where Replacement Qualifying Timber is required, for review by Grantee. Grantor's thirty (30) days written notice to

B3.6 Multiple Entry Easements

Grantor shall not, during the term of this Easement, make multiple entry harvests except as permitted under the applicable forest practices rules. Grantor shall give Grantee at least thirty (30) days written notice prior to harvest or removal of timber, except that where a permit or approval is required from any government entity, such notice shall be given thirty (30) days before submission of the application for such permit or approval. Grantor shall mark timber to be removed for review by Grantee. Grantor's thirty (30) day written notice to Grantee is effective only after the timber to be removed is marked. If Grantee does not object by giving Grantor written notice within thirty (30) days of receipt of Grantor's notice, Grantor may proceed to harvest. If Grantee does object and gives Grantor notice thereof within thirty (30) days of receipt of Grantor's notice, Grantor shall not harvest until the objection is resolved. Grantee is effective only after both Reserve Qualifying Timber and Replacement Qualifying Timber (if required) are marked. If Grantee does not object by giving Grantor written notice within thirty (30) days of receipt of Grantor's notice, Grantor may proceed to harvest and remove the Reserve Qualifying Timber. If Grantee does object and gives Grantor written notice thereof within thirty (30) days of receipt of Grantor's notice, Grantor shall not harvest or remove Reserve Qualifying Timber until the objection is resolved. If Reserve Qualifying Timber is to be removed but Replacement Qualifying Timber is required to be left standing for the balance of the term of this Easement, then Grantor shall mark the Replacement Qualifying Timber and, if approved by Grantee, such Timber shall be considered Qualifying Timber under this Easement. A new Exhibit A shall be prepared along with a supplement to this Easement, executed by Grantor and Grantee, and recorded.

B4 RESERVED RIGHTS

Other than specifically provided herein, Grantor is not restricted in its use of the Easement Premises.

B5 PUBLIC ACCESS

No right of public access to or across, or any public use of, the Easement Premises or the property on which it lies is conveyed by this Easement.

B6 COSTS, LIABILITIES, TAXES, AND INDEMNIFICATION**B6.1 Costs, Legal Requirements, and General Liabilities**

Except as is expressly placed on Grantee herein, Grantor retains full responsibility for the Qualifying Timber and Easement Premises. Grantor shall keep the Qualifying Timber and Easement Premises free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor. Grantor remains responsible for obtaining all permits required by law.

B6.2 Taxes and Obligations

Grantor shall remain responsible for payment of taxes or other assessments imposed on the Easement Premises or the Qualifying Timber. Grantor shall furnish Grantee with satisfactory evidence of payment upon request.

B6.3 Hold Harmless**B6.3.a Grantor**

To the extent permitted by law, Grantor hereby releases and agrees to hold harmless, indemnify, and defend Grantee and its employees, agents, and assigns from and against all liabilities, penalties, costs, charges, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including without limitation reasonable attorneys' fees arising from or in any way connected with: (a) Injury or death of any person or any

physical damage to property resulting from any act or omission, or other matter occurring on or relating to the Easement Premises or Qualifying Timber, caused solely by Grantor; (b) a breach by Grantor of its obligations under subsection B3; (c) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law or requirement by Grantor in any way affecting, involving, or relating to the Easement Premises or the Qualifying Timber; (d) the release or threatened release onto the Easement Premises of any substance now or hereinafter classified by state or federal law as a hazardous substance or material caused solely by Grantor.

B6.3.b Grantee

To the extent permitted by law, Grantee hereby releases and agrees to hold harmless, indemnify and defend Grantor and its employees, agents, and assigns from and against all liabilities, penalties, costs, charges, losses, damages, expenses, causes of action, claims, demands, orders, judgments or administrative actions, including without limitation reasonable attorneys' fees arising from or in any way connected with: (a) Injury or death of any person or any physical damage to property resulting from any act or omission, or other matter occurring on or relating to the Easement Premises or Qualifying Timber, caused solely by Grantee; or (b) the release or threatened release onto the Easement Premises of any substance now or hereinafter classified by state or federal law as a hazardous substance or material caused solely by Grantee.

B7 SUBSEQUENT TRANSFERS

B7.1 Grantee

Grantee may assign, convey, or otherwise transfer its interest as evidenced in this Easement, but only to another agency of the State of Washington under any circumstances in which it determines, in its sole discretion, that such transfer is in the best interests of the state. Grantee shall give written notice to Grantor of the same within thirty (30) days of such conveyance, assignment, or transfer (provided that failure to give such notice shall not affect the validity of the assignment, conveyance, or transfer).

B7.2 Grantor

Grantor may assign, convey, or otherwise transfer without restriction its interest in the Easement Premises or the Qualifying Timber identified in Exhibit A hereto. Grantor agrees to incorporate the restrictions of the Easement in any deed or other legal instrument by which Grantor divests itself of all or a portion of its interests in the Easement Premises or Qualifying Timber. Grantor shall give written notice to the Grantee of the assignment, conveyance, or other transfer of all or a portion of its interest in the Easement Premises or the Qualifying Timber within thirty (30) days of such conveyance, assignment, or transfer (provided that failure to give such notice shall not affect the validity of the assignment, conveyance, or transfer).

B7.3 Termination of Grantor's Rights and Obligations

The Grantor's personal rights and obligations under this Easement terminate upon transfer of the Grantor's interest in the property on which the Easement lies or the Qualifying Timber, except that liability under the Easement for acts or omissions occurring prior to transfer shall survive transfer.

B8 DISPUTE RESOLUTION

The parties may at any time by mutual agreement use any nonbinding alternative dispute resolution mechanism with a qualified third party acceptable to Grantor and Grantee. Grantor and Grantee shall share equally the costs charged by the third party. The existence of a dispute between the parties with respect to this Easement, including without limitation the belief by one party that the other party is in breach of its obligations hereunder, shall not excuse either

party from continuing to fully perform its obligations under this Easement. The dispute resolution provided for in this subsection is optional, not obligatory, and shall not be required as a condition precedent to any remedies for enforcement of this Easement.

B9 ENFORCEMENT

B9.1 Remedies

Either party may bring any action in law or in equity in the superior court for the county in which the Easement Premises are located or in Thurston County (subject to venue change under law) to enforce any provision of this Easement, including without limitation, injunctive relief (permanent, temporary, or ex parte, as appropriate) to prohibit a breach of this Easement, enforce the rights and obligations of this Easement, restore Qualifying Timber cut or removed in violation of this Easement or for damages. Grantee may elect to pursue some or all of the remedies provided herein.

B9.1.a Damages and Restoration

If Grantor cuts or removes (or causes another to cut or remove) Qualifying Timber from the Easement Premises in violation of this Easement, Grantee shall be entitled to damages, or restoration. Damages for the cutting of Qualifying Timber or the removal of Qualifying Timber from the Easement Premises in violation of the terms of this Easement may be up to triple stumpage value times the proportion of the original compensation. The maximum amount of damages shall be calculated according to the following formula:

Where:

Sv = The stumpage value of the Qualifying Timber that is cut or removed from the Easement Premises at the time the damage was done;

C = The compensation paid by the state to the Grantor at the time the Easement became effective;

Vq = The original value of Qualifying Timber at the time the Easement became effective as calculated in WAC 222-21-050.

Maximum Damages = $3 * Sv * (C / Vq)$

In addition the Grantor shall pay interest on the amount of the damages at the maximum interest rate allowable by law.

Grantee's rights to damages under this section shall survive termination. Restoration of Qualifying Timber may include either replanting or replacing trees or both, as determined by Grantee, in its sole discretion, to be appropriate. Replanting shall be by nursery transplant seedlings approved by Grantee with subsequent silvicultural treatment including without limitation weed control and fertilization approved by Grantee. Replacing trees shall be accomplished by designation of replacement trees of the size and species acceptable to Grantee. If replacement trees are designated to replace the Qualifying Timber cut or removed in violation of the terms of this Easement, the designated trees shall be thereafter treated as Qualifying Timber under this Easement.

B9.1.b Injunctive Relief. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement may be inadequate and that Grantee may be entitled to injunctive relief, both prohibitive and mandatory, in addition to other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies.

B9.1.c Relationship to Remedies in Other Laws. The remedies provided for in this section are in addition to whatever other remedies the state may have under other laws including without limitation the Forest Practices Act. Nothing in this Easement shall be construed to enlarge, diminish or otherwise alter the authority of the state to administer state law.

B9.2 Costs of Enforcement

The costs, including reasonable attorneys' fees, of enforcing this Easement shall be borne by Grantee unless Grantee prevails in a judicial action to enforce the terms of this Easement, in which case costs shall be borne by Grantor, provided that nothing herein shall make Grantor liable for costs incurred by Grantee in taking enforcement actions pursuant to other state laws.

B9.3 Forbearance/Waiver

Enforcement of this Easement against the Grantor is at the sole discretion of the Grantee, and vice versa. Any forbearance by either party to exercise its rights hereunder in the event of a breach by the other party shall not be deemed a waiver by the forbearing party of the term being breached or of a subsequent breach of that term or any other term or of any other of the forbearing party's rights under this Easement.

B9.4 Waiver of Certain Defenses

Grantor hereby waives any defense of laches, estoppel, or prescription.

B9.5 Acts Beyond Grantor's Control

Nothing herein shall be construed to entitle Grantee to bring any action or claim against Grantor on account of any change in the condition of the Easement Premises or of the Qualifying Timber that was not within Grantor's control, including without limitation fire, flood, storms, insect and disease outbreaks, earth movement, or acts of trespassers, that Grantor could not reasonably have anticipated and prevented, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Easement Premises or Qualifying Timber resulting from such causes. In the event the terms of this Easement are violated by acts of trespassers that Grantor could not reasonably have anticipated or prevented, Grantor agrees, at Grantee's option, to join in any suit, to assign its right of action to Grantee, or to appoint Grantee its attorney in fact, for the purpose of pursuing enforcement action against the responsible parties.

B10 CONSTRUCTION AND INTERPRETATION

B10.1 Controlling Law

Interpretation and performance of this Easement shall be governed by the laws of the State of Washington.

B10.2 Liberal Construction

Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purposes of this Easement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid. The parties acknowledge that each has had an opportunity to have this Easement reviewed by an attorney and agree that the terms shall not be presumptively construed against either party.

B10.3 Captions

The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

B11 AMENDMENT

This Easement may be jointly amended. The amendments shall be in writing and signed by authorized representatives. Grantee shall record any such amendments in a timely fashion in the official records of ___ County, Washington. All amendments shall be consistent with the purposes of this Easement.

B12 TERMINATION

Grantee may unilaterally terminate this Easement if it determines, in its sole discretion, that termination is in the best interest of the State of Washington. Grantee shall provide thirty (30) days written notice to Grantor of such termination.

B13 EXTINGUISHMENT

If circumstances arise that render the purpose of this Easement impossible to accomplish, this Easement can only be extinguished, in whole or in part, by mutual agreement of the parties or through judicial proceedings brought by one of the parties. Grantee shall be entitled to the value of the Easement as such value is determined pursuant to forest practices rules governing extinguishment or eminent domain, if no rule for extinguishment exists.

B14 CONDEMNATION

If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, or acquired by purchase in lieu of condemnation, Grantee shall be entitled to compensation in accordance with the forest practices rules.

B15 NOTICE

Notices given pursuant or in relation to this Easement shall be in writing and delivered personally or by first class mail (postage prepaid), addressed as follows:

(a) If to Grantor:

(b) If to Grantee:

Washington State Department of Natural Resources
Small Forest Landowner Office
DNR-Forest Practices Division
P.O. Box 47012
Olympia, WA 98504-7012

PROPOSED

If either party's address changes during the term of this Easement, that party shall notify the other party of the change.

Any notice required to be given hereunder is considered as being received: (i) If delivery in person, upon personal receipt by the person to whom it is being given; or (ii) if delivered by first class U.S. mail and properly addressed, three (3) days after deposit into the U.S. mail; or (iii) if sent by U.S. mail registered or certified, upon the date receipt is acknowledged by the recipient.

B16 RECORDATION

Grantee shall record this instrument in timely fashion in the official records of County, Washington and may rerecord it at any time as may be required to preserve its rights in this Easement.

B17 GENERAL PROVISIONS

B17.1 Severability

If any provision in this Easement, or the application hereof to any person or circumstance, is found to be invalid, the remainder of this Easement, or the application hereof to other persons or circumstances shall not be affected thereby and shall remain in full force and effect.

B17.2 Entire Agreement

This instrument sets forth the entire agreement of the parties with respect to the Easement. This instrument supersedes all other and prior discussions, negotiations, understandings, or agreements of the parties. No alteration or variation of this instrument shall be binding unless set forth in an amendment to this instrument consistent with subsection **B11**.

B17.3 Successors and Assigns

The covenants, terms, conditions, and restrictions of this Easement shall be binding upon and inure to the benefit of the Grantor, Grantee, and their respective successors and assigns and shall continue as a servitude running with the property on which the Easement lies for the term of this Easement set forth in subsection **2.1**.

B17.4 No Forfeiture

Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

B17.5 Counterparts

The parties may execute this instrument in two or more counterparts which shall, in the aggregate, be signed by both parties. Each counterpart shall be deemed an original as against the party that has signed it. In the event of any disparity between counterparts produced, the recorded counterpart shall be controlling.

B17.6 References to Statutes and Rules

Except as otherwise specifically provided, any references in this Easement to any statute or rule shall be deemed to be a reference to such statute or rule in existence at the time the action is taken or the event occurs.

PROPOSED

B17.7 Adherence to Applicable Law

Any activity pertaining to or use of the Easement Premises or Qualifying Timber shall be consistent with applicable federal, state, or local law including chapter 76.09 RCW, the Forest Practices Act, chapter 36.70A RCW, the Growth Management Act, chapter 90.58 RCW, the Shoreline Management Act, chapter 75.20 RCW, Construction Projects in State Waters Act ("Hydraulics Code"), the Endangered Species Act (16 U.S.C. Sec. 1531, et seq.), and the Clean Water Act (33 U.S.C. Sec. 1251, et seq.), and rules adopted pursuant to these statutes (including all rules adopted under Section 4(d) of the Endangered Species Act).

(2) **Forestry riparian easement application.** The following items are required for a complete forestry riparian easement application:

(a) A certification by the small forest landowner that he or she meets the qualifications of a small forest landowner;

(b) ~~((The small forest landowners' timber tax identification number and permission to access harvest information at the department of revenue;~~

~~((e)))~~ All forest practices application numbers for the commercially reasonable harvest units and the associated qualifying timber on the property;

~~((f)))~~ ~~(c)~~ The dates and areas of all planned future harvest entries on the easement premises;

~~((g)))~~ ~~(d)~~ A preliminary litigation guarantee or similar report from a title company for the tax parcels that contain the easement premises;

~~((h)))~~ ~~(e)~~ A description of past and current uses of the easement premises;

~~((i)))~~ ~~(f)~~ Any information not specifically listed that the small forest landowner office needs to evaluate the easement and eligibility of the small forest landowner.

(3) **Baseline documentation.** The baseline documentation must describe the features and current uses on the easement premises and the qualifying timber. The information provided by the small forest landowner in subsection (2) of this section is considered part of the baseline documentation. In addition, the department will provide documentation that includes, but is not limited to:

(a) Cruise information consistent with the standards and methods in WAC 222-21-040;

(b) An assessment to determine site condition and potential liabilities associated with the proposed riparian easement (see the board manual section 17 for procedures for conducting assessment); and

(c) A description of the easement consistent with WAC 222-21-035.

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

AMENDATORY SECTION (Amending WSR 94-01-134, filed 12/20/93, effective 1/1/94)

WAC 222-22-010 Policy. *(1) Public resources may be adversely affected by the interaction of two or more forest practices. The purpose of this rule is to address these cumulative effects of forest practices on the public resources of fish, water, and capital improvements of the state or its political subdivisions. The long-term objective of this rule is to protect and restore these public resources and the productive capacity of fish habitat adversely affected by forest practices while

maintaining a viable forest products industry. The board intends that this be accomplished through prescriptions designed to protect and allow the recovery of fish, water, and capital improvements of the state or its political subdivisions, through enforcement against noncompliance of the forest practices rules in this Title 222 WAC, and through voluntary mitigation measures. This system also allows for monitoring, subsequent watershed analysis, and adaptive management.

*(2) Adaptive management in a watershed analysis process requires advances in technology and cooperation among resource managers. The board finds that it is appropriate to promulgate rules to address certain cumulative effects by means of the watershed analysis system, while recognizing the pioneering nature of this system and the need to monitor its success in predicting and preventing adverse change to fish, water, and capital improvements of the state and its political subdivisions.

*(3) Many factors other than forest practices can have a significant effect on the condition of fish, water, and capital improvements of the state or its political subdivisions. Non-forest practice contributions to cumulative effects should be addressed by the appropriate jurisdictional authorities. When a watershed analysis identifies a potential adverse effect on fish, water, and capital improvements of the state or its political subdivisions from activities that are not regulated under chapter 76.09 RCW, the department should notify any governmental agency or Indian tribe having jurisdiction over those activities.

*(4) The rules in this chapter set forth a system for identifying the probability of change and the likelihood of this change adversely affecting specific characteristics of fish, water, and capital improvements of the state or its political subdivisions, and for using forest management prescriptions to avoid or minimize significant adverse effects from forest practices. The rules in this chapter are in addition to, and do not take the place of, the other forest practices rules in this Title 222 WAC.

*(5) These rules are intended to be applied and should be construed in such a manner as to minimize the delay associated with the review of individual forest practices applications and notifications by increasing the predictability of the process and the appropriate management response.

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

WAC 222-22-070 Prescription recommendation. *(1) For each WAU for which a watershed analysis is undertaken, the department, or forest land owner acting under WAC 222-22-040(3), shall assemble a team of field managers qualified

under WAC 222-22-030(1). The team shall include persons qualified in the disciplines indicated as necessary in watershed analysis methods, and shall generally include persons qualified in:

- (a) Forest resource management;
- (b) Forest harvest and road systems engineering;
- (c) Forest hydrology; and
- (d) Fisheries science or management.

Any owner, and any cooperating group of owners, of ten percent or more of the nonfederal forest land acreage in the WAU and any affected Indian tribe shall be entitled to include one qualified individual to participate on the team at its own expense.

* (2) Each forest land owner in a WAU shall have the right to submit to the department or the forest land owner conducting the watershed analysis prescriptions for areas of resource sensitivity on its land. If these prescriptions are received within the time period described in subsection (4) of this section, they shall be considered for inclusion in the watershed analysis.

* (3) For each identified area of resource sensitivity, the field managers' team shall, in consultation with the level 1 and level 2 teams, if any, select and recommend to the department prescriptions. These prescriptions shall be reasonably designed to minimize, or to prevent or avoid, as set forth in table 1 in WAC 222-22-050 (2)(d), the likelihood of adverse change and deliverability that has the potential to cause a material, adverse effect to resource characteristics in accordance with the following:

(a) The prescriptions shall be designed to provide forest land owners and operators with as much flexibility as is reasonably possible while addressing the area of resource sensitivity. The prescriptions should, where appropriate, include, but not be limited to, plans for road abandonment, orphaned roads, and road maintenance and plans for applying prescriptions to recognized land features identified in the WAU as areas of resource sensitivity but not fully mapped;

(b) Restoration opportunities may be included as voluntary prescriptions where appropriate;

(c) Each set of prescriptions shall provide for an option for an alternate plan under WAC 222-12-040, which the applicant shows meets or exceeds the protection provided by the other prescriptions approved for a given area of resource sensitivity; ~~(and)~~

(d) The rules of forest practices and cumulative effects under this chapter shall not require mitigation for activities or events not regulated under chapter 76.09 RCW. Any hazardous condition subject to forest practices identified in a watershed analysis requiring corrective action shall be referred to the department for consideration under RCW 76.09.300 et seq.; and

(e) The forests and fish riparian permanent rules, when effective, supersede all existing watershed analysis riparian prescriptions with the exception of riparian management zones for exempt 20-acre parcels, when watershed analysis prescriptions were in effect before January 1, 1999. (See WAC 222-30-021, 222-30-022, and 222-30-023.) No new riparian prescriptions will be written after completion of the riparian management zone assessment report during a watershed analysis.

* (4) The field managers' team shall submit the recommended prescriptions to the department within 30 days of the submission to the department of the level 2 assessment under WAC 222-22-060 or within 21 days of the submission to the department of the level 1 assessment under WAC 222-22-050.

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

WAC 222-22-090 Use and review of watershed analysis. * (1) Where a watershed analysis has been completed for a WAU under this chapter:

(a) Any landowner within the WAU may apply for a multiyear permit to conduct forest practices according to the watershed analysis prescriptions. This permit is not renewable if a five-year review is found necessary by the department and has not been completed.

(b) Nonmultiyear forest practices applications and notifications submitted to the department shall indicate whether an area of resource sensitivity will be affected and, if so, which prescription the operator, timber owner, or forest land owner shall use in conducting the forest practice in the area of resource sensitivity;

(c) The department shall assist operators, timber owners, and forest land owners in obtaining governmental permits required for the prescription (see WAC 222-50-020 and 222-50-030);

(d) The department shall confirm that the prescription selected under ~~((a))~~ (b) of this subsection was one of the prescriptions approved for the area of resource sensitivity under WAC 222-22-080 and shall require the use of the prescription; and

(e) The department shall not further condition forest practices applications and notifications in an area of resource sensitivity in a WAU where the applicant will use a prescription contained in the watershed analysis nor shall the department further condition forest practices applications and notifications outside an area of resource sensitivity in a WAU, except for reasons other than the watershed processes and fish, water, and capital improvements of the state or its political subdivisions analyzed in the watershed analysis in the WAU, and except to correct mapping errors, misidentification of soils, landforms, vegetation, or stream features, or other similar factual errors.

* (2) Pending completion of a watershed analysis for a WAU, the department shall process forest practices notifications and applications in accordance with the other chapters of this title, except that applications and notifications received for forest practices on a WAU after the date notice is mailed under WAC 222-22-040(4) commencing a watershed analysis on the WAU shall be conditioned to require compliance with interim, draft, and final prescriptions, as available.

Processing and approval of applications and notifications shall not be delayed by reason of review, approval, or appeal of a watershed analysis.

* (3) The board encourages cooperative and voluntary monitoring. Evaluation of resource conditions may be conducted by qualified specialists, analysts, and field managers as determined under WAC 222-22-030. Subsequent water-

shed analysis and management strategies in response to areas where recovery is not occurring shall be conducted in accordance with this chapter.

PROPOSED

(4) Where the condition of resource characteristics in a WAU are fair or poor, the department shall evaluate the effectiveness of the prescriptions applied under this chapter to the WAU in providing for the protection and recovery of the resource characteristic. If the department finds that the prescriptions are not providing for such protection and recovery over a period of 3 years, the department shall repeat the watershed analysis in the WAU. Aside from the foregoing, once a watershed analysis is completed on a WAU, it shall be revised in whole or in part upon the earliest of the following to occur:

(a) Five years after the date the watershed analysis is final, if necessary;

(b) The occurrence of a natural disaster having a material adverse effect on the resource characteristics of the WAU;

(c) Deterioration in the condition of a resource characteristic in the WAU measured over a 12-month period or no improvement in a resource characteristic in fair or poor condition in the WAU measured over a 12-month period unless the department determines, in cooperation with the departments of ecology, fish and wildlife, affected Indian tribes, forest land owners, and the public, that a longer period is reasonably necessary to allow the prescriptions selected to produce improvement; or

(d) The request of an owner of forest land in the WAU, which wishes to conduct a watershed analysis at its own expense.

Revision of an approved watershed analysis shall be conducted in accordance with the processes, methods, and standards set forth in this chapter, except that the revised watershed analysis shall be conducted only on the areas affected in the case of revisions under (b) or (c) of this subsection, and may be conducted on areas smaller than the entire WAU in the case of revisions under (a) and (d) of this subsection. The areas on which the watershed analysis revision is to be conducted shall be determined by the department and clearly delineated on a map before beginning the assessment revision. Forest practices shall be conditioned under the current watershed analysis pending the completion of any revisions.

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

WAC 222-23-020 Submitting and processing of applications for the riparian open space program. (1) Qualifying CMZ land(s). Lands that qualify for the riparian open space program are those lands located within an unconfined avulsing channel migration zone and are, as of the date an application is submitted to the department under this section, identified in records of the applicable county assessor as being classified or designated as forest land under chapter 84.33 RCW or as being subject to current use taxation as forest land under chapter 84.34 RCW. Qualifying CMZ lands may be placed in the riparian open space program whether they represent all or just a portion of the lands within the channel migration zone along a particular stream segment. That is, the lands to be placed in the program may include all

of a landowner's lands located within the channel migration zone up to the boundary between that zone and the RMZ core area, or lands to be included may include only a portion of a landowner's lands within an unconfined avulsing channel migration zone of a given stream segment. Likewise, where more than one landowner owns land within the channel migration zone of a given stream segment, any landowner may elect to participate in the riparian open space program without regard to participation of neighboring landowners.

Land does not qualify for the riparian open space program where the department has determined that:

(a) The lack of legal access to the land is likely to materially impair the department's ability to administer the riparian open space program with respect to the land;

(b) All persons having an interest of any description in the land, including, but not limited to, joint tenancy, tenancy in common, holder of easement, or holder of lien or security interest, have not agreed to convey or subordinate such interests to the state to the extent deemed necessary by the state to transfer the fee or easement free of or superior to any such interest;

(c) The land is subject to unacceptable liabilities as defined in WAC ((~~222-23-20(4)~~ ~~{222-23-020(4)}~~) 222-23-020(4)); or

(d) There is any other circumstance making the land unsuitable for fisheries enhancement or ecological protection.

(2) **Application.** An owner or owners of qualifying CMZ lands may apply to the department to place the lands within the riparian open space program. Applications for the riparian open space program may, at the landowners' option, be submitted at the same time as a forest practices application for adjoining or nearby forestlands, or may be submitted separately (and without reference to or the requirement of a current forest practices application). The application for the riparian open space program shall be in writing on a form provided by the department and shall contain the following information:

(a) Name, address, and telephone number of applicant(s);

(b) Contact name and telephone number for questions concerning the application;

(c) Location and description of the land proposed for inclusion in the program, including estimated acreage, a description of the methods used by the landowner to determine that the land is qualifying CMZ land and a map showing the approximate boundary between the channel migration zone and the adjoining RMZ core area (and in situations where the latter is not applicable, a description of the process the landowner used to determine that the qualifying CMZ land is within an unconfined avulsing stream channel migration zone);

(d) Tax parcel identification number(s) that contain the qualifying CMZ land;

(e) List of all persons having any right or interest in the land covered by the application for the riparian open space program and a description of such right or interest;

(f) The stumpage value area and hauling zone in which the qualifying lands lie (see map at WAC 458-40-640).

(g) A map of the qualifying CMZ land;

(h) A statement indicating the landowner's desire to place the land covered by the application within the riparian open space program and whether the landowner wishes to convey the qualifying land in fee or convey only a conservation easement;

(i) Whether the landowner wishes to receive the statutory compensation for the conveyance or wishes to donate the qualifying CMZ land;

(j) Whether the landowner representative submitting the application is aware of the presence of any hazardous substances on the lands;

(k) Description and documentation of the legal and physical access to the land being acquired;

(l) The type of boundary description proposed by landowner (survey or other description); and

(m) Any other information DNR determines is necessary to assess whether the land qualifies for the riparian open space program.

(3) Review and processing of application. Within ninety days of receipt of a complete and accurate application for the riparian open space program, the department shall preliminarily determine (and advise the applicant) whether lands proposed for the riparian open space program appear to meet the requirements of this chapter and of RCW 76.09.040 (3) and (4), and, if so, whether there is funding available for the purchase. This determination is subject to subsequent confirmation of all information required for the program and eligibility of the land as qualifying for the program. If the preliminary determination is that the land qualifies for the program and if funding is available for the proposed purchase, then the following shall occur within the ninety days following notice to the landowner of the preliminary determination:

(a) The landowner, in cooperation with the department, shall delineate on the ground the boundary line between the CMZ and the RMZ core area; following which,

(b) The department shall verify the appropriateness of that delineation, determine the standards for the boundary description (i.e., a survey or other), make a final determination whether there are any unacceptable liabilities on the lands proposed for inclusion in the program, and communicate the foregoing to the landowner.

If the department determines there are no unacceptable liabilities on the lands, the landowner shall mark the boundary (as verified) using tree tags or other long-term boundary marking methods specified by the department.

(4) Unacceptable liabilities. As used in this section, unacceptable liabilities are created by the presence of hazardous substances on the qualifying CMZ lands or by other condition that creates such a liability to the department that may jeopardize the department's ability to maintain fisheries enhancement or the ecological protection of the qualifying CMZ lands, and with respect to which liability the applicant is unwilling or unable to provide reasonable indemnification to the department. If the department finds unacceptable liabilities with respect to qualifying CMZ lands, the department may reject the landowner's application.

(5) Preparation of conveyance documents. Within ninety days following placement in the field of the long-term boundary between the CMZ and the RMZ core area as provided for in subsection (3) of this section, the following shall occur:

(a) The landowner shall:

(i) Traverse the boundary to determine the acreage of the qualifying lands;

(ii) Either perform a legal land survey or otherwise document the boundaries consistent with the requirements of WAC 222-23-030(3), as applicable; and

(iii) Prepare a map of the qualifying CMZ lands suitable for recording.

(b) The department shall:

(i) Conduct and finalize a cruise of the timber on the qualifying CMZ lands;

(ii) Determine the statutory compensation to be paid to the landowner;

(iii) Prepare conveyance documents consistent with this chapter; and

(iv) Prepare any other documents necessary for closing and recording the conveyance, including without limitation a real estate excise tax affidavit.

(6) **Timber cruise.** The timber cruise will be conducted by the department using a cruiser acceptable to the department and the landowner and using generally accepted cruise methodology and sampling intensity acceptable to both parties. The timber cruise shall measure all trees within the lands to be conveyed that contain measurable log volume and develop all information (species and grade) with respect to those trees necessary to apply the stumpage tables developed by the department of revenue pursuant to RCW 84.33.091; this includes volume by species and grade sufficient to apply the department of revenue stumpage tables in WAC 458-40-640, 458-40-650 and 458-40-660 (1) and (2). The department will provide the cruise data to the landowner; within thirty days thereafter, the landowner shall advise the department whether the cruise results are acceptable. The landowner or the department may, at their option, perform a check cruise.

(7) **Compensation for conveyances.** RCW 76.09.040 (3) specifies the compensation the department shall pay for purchases of qualifying CMZ lands, unless the landowner chooses to donate the property in fee or donate a conservation easement.

(a) **Fee interests.** For conveyances of fee interests, the department shall pay for both the land value and the timber value, as determined in this subsection. The land value component shall be the acreage of qualifying CMZ lands to be conveyed multiplied by the average per acre value of all commercial forest land in Western Washington or the average for Eastern Washington, whichever average is applicable to the qualifying CMZ lands. The department shall determine the Western and Eastern Washington averages based on the land value tables established by RCW 84.33.120 and revised annually by the department of revenue (see WAC 458-40-540). The timber value component of the compensation shall be based on the cruise volume multiplied by the appropriate department of revenue stumpage values from the stumpage value table for the applicable stumpage value area and hauling distance zone. The stumpage value tables to be applied are those found in WAC 458-40-660(2). Except as provided in (c) of this subsection, the tables applied shall be those in effect as of the date the application under this section is submitted to the department by the landowner.

(b) Conservation easements. Conservation easements shall be perpetual and not for a term of years. For conveyances of a conservation easement in which the landowner conveys an interest in the trees only, the compensation shall only include the timber value component, determined as set forth in subsection (7)(a) of this section. For conveyances of a conservation easement in which the landowner conveys interests in both land and trees, the compensation shall include the timber value component plus such portion of the land value component as determined just and equitable by the department.

(c) Adjustment in compensation. Where the department does not complete its duties as required in subsections (3) through (5) of this section within the required time period or the department is unable to complete the acquisition because of a lack of funds or other reason, the landowner has the option to require that the department recompute the compensation based on the most recently published land value and stumpage value tables.

(8) ~~((Alternative))~~ Management options. In any circumstance where qualifying CMZ lands are not acquired by the department in fee or through a conservation easement, the landowner may elect to develop ~~((an alternative))~~ a management option for the lands in cooperation with the department, other agencies and affected Indian tribes.

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

WAC 222-23-025 Priorities for conveyances—Use of lands conveyed. (1) Priorities for conveyances. The legislature recognized, in RCW 77.85.180(4), that the adoption of forest practices rules consistent with the forests and fish report will impose substantial burdens on forest landowners. The purpose of this program, which will be administered by the department, is to compensate landowners and provide for ecological protection and fisheries enhancement. The department shall prioritize applications under this section based on the following criteria (not in priority order): Order of receipt, ecological value (including importance to salmonids, water quality benefits, quality of habitat, site significance, etc.), and immediacy of need. If funding is or becomes unavailable to consummate a conveyance with respect to otherwise qualifying CMZ lands, the application may (at the landowner's option) be kept on file at the department pending the future availability of funding. The department will consult with representatives of affected Indian tribes, department of fish and wildlife, and department of ecology as necessary for technical expertise. The board will include, in its reports to the legislature required in RCW 76.09.380, a review of this program with recommended amendments, as necessary, to accomplish the goals of this program.

(2) Use and management of lands and easement interests acquired under riparian open space program. Subject to the exceptions set forth in this subsection (or as otherwise provided in the conveyance or easement documents), the lands conveyed or subject to the conservation easements under this chapter shall be managed by the department only in a manner necessary for ecological protection or fisheries enhancement. The conveyance of lands under the riparian open space pro-

gram shall not create a right of public access to the conveyed lands across adjoining or other lands owned by the landowner conveying property or an easement under the riparian open space program.

(3) Transfer of fee or easement interest or management responsibility. After acquisition of a fee or easement interest in qualifying CMZ lands, the department may transfer its interest in such lands by a recorded instrument to another state agency, a local government within which the lands lie, or a private nonprofit nature ~~((conservation))~~ conservancy corporation (as defined in RCW 64.04.130). Alternatively, the department may contract with one or more of the foregoing entities to exercise the department's management authority over the qualifying CMZ lands. Any such contract will include provisions fully advising the contracting party of the rights of the landowner under this chapter and the conveyance instrument. The department shall notify the landowner of any transfer of its interest in the qualifying CMZ lands or any transfer of management responsibilities over those lands, provided that failure to so notify the landowner shall not affect the validity of the transfer.

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

WAC 222-24-010 Policy. *(1) A well designed, located, constructed, and maintained system of forest roads is essential to forest management and protection of the public resources. Riparian areas contain some of the more productive conditions for growing timber, are heavily used by wildlife and provide essential habitat for fish and wildlife and essential functions in the protection of water quality. Wetland areas serve several significant functions in addition to timber production: Providing fish and wildlife habitat, protecting water quality, moderating and preserving water quantity. Wetlands may also contain unique or rare ecological systems.

*(2) To protect water quality and riparian habitat, roads must be constructed and maintained in a manner that will prevent potential or actual damage to public resources. This will be accomplished by constructing and maintaining roads so as not to result in the delivery of sediment and surface water to any typed water in amounts, at times or by means, that preclude achieving desired fish habitat and water quality by:

- Providing for fish passage at all life stages (see Washington state department of fish and wildlife hydraulic code Title 220 WAC);

- Preventing mass wasting;

- Limiting delivery of sediment and surface runoff to all typed waters; ~~((and))~~

- Avoiding capture and redirection of surface or ground water. This includes retaining streams in their natural drainages and routing subsurface flow captured by roads and road ditches back onto the forest floor;

- ~~((Divert))~~ **Diverting** most road runoff to the forest floor;

- ~~((Provide))~~ **Providing** for the passage of some woody debris;

- ~~((Protect))~~ **Protecting** stream bank stability;

- Minimizing the construction of new roads; and

• ((Assure)) Assuring that there is no net loss of wetland function.

The road construction and maintenance rules in this chapter must be applied in achieving these goals. Additional guidance is identified in the board manual((7)) section 3. If these goals are not achieved using the rules and the applied guidance, additional management strategies must be employed.

* (3) Extra protection is required during road construction and maintenance to protect public resources and timber growing potential. Landowners and fisheries and wildlife managers are encouraged to cooperate in the development of road management and abandonment plans. Landowners are further encouraged to cooperate in sharing roads to minimize road mileage and avoid duplicative road construction.

* (4) This section covers the location, design, construction, maintenance and abandonment of forest roads, bridges, stream crossings, quarries, borrow pits, and disposal sites used for forest road construction and is intended to assist landowners in proper road planning, construction and maintenance so as to protect public resources.

(Note: Other laws and rules and/or permit requirements may apply. See chapter 222-50 WAC.)

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

WAC *222-24-051 Road maintenance schedule. All forest roads must be covered under an approved road maintenance and abandonment plan within 5 years of the effective date of this rule or by December 31, 2005. This includes all roads that were constructed or used for forest practices after 1974. Inventory and assessment of orphan roads must be included in the road maintenance and abandonment plans as specified in WAC 222-24-052(4).

* (1) Landowners with 500 acres or more of forest land in a DNR region must maintain a schedule of submitting plans to the department that cover 20% of their roads or land base each year.

* (2) Landowners with less than 500 acres of forest land in a DNR region must submit with their first forest practices application or notification a road maintenance and abandonment plan covering the roads that will be used by the application. Within one year of the date of submittal of the first forest practices application or notification or before the end of 2005, whichever comes first, the landowner must submit a road maintenance and abandonment plan for the rest of their ownership in that region. Once the plan is approved, the landowner must attach or reference the approved road maintenance and abandonment plan when submitting subsequent applications.

(3) For those portions of their ownership that fall within a watershed administrative unit covered by an approved watershed analysis plan, chapter 222-22 WAC, landowners may follow the watershed administrative unit-road maintenance plan, providing the roads they own are covered by the plan. A proposal to update the road plan to meet the current road maintenance standards must be submitted to the department for review on or before the next scheduled road maintenance plan review. If annual reviews are not required as part

of the watershed analysis road plan, the plan must be updated by October 1, 2005. All roads in the planning area must be in compliance with the current rules by the end of calendar year 2015. See the board manual section 3 for road maintenance and abandonment plan outline.

* (4) Plans will be submitted by landowners on a priority basis. Road systems or drainages in which improvement, abandonment or maintenance have the highest potential benefit to the public resource are the highest priority. Based upon a "worst first" principle, work on roads that affect the following are presumed to be the highest priority:

(a) Basins containing, or road systems potentially affecting, waters which either contain a listed threatened or endangered fish species under the federal or state law or a water body listed on the current 303(d) water quality impaired list for road related issues.

(b) Basins containing, or road systems potentially affecting, sensitive geology/soils areas with a history of slope failures.

(c) Road systems or basins where other restoration projects are in progress or may be planned coincident to the implementation of the proposed road plan.

(d) Road systems or basins likely to have the highest use in connection with future forest practices.

* (5) Based upon a "worst first" principle, road maintenance and abandonment plans must pay particular attention to:

- (a) Roads that block fish passage;
- (b) Roads that deliver sediment to typed water;
- (c) Roads with evidence of existing or potential instability that could adversely affect public resources;
- (d) Roads or ditchlines that intercept ground water; and
- (e) Roads or ditches that deliver surface water to any typed waters.

* (6) Road maintenance and abandonment plans must include:

(a) Ownership maps showing all forest roads, including orphan roads; planned and potential abandonment, all typed water, Type A and B Wetlands that are adjacent to or crossed by roads, stream adjacent parallel roads and an inventory of the existing condition; and

(b) Detailed description of the first years work with a schedule to complete the entire plan within fifteen years; and

(c) Standard practices for routine road maintenance; and

(d) Storm maintenance strategy that includes prestorm planning, emergency maintenance and post storm recovery; and

(e) Inventory and assessment of the risk to public resources or public safety of orphaned roads; and

(f) The landowner or landowner representative's signature.

* (7) Priorities for road maintenance work within plans are:

(a) Removing blockages to fish passage beginning on roads affecting the most habitat first, generally starting at the bottom of the basin and working upstream;

(b) Preventing or limiting sediment delivery (areas where sediment delivery or mass wasting will most likely affect bull trout habitat will be given the highest priority);

PROPOSED

(c) Correcting drainage or unstable sidecast in areas where mass wasting could deliver to public resources or threaten public safety;

(d) Disconnecting road drainage from typed waters;

(e) Repairing or maintaining stream-adjacent parallel roads with an emphasis on minimizing or eliminating water and sediment delivery;

(f) Improving hydrologic connectivity by minimizing the interruption of surface water drainage, interception of subsurface water, and pirating of water from one basin to another; and

(g) Repair or maintenance work which can be undertaken with the maximum operational efficiency.

*(8) Initial plans for landowners with 500 acres or more of forest land in a DNR region must be submitted to the department during the year 2001 as scheduled by the department.

*(9) Each year on the anniversary date of the plan's submittal, landowners must report work accomplished for the previous year and submit to the department a detailed description of the upcoming year's work including modifications to the existing work schedule.

The department's review and approval will be conducted in consultation with the department of ecology, the department of fish and wildlife, affected tribes and interested parties. The department will:

(a) Review the progress of the plans annually with the landowner to determine if the plan is being implemented as approved; and

(b) The plan will be reviewed by the department and approved or returned to the applicant with concerns that need to be addressed within forty-five days of the plan's submittal.

(c) Additional plans will be signed by the landowner or the landowner's representative.

*(10) The department will facilitate an annual water resource inventory area (WRIA) meeting with landowners, the department of fish and wildlife, the department of ecology, affected tribes, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, affected counties, local U.S. Forest Service, watershed councils, and other interested parties. The purpose of the meeting is to:

(a) Suggest priorities for road maintenance and abandonment planning; and

(b) Exchange information on road maintenance and stream restoration projects.

*(11) A forest practices application with a detailed one to five year work plan associated with a submitted road maintenance and abandonment plan will be treated as a multiyear permit. The application will be reviewed, approved, conditioned and/or disapproved within 45 days of acceptance. The application will be reviewed in consultation with the department of ecology, department of fish and wildlife, affected tribes and interested parties.

*(12) Regardless of the schedule for plan development, roads that are currently used or proposed to be used for timber hauling must be maintained in a condition that prevents potential or actual damage to public resources. If the department determines that log haul on such a road will cause or has the potential to cause material damage to a public resource,

the department may require the applicant to submit a plan to address specific issues or segments on the haul route.

*(13) If a landowner is found to be out of compliance with the work schedule of an approved road maintenance and abandonment plan and the department determines that this work is necessary to prevent potential or actual damage to public resources, then the department will exercise its authority under WAC 222-46-030 (notice to comply) and WAC 222-46-040 (stop work order) to restrict use of the affected road segment.

(a) The landowner may submit a revised maintenance plan for maintenance and abandonment and request permission to use the road for log haul.

(b) The department must approve use of the road if the revised maintenance plan provides protection of the public resource and maintains the overall schedule of maintenance of the road system or basin.

*(14) If a landowner is notified by the department that their road(s) has the potential to damage public resources, the landowner must, within 90 days, submit to the department for review and approval a plan or plans for those drainages or road systems within the area identified by the department.

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

WAC *222-30-020 Harvest unit planning and design.

(1) **Logging system.** The logging system should be appropriate for the terrain, soils, and timber type so that yarding or skidding can be economically accomplished and achieve the ecological goals of WAC 222-30-010 (2), (3) and (4) in compliance with these rules.

*(2) **Landing locations.** Locate landings to prevent damage to public resources. Avoid excessive excavation and filling.

*(3) **Western Washington riparian management zones.** (See WAC 222-30-021 and 222-30-023.)

*(4) **Eastern Washington riparian management zones.** (See WAC 222-30-022 and 222-30-023.)

*(5) **Riparian leave tree areas.** (See WAC 222-30-021, 222-30-022, and 222-30-023.)

*(6) **Forested wetlands.** Within the wetland, unless otherwise approved in writing by the department, harvest methods shall be limited to low impact harvest or cable systems. Where feasible, at least one end of the log shall be suspended during yarding.

(a) When forested wetlands are included within the harvest area, landowners are encouraged to leave a portion (30 to 70%) of the wildlife reserve tree requirement for the harvest area within a wetland. In order to retain undisturbed habitat within forested wetlands, these trees should be left in clumps. Leave tree areas should be clumped adjacent to streams, riparian management zones, or wetland management zones where possible and they exist within forested wetlands. Green recruitment trees should be representative of the size and species found within the wetland. Leave nonmerchantable trees standing where feasible.

(b) If a RMZ or WMZ lies within a forested wetland, the leave tree requirement associated with those areas may be counted toward the percentages in (a) of this subsection.

(c) Where riparian associated wetlands are present in the outer zone of a RMZ, trees may be left in the zone to maximize wetland function. See WAC 222-30-021 *(1)(c)(ii).

(d) If the conditions described in (a) and (b) of this subsection are met, the distribution requirements for wildlife reserve trees and green recruitment trees (subsection (11)(e) of this section) are modified as follows: For purposes of distribution, no point within the harvest unit shall be more than 1000 feet from a wildlife reserve tree and green recruitment tree retention area.

(e) Approximate determination of the boundaries of forested wetlands greater than 3 acres shall be required. Approximate boundaries and areas shall be deemed to be sufficient for harvest operations.

(f) The department shall consult with the department of fish and wildlife and affected Indian tribes about site specific

impacts of forest practices on wetland-sensitive species in forested wetlands.

***(7) Wetland management zones (WMZ).** These zones shall apply to Type A and B Wetlands, as indicated in (a) of this subsection, and shall be measured horizontally from the wetland edge or the point where the nonforested wetland becomes a forested wetland, as determined by the method described in the board manual section 8, and shall be of an average width as described in (a) of this subsection. These zones shall not be less than the minimum nor more than the maximum widths described in (a) of this subsection. When these zones overlap a riparian management zone the requirement which best protects public resources shall apply.

***(a) Wetland management zones (WMZ)** shall have variable widths based on the size of the wetland and the wetland type, described as follows:

Wetland Management Zones

Wetland Type	Acres of Nonforested Wetland*	Maximum WMZ Width	Average WMZ Width	Minimum WMZ Width
A (including bogs)	Greater than 5	200 feet	100 feet	50 feet
A (including bogs)	0.5 to 5	100 feet	50 feet	25 feet
A (bogs only)	0.25 to 0.5	100 feet	50 feet	25 feet
B	Greater than 5	100 feet	50 feet	25 feet
B	0.5 to 5			25 feet
B	0.25 to 0.5	No WMZ required	No WMZ required	

* For bogs, both forested and nonforested acres are included.

(b) Within the WMZ, leave a total of 75 trees per acre of WMZ greater than 6 inches dbh in Western Washington and greater than 4 inches dbh in Eastern Washington, 25 of which shall be greater than 12 inches dbh including 5 trees greater than 20 inches dbh, where they exist. Leave trees shall be representative of the species found within the WMZ.

(c) Retain wildlife reserve trees where feasible. Type 1 and 3 wildlife reserve trees may be counted among, and need not exceed, the trees required in (b) of this subsection. Leave all cull logs on site.

(d) Partial-cutting or removal of groups of trees is acceptable within the WMZ. The maximum width of openings created by harvesting within the WMZ shall not exceed 100 feet as measured parallel to the wetland edge. Openings within WMZs shall be no closer than 200 feet. Landowners are encouraged to concentrate leave trees within the WMZ to the wetland edge.

***(e)** Tractors, wheeled skidders, or other ground based harvesting systems shall not be used within the minimum WMZ width without written approval of the department.

***(f)** When 10% or more of a harvest unit lies within a wetland management zone and either the harvest unit is a clearcut of 30 acres or less or the harvest unit is a partial cut of 80 acres or less, leave not less than 50% of the trees required in (b) of this subsection.

***(8) Type A or B Wetlands.** Within the boundaries of Type A or B Wetlands the following shall apply:

(a) Individual trees or forested wetland areas less than 0.5 acre in size may occur. These trees have a high habitat

value to the nonforested wetland. Leave individual trees or forested wetlands less than 0.5 acre. These trees may be counted toward the WMZ requirements.

(b) Harvest of upland areas or forested wetlands which are surrounded by Type A or B Wetlands must be conducted in accordance with a plan, approved in writing by the department.

(c) No timber shall be felled into or cable yarded across Type A or B Wetlands without written approval of the department.

(d) Harvest shall not be allowed within a Type A Wetland which meets the definition of a bog.

(9) **Future productivity.** Harvesting shall leave the land in a condition conducive to future timber production except:

(a) To the degree required for riparian management zones; or

(b) Where the lands are being converted to another use or classified urban lands as specified in WAC 222-34-050.

(10) **Wildlife habitat.** This subsection is designed to encourage timber harvest practices that would protect wildlife habitats, provided, that such action shall not unreasonably restrict landowners action without compensation.

(a) The applicant should make every reasonable effort to cooperate with the department of fish and wildlife to identify critical habitats (state) as defined by the board. Where these habitats are known to the applicant, they shall be identified in the application or notification.

(b) Harvesting methods and patterns in established big game winter ranges should be designed to (~~insure~~) ensure adequate access routes and escape cover where practical.

(i) Where practical, cutting units should be designed to conform with topographical features.

(ii) Where practical on established big game winter ranges, cutting units should be dispersed over the area to provide cover, access for wildlife, and to increase edge effect.

(11) **Wildlife reserve tree management.** In areas where leaving wildlife reserve trees under this section will not create a significant fire hazard, or significant hazard to overhead power lines and operations that are proposed in the vicinity of wildlife reserve trees will not create a significant safety or residential hazard nor conflict with achieving conformance with the limitation of or performance with the provisions of chapter 76.04 RCW (snag falling law) and chapter 49.17 RCW (safety), wildlife reserve trees will be left to protect habitat for cavity nesting wildlife in accordance with the following:

(a) For the purposes of this subsection the following defines eastern and western Washington boundaries for wildlife reserve tree management. Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to the SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to the SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to the SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest boundary,

Thence south along forest boundary to the SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to the SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington.

(b) In Western Washington, for each acre harvested 3 wildlife reserve trees, 2 green recruitment trees, and 2 down logs shall be left. In Eastern Washington for each acre harvested 2 wildlife reserve trees, 2 green recruitment trees, and 2 down logs shall be left. Type 1 wildlife reserve trees may be counted, at the landowner's option, either as a wildlife reserve tree or as a green recruitment tree. If adequate wildlife reserve trees are not available, no additional green recruitment trees will be required as substitutes. Landowners shall not under any circumstances be required to leave more than 2 green recruitment trees per acre for the purpose of wildlife reserve tree recruitment, or be required to leave Type 3 or 4 wildlife reserve trees.

(c) In Western Washington, only those wildlife reserve trees 10 or more feet in height and 12 or more inches dbh shall be counted toward wildlife reserve tree retention requirements. In Eastern Washington, only those wildlife reserve trees 10 or more feet in height and 10 or more inches dbh shall be counted toward wildlife reserve tree retention requirements. Green recruitment trees, 10 or more inches dbh and 30 or more feet in height and with at least 1/3 of their height in live crown, left standing after harvest may be counted toward green recruitment tree requirements. Green recruitment trees and/or wildlife reserve trees left to meet other requirements of the rules or those left voluntarily by the landowner shall be counted toward satisfying the requirements of this section. Large, live defective trees with broken tops, cavities, and other severe defects are preferred as green recruitment trees. Only down logs with a small end diameter greater than or equal to 12 inches and a length greater than or equal to 20 feet or equivalent volume shall be counted under (a) of this subsection. Large cull logs are preferred as down logs.

(d) In the areas where wildlife reserve trees are left, the largest diameter wildlife reserve trees shall be retained to meet the specific needs of cavity nesters. Where the opportunity exists, larger trees with numerous cavities should be retained and count as recruitment trees.

(e) In order to facilitate safe and efficient harvesting operations, wildlife reserve trees and recruitment trees may be left in clumps. For purposes of distribution, no point within the harvest unit shall be more than 800 feet from a wildlife reserve tree or green recruitment tree retention area. Subject to this distribution requirement, the location of these retention areas and the selection of recruitment trees shall be at the landowner's discretion. Closer spacing of retention areas through voluntary action of the landowner is encouraged. Wildlife reserve tree and green recruitment tree reten-

tion areas may include, but are not limited to, riparian management zones, riparian leave tree areas, other regulatory leave areas, or voluntary leave areas that contain wildlife reserve trees and/or green recruitment trees.

(f) In order to provide for safety, landowners may remove any Type 3 or 4 wildlife reserve tree, which poses a threat to humans working, recreating, or residing within the hazard area of that tree. In order to provide for fire safety, the distribution of wildlife reserve tree retention areas, described in (e) of this subsection, may be modified as necessary based on a wildlife reserve tree management plan proposed by the landowner and approved by the department.

***(12) Channel migration zones.** No harvest, construction or salvage will be permitted within the boundaries of a channel migration zone except for the construction and maintenance of road crossings in accordance with applicable rules and the creation and use of yarding corridors consistent with WAC 222-24-020(6), 222-30-060(1), 222-30-045(2), and chapter 220-110 WAC (Hydraulic code rules).

(13) **Bankfull width.** No harvest or construction will be permitted within the bankfull width of any Type S or F Water or any buffered length of Type Np Water, except for the construction and maintenance of road crossings in accordance with applicable rules and creation and use of yarding corridors consistent with WAC 222-30-020 *(5)(a), 222-24-060(1), and chapter 220-110 WAC (Hydraulic code rules). No salvage may take place within the bankfull width of any typed water (see WAC 222-30-045).

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

WAC *222-30-021 Western Washington riparian management zones. These rules apply to all typed waters on forest land in Western Washington, except as provided in WAC 222-30-023. RMZs are measured horizontally from the outer edge of the bankfull width or channel migration zone, whichever is greater, and extend to the limits as described in this section. See the board manual section 7 for riparian design and layout guidelines.

***(1) Western Washington RMZs for Type S and F Waters** have three zones: The core zone is nearest to the water, the inner zone is the middle zone, and the outer zone is furthest from the water. (See definitions in WAC 222-16-010.) RMZ dimensions vary depending on the site class of the land, the management harvest option, and the bankfull width of the stream. See tables for management options 1 and 2 below.

None of the limitations on harvest in each of the three zones listed below will preclude or limit the construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050, or the creation and use of yarding corridors in WAC 222-30-060(1).

The shade requirements in WAC 222-30-040 must be met regardless of harvest opportunities provided in the inner zone RMZ rules. See the board manual section 1.

(a) **Core zones.** No timber harvest or construction is allowed in the core zone except operations related to forest roads as detailed in subsection (1) of this section. Any trees cut for or damaged by yarding corridors in the core zone must

be left on the site. Any trees cut as a result of road construction to cross a stream may be removed from the site, unless used as part of a large woody debris placement strategy or as needed to reach stand requirements.

(b) **Inner zones.** Forest practices in the inner zone must be conducted in such a way as to meet or exceed stand requirements to achieve the goal in WAC 222-30-010(2). The width of the inner zone is determined by site class, bankfull width, and management option. Timber harvest in this zone must be consistent with the stand requirements in order to reach the desired future condition targets.

"Stand requirement" means a number of trees per acre, the basal area and the proportion of conifer in the combined inner zone and adjacent core zone so that the growth of the trees would meet desired future conditions. The following table defines basal area targets when the stand is 140 years old.

Site Class	Desired future condition target basal area per acre (at 140 years)
I	285 sq. ft.
II	275 sq. ft.
III	258 sq. ft.
IV	224 sq. ft.
V	190 sq. ft.

Growth modeling is necessary to calculate whether a particular stand meets stand requirement and is on a trajectory towards these desired future condition basal area target. The appropriate growth model will be based on stand characteristics and will include at a minimum, the following components: The number of trees by diameter class, the percent of conifer and hardwood, and the age of the stand. See the board manual section 7.

(i) **Hardwood conversion in the inner zone.** When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone, except in connection with hardwood conversion.

(A) The landowner may elect to convert hardwood-dominated stands in the **inner zone** to conifer-dominated stands. Harvesting and replanting shall be in accordance with the following limits:

(I) Conversion activities in the **inner zone** of any harvest unit are only allowed where all of the following are present:

- Existing stands in the combined core and inner zone do not meet stand requirements (WAC 222-30-021 (1)(b));
- There are fewer than 57 conifer trees per acre 8 inches or larger dbh in the conversion area;
- There are fewer than 100 conifer trees per acre larger than 4 inches dbh in the conversion area;
- There is evidence (such as conifer stumps, historical photos, or a conifer understory) that the conversion area can be successfully reforested with conifer and support the development of conifer stands;
- The landowner owns 500 feet ((above)) upstream and ((below)) 500 feet downstream of the harvest unit;
- The core and inner zones contain no stream adjacent parallel roads;
- Riparian areas contiguous to the proposed harvest unit are owned by the landowner proposing to conduct the con-

PROPOSED

version activities, and meet shade requirements of WAC 222-30-040 or have a 75-foot buffer with trees at least 40 feet tall on both sides of the stream for 500 feet ((above)) upstream and ((below)) 500 feet downstream of the proposed harvest unit (or the length of the stream, if less);

• ~~((The landowner has performed post harvest treatment to the satisfaction of the department on previously converted hardwood dominated stands.))~~ If the landowner has previously converted hardwood-dominated stands, then post-harvest treatments must have been performed to the satisfaction of the department.

(II) In addition to the conditions set forth above, permitted conversion activities in the **inner zone** of any harvest unit are limited by the following:

• Each continuous conversion area is not more than 500 feet in length; two conversion areas will be considered "continuous" unless the no-harvest area separating the two conversion areas is at least half the length of the larger of the two conversion areas.

• Type S and F (Type 1, 2, or 3) Water: Up to 50% of the inner zone area of the harvest unit on one side of the stream may be converted provided that:

◆ The landowner owns the opposite side of the stream and the landowner's riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a 75-foot buffer of trees at least 40 feet tall or:

◆ The landowner does not own land on the opposite side of the stream but the riparian area on the opposite bank meets the shade requirements of WAC 222-30-040 or has a 75-foot buffer of trees at least 40 feet tall.

• Not more than 25% of the inner zone of the harvest unit on both sides of a Type S or F Water may be converted if the landowner owns both sides.

(III) Where conversion is allowed in the **inner zone**, trees within the conversion area may be harvested except that:

• Conifer trees larger than 20 inches dbh shall not be harvested;

• Not more than 10% of the conifer stems greater than 8 inches dbh, exclusive of the conifer noted above, within the conversion area may be harvested; and

• The landowner must exercise reasonable care in the conduct of harvest activities to minimize damage to all residual conifer trees within the conversion area including conifer trees less than 8 inches dbh.

(IV) Following harvest in conversion areas, the landowner must:

• Reforest the conversion area with **conifer** tree species suitable to the site in accordance with the requirements of WAC 222-34-010; and

• Conduct post-harvest treatment of the site until the conifer trees necessary to meet acceptable stocking levels in WAC 222-34-010(2) have crowns above the brush or until the conversion area contains a minimum of 150 conifer trees greater than 8 inches dbh per acre.

• Notify the department in writing within three years of the approval of the forest practices application for hardwood conversion, if the hardwood conversion has been completed.

(V) **Tracking hardwood conversion.** The purpose of tracking hardwood conversion is to determine if hardwood conversion is resulting in adequate enhancement of riparian functions toward the desired future condition while minimizing the short term impacts on functions. The department will use existing or updated data bases developed in cooperation with the Washington Hardwoods Commission to identify watershed administrative units (WAUs) with a high percentage of hardwood-dominated riparian areas and, thus have the potential for excessive hardwood conversion under these rules. The department will track the rate of conversion of hardwoods in the riparian zone: (1) Through the application process on an annual basis; and (2) at a WAU scale on a biennial basis as per WAC 222-30-120 through the adaptive management process which will develop thresholds of impact for hardwood conversion at the watershed scale.

(ii) **Harvest options.**

(A) No inner zone management. When the existing stands in the combined core and inner zone do not meet stand requirements, no harvest is permitted in the inner zone. When no harvest is permitted in the inner zone or the landowner chooses not to enter the inner zone, the width of core, inner and outer zones are as provided in the following table:

No inner zone management RMZ widths for Western Washington

Site Class	RMZ width	Core zone width (measured from outer edge of bank-full width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
			I	200'	50'	83'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

PROPOSED

(B) Inner zone management. If trees can be harvested and removed from the inner zone because of surplus basal area consistent with the stand requirement, the harvest and removal of the trees must be undertaken consistent with one of two options:

(I) **Option 1. Thinning from below.** The objective of thinning is to distribute stand requirement trees in such a way as to shorten the time required to meet large wood, fish habitat and water quality needs. This is achieved by increasing the potential for leave trees to grow larger than they otherwise would without thinning. Thinning harvest under option 1 must comply with the following:

- Residual trees left in the combined core and inner zones must meet stand requirements necessary to be on a trajectory

to desired future condition. See board manual section 7 for guidelines.

- Thinning must be from below, meaning the smallest dbh trees are selected for harvest first, then progressing to successively larger diameters.

- Thinning cannot decrease the proportion of conifer in the stand.

- Shade retention to meet the shade rule must be confirmed by the landowner for any harvest inside of 75 feet from the outer edge of bankfull width or outer edge of CMZ, whichever is greater.

- The number of residual conifer trees per acre in the inner zone will equal or exceed 57.

Option 1. Thinning from below.

Site class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width (measured from outer edge of core zone)		Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width >10'	stream width ≤10'	stream width >10'
			I	200'	50'	83'
II	170'	50'	63'	78'	57'	42'
III	140'	50'	43'	55'	47'	35'
IV	110'	50'	23'	33'	37'	27'
V	90'	50'	10'	18'	30'	22'

(II) **Option 2. Leaving trees closest to the water.** Management option 2 applies only to riparian management zones for site class I, II, and III on streams that are less than or equal to 10 feet wide and RMZs in site class I and II for streams greater than 10 feet wide. Harvest must comply with the following:

- Harvest is not permitted within 30 feet of the core zone for streams less than or equal to 10 feet wide and harvest is not permitted within 50 feet of the core zone for streams greater than 10 feet wide;

- Residual leave trees in the combined core and inner zone must meet stand requirements necessary to be on a trajectory to desired future condition. See board manual section 7 for calculating stand requirements;

- A minimum of 20 conifers per acre, with a minimum 12-inch dbh, will be retained in any portion of the inner zone where harvest occurs. These riparian leave trees will not be counted or considered towards meeting applicable stand requirements nor can the number be reduced below 20 for any reason.

- Trees are selected for harvest starting from the outer most portion of the inner zone first then progressively closer to the stream.

- If (II) of this subsection results in surplus basal area per the stand requirement, the landowner may take credit for the surplus by harvesting additional riparian leave trees required to be left in the adjacent outer zone on a basal area-for-basal area basis. The number of leave trees in the outer zone can be reduced only to a minimum of 10 trees per acre.

Option 2. Leaving trees closest to water.

Site class	RMZ width	Core zone width (measured from outer edge of bankfull width or outer edge of CMZ of water)	Inner zone width				Outer zone width (measured from outer edge of inner zone)	
			stream width ≤10'	stream width ≤10'	stream width >10'	stream width >10'	stream width ≤10'	stream width >10'
				minimum floor distance		minimum floor distance		
			(measured from outer edge of core zone)	(measured from outer edge of core zone)	(measured from outer edge of core zone)	(measured from outer edge of core zone)		
I	200'	50'	84'	30'	84'	50'	66'	66'
II	170'	50'	64'	30'	70'	50'	56'	50'
III	140'	50'	44'	30'	**	**	46'	**

** Option 2 for site class III on streams >10' is not permitted because of the minimum floor (100') constraint.

PROPOSED

(iii) Where the basal area components of the stand requirement cannot be met within the sum of the areas in the inner and core zone due to the presence of a stream-adjacent parallel road in the inner or core zone, a determination must be made of the approximate basal area that would have been present in the inner and core zones if the road was not occupying space in the core or inner zone and the shortfall in the basal area component of the stand requirement. See definition of "stream-adjacent parallel road" in WAC 222-16-010.

(A) Trees containing basal area equal to the amount determined in (iii) of this subsection will be left elsewhere in the inner or outer zone, or if the zones contain insufficient riparian leave trees, substitute riparian leave trees will be left within the RMZ width of other Type S or F Waters in the same unit or along Type Np or Ns Waters in the same unit in addition to all other RMZ requirements on those same Type S, F, Np or Ns Waters.

(B) When the stream-adjacent road basal area calculated in (iii) of this subsection results in an excess in basal area (above stand requirement) then the landowner may receive credit for such excess which can be applied on a basal area-by-basal area basis against the landowner's obligation to leave trees in the outer zone of the RMZ of such stream or other waters within the same unit, provided that the number of trees per acre in the outer zone is not reduced to less than 10 trees per acre.

(C) When the basal area requirement cannot be met, as explained in (iii) of this subsection, the shortfall may be reduced through the implementation of an acceptable large woody debris placement plan. See board manual section 26 for guidelines.

(iv) If a harvest operation includes both yarding and harvest activities within the RMZ, all calculations of basal area for stand requirements will be determined as if the yarding corridors were constructed prior to any other harvest activities. If trees cut or damaged by yarding are taken from excess basal area, these trees may be removed from the inner zone. Trees cut or damaged by yarding in a unit which does not meet the basal area target of the stand requirements cannot be removed from the inner zone. Any trees cut or damaged by yarding in the core zone may not be removed.

(c) **Outer zones.** Timber harvest in the outer zone must leave 20 riparian leave trees per acre after harvest. "**Outer zone riparian leave trees**" are trees that must be left after harvest in the outer zone in Western Washington. Riparian leave trees must be left uncut throughout all future harvests:

Outer zone riparian leave tree requirements

Application	Leave tree spacing	Tree species	Minimum dbh required
Outer zone	Dispersed	Conifer	12" dbh or greater
Outer zone	Clumped	Conifer	12" dbh or greater

Application	Leave tree spacing	Tree species	Minimum dbh required
Protection of sensitive features	Clumped	Trees representative of the overstory including both hardwood and conifer	8" dbh or greater

The 20 riparian leave trees to be left can be reduced in number under the circumstances delineated in (c)(iv) of this subsection. The riparian leave trees must be left on the landscape according to one of the following two strategies. A third strategy is available to landowners who agree to a LWD placement plan.

(i) **Dispersal strategy.** Riparian leave trees, which means conifer species with a diameter measured at breast height (dbh) of 12 inches or greater, must be left dispersed approximately evenly throughout the outer zone. If riparian leave trees of 12" dbh or greater are not available, then the next largest conifers must be left. If conifers are not present, riparian leave trees must be left according to the clumping strategy in subsection (ii) below.

(ii) **Clumping strategy.** Riparian leave trees must be left clumped in the following way:

(A) Clump trees in or around one or more of the following sensitive features to the extent available within the outer zone. When clumping around sensitive features, riparian leave trees must be 8 inches dbh or greater and representative of the overstory canopy trees in or around the sensitive feature and may include both hardwood and conifer species. Sensitive features are:

- (I) Seeps and springs;
- (II) Forested wetlands;
- (III) Topographic locations (and orientation) from which leave trees currently on the site will be delivered to the water;
- (IV) Areas where riparian leave trees may provide windthrow protection;
- (V) Small unstable, or potentially unstable, slopes not of sufficient area to be detected by other site evaluations. See WAC 222-16-050 (1)(d).

(VI) Archeological or historical sites registered with the Washington state office of archeology and historic preservation. See WAC 222-16-050 (1)(g); or

(VII) Sites containing evidence of Native American cairns, graves or glyptic records. See WAC 222-16-050 (1)(f).

(B) If sensitive features are not present, then clumps must be well distributed throughout the outer zone and the leave trees must be of conifer species with a dbh of 12 inches or greater. When placing clumps, the applicant will consider operational and biological concerns. Tree counts must be satisfied regardless of the presence of stream-adjacent parallel roads in the outer zone.

(iii) **Large woody debris in-channel placement strategy.** A landowner may design a LWD placement plan in cooperation with the department of fish and wildlife. The plan must be consistent with guidelines in the board manual section 26. The landowner may reduce the number of trees

required to be left in the outer zone to the extent provided in the approved LWD placement plan. Reduction of trees in the outer zone must not go below a minimum of 10 trees per acre. If this strategy is chosen, a complete forest practices application must include a copy of the WDFW approved hydraulics project approval (HPA) permit.

(iv) **Twenty riparian leave trees must be left after harvest** with the exception of the following:

(A) If a landowner agrees to implement a placement strategy, see (iii) of this subsection.

(B) If trees are left in an associated channel migration zone, the landowner may reduce the number of trees required to be left according to the following:

(I) Offsets will be measured on a basal area-for-basal area basis.

(II) Conifer in a CMZ equal to or greater than 6" dbh will offset conifer in the outer zone at a one-to-one ratio.

(III) Hardwood in a CMZ equal to or greater than 10" dbh will offset hardwood in the outer zone at a one-to-one ratio.

(IV) Hardwood in a CMZ equal to or greater than 10" dbh will offset conifer in the outer zone at a three-to-one ratio.

*** (2) Western Washington protection for Type Np and Ns Waters.**

(a) An **equipment limitation zone** is a 30-foot wide zone measured horizontally from the outer edge of the bankfull width of a Type Np or Ns Water where equipment use and other forest practices that are specifically limited by these rules. It applies to all perennial and seasonal streams.

(i) On-site mitigation is required if any of the following activities exposes the soil on more than 10% of the surface area of the zone:

- (A) Ground based equipment;
- (B) Skid trails;
- (C) Stream crossings (other than existing roads); or
- (D) Cabled logs that are partially suspended.

(ii) Mitigation must be designed to replace the equivalent of lost functions especially prevention of sediment delivery. Examples include water bars, grass seeding, mulching, etc.

(iii) Nothing in this subsection (2) reduces or eliminates the department's authority to prevent actual or potential material damage to public resources under WAC 222-46-030 or 222-46-040 or any related authority to condition forest practices notifications or applications.

(b) **Sensitive site and RMZs protection along Type Np Waters.** Forest practices must be conducted to protect Type Np RMZs and sensitive sites as detailed below:

(i) A 50-foot, no-harvest buffer, measured horizontally from the outer edge of bankfull width, will be established along each side of the Type Np Water as follows:

Required no-harvest, 50-foot buffers on Type Np Waters.

Length of Type Np Water from the confluence of Type S or F Water	Length of 50' buffer required on Type Np Water (starting at the confluence of the Type Np and connecting water)
Greater than 1000'	500'
Greater than 300' but less than 1000'	Distance of the greater of 300' or 50% of the entire length of the Type Np Water
Less than or equal to 300'	The entire length of Type Np Water

(ii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a headwall seep.

(iii) No timber harvest is permitted in an area within 50 feet of the outer perimeter of a soil zone perennially saturated from a side-slope seep.

(iv) No timber harvest is permitted within a 56-foot radius buffer patch centered on the point of intersection of two or more Type Np Waters.

(v) No timber harvest is permitted within a 56-foot radius buffer patch centered on a headwater spring or, in the absence of a headwater spring, on a point at the upper most extent of a Type Np Water as defined in WAC 222-16-030(3) and 222-16-031.

(vi) No timber harvest is permitted within an alluvial fan.

(vii) At least 50% of a Type Np Waters' length must be protected by buffers on both sides of the stream (2-sided buffers). Buffered segments must be a minimum of 100 feet in length. If an operating area is located more than 500 feet upstream from the confluence of a Type S or F Water and the Type Np Water is more than 1,000 feet in length, then buffer the Type Np Water according to the following table. If the percentage is not met by protecting sensitive sites listed in (b)(i) through (vii) of this subsection, then additional buffers are required on the Type Np Water to meet the requirements listed in the table.

Minimum percent of length of Type Np Waters to be buffered when more than 500 feet upstream from the confluence of a Type S or F Water

Total length of a Type Np Water upstream from the confluence of a Type S or F Water	Percent of length of Type Np Water that must be protected with a 50 foot no harvest buffer more than 500 feet upstream from the confluence of a Type S or F Water
1000 feet or less	Refer to table in this subsection (i) above
1001 - 1300 feet	19%
1301 - 1600 feet	27%
1601 - 2000 feet	33%
2001 - 2500 feet	38%
2501 - 3500 feet	42%

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Total length of a Type Np Water upstream from the confluence of a Type S or F Water	Percent of length of Type Np Water that must be protected with a 50 foot no harvest buffer more than 500 feet upstream from the confluence of a Type S or F Water
3501 - 5000 feet	44%
Greater than 5000 feet	45%

The landowner must select the necessary priority areas for additional 2-sided buffers according to the following priorities:

- (A) Low gradient areas;
- (B) Perennial water reaches of nonsedimentary rock with gradients greater than 20% in the tailed frog habitat range;
- (C) Hyporheic and ground water influence zones; and
- (D) Areas downstream from other buffered areas.

Except for the construction and maintenance of road crossings and the creation and use of yarding corridors, no timber harvest will be allowed in the designated priority areas. Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a designated priority area buffer.

(c) None of the limitations on harvest in or around Type Np Water RMZs or sensitive sites listed in (b) of this subsection will preclude or limit:

(i) The construction and maintenance of roads for the purpose of crossing streams in WAC 222-24-030 and 222-24-050.

(ii) The creation and use of yarding corridors in WAC 222-30-060(1).

To the extent reasonably practical, the operation will both avoid creating yarding corridors or road crossings through Type Np Water RMZ or sensitive sites and associated buffers, and avoid management activities which would result in soil compaction, the loss of protective vegetation or sedimentation in perennially moist areas.

Where yarding corridors or road crossings through Type Np Water RMZs or sensitive sites and their buffers cannot reasonably be avoided, the buffer area must be expanded to protect the sensitive site by an area equivalent to the disturbed area or by providing comparable functions through other management initiated efforts.

Landowners must leave additional acres equal to the number of acres (including partial acres) occupied by an existing stream-adjacent parallel road within a Type Np Water RMZs or sensitive site buffer.

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

WAC 222-30-022 *Eastern Washington riparian management zones. For eastside forests, riparian management is intended to provide stand conditions that vary over time. It is designed to mimic eastside disturbance regimes within a range that meets functional conditions and maintains general forest health. These desired future conditions are a reference point on the pathway to restoration of riparian functions, not an end point of riparian stand development. These

rules apply to all typed waters on forest land in Eastern Washington, except as provided in WAC 222-30-023. RMZs are measured horizontally from the outer edge of the bankfull width or channel migration zone, whichever is greater, and extend to the limits as described in the following section.

Eastern Washington RMZ for streams with bankfull width of less than or equal to 15 feet wide

Site Class	Total RMZ Width	Core Zone Width From outer edge of bankfull width or outer edge of CMZ, whichever is greater	Inner Zone Width	Outer Zone Width
I	130'	30'	45'	55'
II	110'	30'	45'	35'
III	90'	30'	45'	15'
IV	75'	30'	45'	0'
V	75'	30'	45'	0'

Eastern Washington RMZ for streams with bankfull width of greater than 15 feet wide

Site Class	Total RMZ Width	Core Zone Width From outer edge of bankfull width or outer edge of CMZ, whichever is greater	Inner Zone Width	Outer Zone Width
I	130'	30'	70'	30'
II	110'	30'	70'	10'
III	100'	30'	70'	0'
IV	100'	30'	70'	0'
V	100'	30'	70'	0'

***(1) Eastern Washington RMZs on Type S and F Waters** have three zones: The core zone is nearest to the edge of the bankfull width or outer edge of the CMZ, whichever is greater. The inner zone is the middle zone, and the outer zone is furthest from the water. Permitted forest practices vary by timber habitat type and site class.

None of the limitations on harvest in each of the three zones listed below will preclude or limit the construction and maintenance of roads for the purpose of crossing streams in accordance with WAC 222-24-030 and 222-24-050, or the creation and use of yarding corridors in accordance with WAC 222-30-060(1).

The shade requirements in WAC 222-30-040 must be met regardless of harvest opportunities provided in the inner zone RMZ rules. See the board manual, section 1.

(a) **Core zones.** The core zone extends 30 feet measured horizontally from the edge of the bankfull width or outer edge of the CMZ, whichever is greater, for all timber habitat types. No harvest or construction is allowed in the core zone except as detailed in subsection (1) of this section. Any trees cut for or damaged by yarding corridors must be left on site. Any trees cut as a result of road construction to cross a stream may

be removed from the site unless used as part of a large woody debris replacement strategy.

(b) **Inner zones.** Width and leave tree requirements of the inner zone vary by timber habitat type as outlined below.

(i) **Ponderosa pine timber habitat type.**

(A) The width of the inner zone is 70 feet measured horizontally from the outer edge of the core zone on streams greater than 15 feet bankfull width or 45 feet measured horizontally from the outer edge of the core zone on streams with a bankfull width of 15 feet or less.

(B) No harvest is allowed in the inner zone except as described in (C) or (D) below, and as allowed for stream crossings and yarding corridors as described above in subsection (1).

(C) **Stands with a high basal area:** Harvest is permitted in the inner zone if the basal area in the inner zone is greater than 110 square feet per acre for conifer and hardwood trees equal to or greater than 6 inches dbh. The harvest must leave at least 50 trees per acre AND subject to subclause (III) below, a basal area of at least 60 square feet per acre. The trees to be left shall be selected as follows:

(I) The 21 largest trees per acre must be left; and

(II) An additional 29 trees per acre that are 10-inch dbh or greater must be left. If there are less than 29 10-inch dbh or greater trees per acre, leave the 29 largest trees. If there are more than 29 10-inch dbh or greater trees per acre, leave 29 10-inch dbh or greater trees per acre based on the following priority order:

- Trees that provide shade to water;
- Trees that lean towards the water;
- Trees of the preferred species, as defined in WAC 222-16-010;
- Trees that are evenly distributed across the inner zone.

(III) If more than 50 trees per acre are needed to meet the minimum basal area of 60 square feet per acre, then all trees greater than 6-inch dbh must be left. The minimum basal area to be left in the inner zone will be 60 square feet per acre provided that if the minimum basal area cannot be met with fewer than 100 trees of at least 6 inches dbh, then no more than 100 trees per acre will be required to be left regardless of the basal area.

(D) **Stands with low basal areas and high density:** Thinning is permitted if the basal area of all species is less than 60 square feet per acre AND there are more than 100 trees per acre. The thinning must leave a minimum of 100 trees per acre. The trees to be left must be selected as follows:

(I) The 50 largest trees per acre must be left; and

(II) An additional 50 trees per acre that are greater than 6 inches dbh must be left. If there are not 50 6-inch dbh or greater trees per acre, then all 6-inch dbh or greater trees per acre must be left plus the largest remaining trees to equal 50 trees per acre. Select the additional 50 trees based on the following priority order:

- Trees that provide shade to water;
- Trees that lean towards the water;
- Trees of the preferred species, as defined in WAC 222-16-010;
- Trees that are evenly distributed across the inner zone.

(E) To the extent down wood is available on site prior to harvest, at least twelve tons of down wood per acre must be left following harvest as follows:

(I) Six pieces greater than 16 inches diameter and 20 feet in length; and

(II) Four pieces greater than 6 inches in diameter and 20 feet in length.

(III) Landowner/operator is not required to create down wood.

(F) See **stream-adjacent parallel roads for all timber habitat types** in (iv) of this subsection if there is a stream-adjacent parallel road in this zone.

(ii) **Mixed conifer timber habitat type.**

(A) The width of the inner zone is 70 feet measured horizontally from the outer edge of the core zone on streams greater than 15 feet bankfull width or 45 feet measured horizontally from the outer edge of the core zone on streams with a bankfull width of 15 feet or less.

(B) No harvest is allowed in the inner zone except as described in (C) or (F) below, and as allowed for stream crossings and yarding corridors as described above in subsection (1).

(C) **Stands with a high basal area:** Harvest is permitted in the inner zone if the combined conifer and hardwood basal area for trees greater than 6 inches dbh is:

(I) Greater than 110 square feet per acre on low site indexes (site index less than 90); or

(II) Greater than 130 square feet per acre on medium site indexes (site index between 90 and 110); or

(III) Greater than 150 square feet per acre on high site indexes (site index greater than 110).

(D) The harvest must leave at least 50 trees per acre AND a basal area of at least:

(I) 70 square feet per acre on low site indexes; or

(II) 90 square feet per acre on medium site indexes; or

(III) 110 square feet per acre on high site indexes.

(E) The trees to be left shall be selected as follows:

(I) The 21 largest trees per acre must be left; and

(II) An additional 29 trees per acre that are 10-inch dbh or greater must be left. If there are less than 29 10-inch dbh or greater trees per acre, leave the 29 largest trees. If there are more than 29 10-inch dbh or greater trees per acre, leave 29 10-inch dbh trees per acre based on the following priority order:

- Trees that provide shade to water;
- Trees that lean towards the water;
- Trees of the preferred species, as defined in WAC 222-16-010; or
- Trees that are evenly distributed across the inner zone.

(III) If more than 50 trees per acre are needed to meet the minimum basal area for the site index, then all trees greater than 6 inches dbh must be left. The minimum basal area to be left in the inner zone will be 60 square feet per acre provided, that if the minimum basal area cannot be met with fewer than 100 trees at least 6 inches dbh, then no more than 100 trees per acre will be required to be left regardless of the basal area.

(F) **Stands with low basal areas and high density:** Thinning is permitted if the basal area of all species is less than the minimum requirements for the site index in ((C)) (D) of this subsection AND there are more than 120 trees per

acre. The thinning must leave a minimum of 120 trees per acre. The trees to be left shall be selected as follows:

- (I) The 50 largest trees per acre must be left; and
- (II) An additional 70 trees per acre greater than 6 inches dbh must be left. If there are not 70 6-inch dbh or greater trees per acre, then all 6-inch dbh or greater trees per acre must be left plus the largest remaining trees to equal 70 trees per acre. Select the additional 70 trees based on the following priority order:

- Trees that provide shade to water;
- Trees that lean towards the water;
- Trees of the preferred species, as defined in WAC 222-16-010; or
- Trees that are evenly distributed across the inner zone.

(G) To the extent down wood is available on site prior to harvest, 20 tons of down wood per acre is required to be left following harvest as follows:

- (I) 8 pieces greater than 16 inches diameter and 20 feet in length; and
 - (II) 8 pieces greater than 6 inches in diameter and 20 feet in length.
- (III) Landowner/operator is not required to create down wood.

(H) **See stream-adjacent parallel roads for all timber habitat types** in (iv) of this subsection if there is a parallel road in this zone.

(iii) **High elevation timber habitat type.**

(A) The width of the inner zone is 45 feet measured horizontally from the outer edge of the core zone on streams equal to or less than 15 feet bankfull width or 70 feet measured horizontally from the outer edge of the core zone on streams with a bankfull width of greater than 15 feet.

(B) Follow stand requirements for Western Washington riparian management zones, WAC 222-30-021 (1)(b).

Note: Option 2 is not permitted for eastside use, because of the minimum floor (100') constraint.

(C) To the extent down wood is available prior to harvest, 30 tons per acre of down wood per acre must be left following harvest as follows:

- (I) 8 pieces greater than 16 inches diameter and 20 feet in length; and
 - (II) 8 pieces greater than 6 inches in diameter and 20 feet in length.
- (III) Landowner/operator is not required to create down wood.

(D) **See stream-adjacent parallel roads for all timber habitat types** in (iv) of this subsection if there is a parallel road in this zone.

(iv) **Stream-adjacent parallel roads for all timber habitat types in the inner zone.** The shade rule, WAC 222-30-040, must be met whether or not the inner zone includes a stream-adjacent parallel road. Where a stream-adjacent parallel road exists in the inner zone and the minimum required basal area cannot be met due to the presence of the road, then the location of the road determines the allowable operations as follows:

(A) For streams with a bankfull width that is greater than 15 feet:

(I) If the edge of the road closest to the stream is 75 feet or more from the outer edge of bankfull width of the stream

or outer edge of CMZ, whichever is greater, **no harvest is permitted in the inner zone.** This includes trees within the inner zone on the uphill side of the road.

(II) No harvest is permitted within the inner zone on the streamside of the road. If the edge of the road closest to the stream is less than 75 feet from the outer edge of bankfull width of the stream or outer edge of CMZ, whichever is greater then:

- Additional leave trees equal in total basal area to the trees lost due to the road must be left near the streams in or adjacent to the unit to be harvested; (See the board manual section 7.)

- Where the additional leave trees providing fish habitat for water quality function are determined to be not available or not practical by the department, landowners and operators (~~may alternatively~~) **will** employ site specific management activities to replace lost riparian functions that may include placement of large woody debris in streams. (See the board manual section 7.)

(B) For streams with a bankfull width less than 15 feet:

(I) If the edge of the road closest to the stream is 50 feet or more from the outer edge of bankfull width or outer edge of CMZ, whichever is greater, no harvest is permitted in the inner zone. This includes trees within the inner zone on the uphill side of the road.

(II) No harvest is permitted within the inner zone on the stream side of the road. If the edge of the road closest to the stream is less than 50 feet from the bankfull width or CMZ, whichever is greater then:

- Additional leave trees equal in total basal area to the trees lost due to the road must be left near the streams in or adjacent to the unit to be harvested. (See the board manual section 7.)

- Where the additional leave trees providing fish habitat for water quality function are determined to be not available or not practical by the department, landowners and operators (~~may alternatively~~) **will** employ site specific management activities to replace lost riparian functions that may include placement of large woody debris in streams. (See the board manual section 7.)

(C) **Wildlife reserve trees.** Leave all wildlife reserve trees within the inner zone of the riparian management zone where operations in the vicinity do not violate the safety regulations (chapter 296-54 WAC and chapter 49-17 RCW administered by the department of labor and industries, safety division). Live wildlife reserve trees will contribute to the basal area requirements for inner zone leave trees and to leave tree counts if they are among the 21 largest trees per acre; or meet the requirement of an additional 29 leave trees per acre as per (E) above.

(c) **Outer zones.** This zone has three categories based on timber habitat type: Ponderosa pine, mixed conifer and high elevation. The width of this zone is 0 to 55 feet measured horizontally from the outer edge of the inner zone depending on the site class and stream width. (See WAC 222-16-010 definition of "RMZ outer zone.")

(i) Tree counts that must be left per acre, regardless of the presence of an existing stream-adjacent parallel road in the zone, are:

(A) Ponderosa pine habitat type - 10 dominant or codominant trees.

(B) Mixed conifer habitat type - 15 dominant or codominant trees.

(C) High elevation habitat type - See requirements for Western Washington RMZs in WAC 222-30-021 (1)(c).

(ii) Outer zone leave tree requirements in section (i) above may be reduced to 5 trees per acre in the ponderosa pine zone, 8 trees per acre in the mixed forest habitat type and 10 trees per acre in the high elevation habitat type, if the landowner voluntarily implements a LWD placement plan consistent with board manual section 26. If this strategy is chosen, a complete forest practices application must include a copy of the WDFW-approved hydraulics project approval (HPA) permit.

***(2) Eastern Washington protection along Type Np and Ns Waters.**

(a) An **equipment limitation zone** is a 30-foot wide zone measured horizontally from the outer edge of bankfull width of a Type Np or Ns Water where equipment is limited. It applies to all perennial and seasonal streams.

(i) On-site mitigation is required if any of the following activities exposes the soil more than 10% of the surface area of the zone:

- (A) Ground based equipment;
- (B) Skid trails;
- (C) Stream crossings (other than existing roads); or
- (D) Cabled logs that are partially suspended.

(ii) Mitigation must be designed to replace the equivalent of lost functions, especially prevention of sediment delivery. Examples include water bars, grass seeding, mulching, etc.

(iii) Nothing in this subsection (2) reduces or eliminates the department's authority to prevent actual or potential material damage to public resources under WAC 222-46-030 or 222-46-040 or any related authority to condition forest practices notifications or applications.

(b) Type Np Waters.

Within 50 horizontal feet of the outer edge of bankfull width of the stream, the landowner must identify either a partial cut and/or clearcut strategy for each unit to be harvested:

Once approved by the department, the selected strategy will remain in effect until July 1, 2051. If a landowner transfers title of the harvest unit, the landowner must provide written notice of this continuing obligation to the new owner and send a copy to the department. See WAC 222-20-055.

(i) For partial cuts:

(A) Basal areas requirements are the same as those specified for the timber habitat type in the Eastern Washington RMZ inner zone.

(B) Where a stream-adjacent parallel road exists, the basal area required in (A) of this subsection is required to be left. (See stream-adjacent parallel roads for Type Np Waters in (c) below.)

(C) The trees to be included in the basal area determination and left after harvest must include:

(I) The 10 largest trees per acre;

(II) Up to an additional 40 trees per acre greater than or equal to 10 inches dbh must be left. If all or some of the trees are not at least 10 inches dbh, then the largest of the remain-

ing trees must be left. Select trees based on the following priority order:

- Provide streambank stability;
- Provide shade to water;
- Lean towards the water;
- Preferred species, as defined in WAC 222-16-010; or
- Evenly distributed; and

If the basal area target has not been met with the trees required above, up to an additional 50 trees are required greater than 6 inches in dbh based on the above priority order.

(D) Side slope seeps must be protected with a 50-foot partial cut buffer that meets the basal area and leave tree requirements of (A), (B), and (C) above. The buffer shall be measured from the outer perimeter of the perennially saturated soil zone.

(ii) For clearcuts:

When the clearcut strategy in this subsection is selected, the landowner must simultaneously designate a 2-sided no-harvest 50-foot buffer along the stream reach in the harvest unit that:

(A) Is equal in total length to the clearcut portion of the stream reach in the harvest unit; and

(B) Meets the upper end of basal area requirements for each respective timber habitat type in the Eastern Washington RMZ inner zone. See WAC 222-30-022 (1)(b)(i), (ii) or (iii).

(C) The streamside boundary of all clearcuts must:

(I) Not exceed in total 30% of the length of the stream reach in the harvest unit;

(II) Not exceed 300 continuous feet in length;

(III) Not be located within 500 feet of the intersection of a Type S or F Water; and

(IV) Not occur within 50 feet of the following sensitive sites as defined in WAC 222-16-010:

- The outer perimeter of a soil zone perennially saturated from a headwall seep;
- The outer perimeter of a soil zone perennially saturated from a side-slope seep;
- The center of a headwater spring;
- An alluvial fan;
- The center point of intersection of two or more Type Np Waters.

(c) **Stream-adjacent parallel roads for Type Np Waters.** If a road exists in a Type Np RMZ and the basal area required to be left cannot be met within 50 feet of the outer edge of bankfull width of the stream measured horizontally due to the presence of the road, then the distance of the road to the stream determines the allowable operations as follows:

(i) A road that is within 30 to 49 feet measured horizontally from the outer edge of bankfull width of the stream requires:

(A) A total of 100 feet of riparian management zone measured horizontally (both sides of the stream count towards the total) must be left in a manner to provide maximum functions for nonfish use streams. If harvest is taking place on only one side of the stream, then 50 feet of RMZ width must be left, regardless of presence of a stream-adjacent parallel road. The width of the road is not counted as part of the total width of the RMZ.

PROPOSED

(B) The location of the riparian management zone required in (A) of this subsection shall be based on the following priority order:

(I) Preferred: The area between the stream and the stream side edge of the road.

(II) The area that provides the most shade to the channel.

(III) The area that is most likely to deliver large woody debris to the channel.

(ii) A road that is within less than 30 feet from the outer edge of bankfull width of the stream measured horizontally requires, in addition to (c)(i)(A) and (B) of this subsection, that all trees between the stream and the streamside edge of the road must be left.

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

WAC 222-30-023 Riparian management zones for exempt 20-acre parcels.

Note: Compliance with this section does not ~~((insure))~~ ensure compliance with the federal Endangered Species Act or the Clean Water Act.

On parcels of 20 contiguous acres or less, landowners with total parcel ownership of less than 80 forested acres shall not be required to leave the riparian buffers described in WAC 222-30-021 and 222-30-022. ~~((As required by RCW 76.13-130;))~~ These landowners are ((subject to the permanent riparian management zone rules and)) required to leave the watershed analysis prescriptions in effect as of January 1, 1999, ((plus an additional fifteen percent volume requirement)) or the riparian buffers shown in the chart in subsection (1)(c) of this section where watershed analysis prescriptions are not in effect.

*** (1) Western Washington RMZs for exempt 20-acre parcels.** Riparian management zones are measured horizontally from the outer edge of bankfull width of a Type S or F

~~((Western Washington Riparian Leave Tree Requirements For exempt 20-acre parcels~~

Water Type/Average Width	RMZ Maximum Width	Ratio of Conifer to Deciduous/ Minimum Size Leave-Trees	# Trees/1000 ft. each side	
			Gravel/Cobble <10" Diameter	Boulder/Bedrock
S or F Water 75' & over	115'	representative of stand	58 trees	29 trees
S or F Water under 75'	86'	representative of stand	115 trees	60 trees
F Water 5' & over	58'	2 to 1/12" or next largest available*	86 trees	29 trees
F Water less than 5'	29'	1 to 1/6" or next largest available*	29 trees	29 trees

* "Or next largest available" requires that the next largest trees to those specified in the rule be left standing when those available are smaller than the sizes specified.)

Ponds or lakes which are Type S or F Waters shall have the same leave tree requirements as boulder/bedrock streams.

(d) ~~((Landowners must meet shade rule in effect January 1, 1999, (WAC 222-30-040).))~~ Determination of adequate shade. The temperature prediction method in (d)(ii) and (iii)

Water and extend to the line where vegetation changes from wetland to upland plant community, or the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but must not be less than 29 feet in width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these rules, including those rules relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, trees shall be left for wildlife and fisheries habitat as provided for in the chart below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations. The number, size, species and ratio of leave trees, deciduous to conifer, is specified by the bed material and average width of the water type within the harvest unit. Landowners must meet the shade rule in effect January 1, 1999, as shown in (d) of this subsection. Trees left according to (d) of this subsection may be included in the number of required leave trees in this subsection.

of this subsection shall be used to determine appropriate shade levels for flowing Type S and F Waters to prevent excessive water temperatures which may have detrimental impact on aquatic resources.

PROPOSED

*(i) Temperature prediction method. In addition to the riparian management zone requirements described in (c) of this subsection, leave trees shall be retained within the maximum riparian management zones on flowing Type S and F Waters as provided by the method described in the board manual which includes the following considerations:

- (A) Minimum shade retention requirements; and
- (B) Regional water temperature characteristics; and
- (C) Elevation; and
- (D) Temperature criteria defined for stream classes in chapter 173-201A WAC.

(ii) Leave tree requirements for shade. The method described in (d)(ii) of this subsection shall be used to establish the minimum shade cover based on site-specific characteristics. When site-specific data indicate that preharvest conditions do not meet the minimums established by the method, no additional shade removal from riparian management zones will be allowed.

(iii) Waivers. The department may waive or modify the shade requirements where:

(A) The applicant agrees to a staggered setting program producing equal or greater shade requirements to maintain stream temperature; or

(B) The applicant provides alternative means of stream temperature control satisfactory to the department; or

(C) The temperature method indicates that additional shade will not affect stream temperature.

(e) For wildlife habitat within the riparian management zone, leave an average of 5 undisturbed and uncut wildlife trees per acre at the ratio of 1 deciduous tree to 1 conifer tree equal in size to the largest existing trees of those species within the zone. Where the 1 to 1 ratio is not possible, then substitute either species present. Forty percent or more of the leave trees shall be live and undamaged on completion of harvest. Wildlife trees shall be left in clumps whenever possible.

(f) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type S or F Waters or a wetland management zone and the harvest unit is a clearcutting of 20 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection.

Western Washington Riparian Leave Tree Requirements
For exempt 20-acre parcels

<u>Water Type/Average Bankfull Width</u>	<u>RMZ Maximum Width</u>	<u>Ratio of Conifer to Deciduous/Minimum Size Leave Trees</u>	<u># Trees/1000 ft. each side</u>	
			<u>Gravel/Cobble <10" Diameter</u>	<u>Boulder/Bedrock</u>
<u>S or F Water greater than or equal to 75'</u>	<u>115'</u>	<u>representative of stand</u>	<u>58 trees</u>	<u>29 trees</u>
<u>S Water less than 75' and F Water greater than or equal to 10' and less than 75'</u>	<u>86'</u>	<u>representative of stand</u>	<u>115 trees</u>	<u>60 trees</u>
<u>F Water greater than or equal to 5' and less than 10'</u>	<u>58'</u>	<u>2 to 1/12" or next largest available*</u>	<u>86 trees</u>	<u>29 trees</u>
<u>F Water less than 5'</u>	<u>29'</u>	<u>1 to 1/6" or next largest available*</u>	<u>29 trees</u>	<u>29 trees</u>

* "Or next largest available" requires that the next largest trees to those specified in the rule be left standing when those available are smaller than the size specified.

***(2) Eastern Washington riparian management zones for exempt 20-acre parcels.** These zones shall be measured horizontally from the outer edge of bankfull width of Type S or F Waters and extend to the line where vegetation changes from wetland to upland plant community, or to the line required to leave sufficient shade as required by WAC 222-30-040, whichever is greater, but shall not be less than the minimum width nor more than the maximum widths described in (c) of this subsection, provided that the riparian management zone width shall be expanded as necessary to include wetlands or ponds adjacent to the stream. When the riparian management zone overlaps a Type A or B Wetland or a wetland management zone, the requirement which best protects public resources shall apply.

(a) Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these rules, including those rules

relating to stream bank integrity and shade requirements to maintain stream temperature. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(b) When requested in writing by the applicant, the department shall assist in preparation of an alternate plan for the riparian management zone.

(c) Within the riparian management zone, trees shall be left for wildlife and fisheries habitat as provided for below. Fifty percent or more of the trees shall be live and undamaged on completion of the harvest. The leave trees shall be randomly distributed where feasible; some clumping is allowed to accommodate operational considerations.

(i) The width of the riparian management zone shall be based on the adjacent harvest type as defined in WAC 222-

PROPOSED

16-010 "Partial cutting." When the adjacent unit harvest type is:

Partial cutting - The riparian management zone width shall be a minimum of 35 feet to a maximum of 58 feet on each side of the stream.

Other harvest types - The riparian management zone shall average 58 feet in width on each side of the stream with a minimum width of 35 feet and a maximum of 345 feet on each side of the stream.

(ii) Leave tree requirements within the riparian management zones of Type S or F Waters:

(A) Leave all trees 12 inches or less in diameter breast height (dbh); and

(B) Leave all wildlife reserve trees within the riparian management zone where operations in the vicinity do not violate the state safety regulations (chapter 296-54 WAC and chapter 49.17 RCW administered by department of labor and industries, safety division); and

(C) Leave 18 live conifer trees per acre between 12 inches dbh and 20 inches dbh distributed by size, as representative of the stand; and

(D) Leave 4 live conifer trees per acre 20 inches dbh or larger and the 2 largest live deciduous trees per acre 16 inches dbh or larger. Where these deciduous trees do not exist, and where 2 wildlife reserve trees per acre 20 inches or larger do not exist, substitute 2 live conifer trees per acre 20 inches dbh or larger. If live conifer trees of 20 inches dbh or larger do not exist within the riparian management zone, then substitute the 5 largest live conifer trees per acre; and

(E) Leave 3 live deciduous trees per acre between 12 inches and 16 inches dbh where they exist.

(iii) Minimum leave tree requirements per acre for Type S or F Waters. Trees left for (c)(ii) of this subsection shall be included in the minimum counts.

(A) On streams with a boulder/bedrock bed, the minimum leave tree requirements shall be 75 trees per acre 4 inches dbh or larger.

(B) On streams with a gravel/cobble (less than 10 inches diameter) bed, the minimum leave tree requirement shall be 155 trees per acre 4 inches dbh or larger.

(C) On lakes or ponds, the minimum leave tree requirement shall be 86 trees per acre 4 inches dbh or larger.

Note: See the board manual for guidelines for calculating trees per acre and average RMZ widths.

(d) When 10 percent or more of the harvest unit lies within any combination of a riparian management zone of Type S or F Waters or a wetland management zone and the harvest unit is 20 acres or less, leave not less than 50 percent of the trees required in (c) of this subsection. (See WAC 222-16-010 "Partial cutting.")

***(3) Riparian leave tree areas for exempt 20-acre parcels.** The department will require trees to be left along Type Np Waters where such practices are necessary to protect public resources. Where such practices are necessary, leave at least 29 conifer or deciduous trees, 6 inches in diameter or larger, on each side of every 1000 feet of stream length within 29 feet of the stream. The leave trees may be arranged to accommodate the operation.

(4) For the purposes of this section RMZ means: A specified area alongside Type S and F Waters where specific mea-

asures are taken to protect water quality and fish and wildlife habitat.

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

WAC 222-30-025 Even-aged harvest—Size and timing. Except as provided in WAC 222-30-110, unit size and timing of timber harvesting by even-aged harvest methods is subject to the following requirements:

(1) Timber harvest which would result in an area larger than one hundred twenty acres and smaller than or equal to two hundred forty acres harvested by even-aged harvest methods on land owned or controlled by one landowner shall be reviewed by an interdisciplinary team, if the department determines that review is necessary. The area harvested by even-aged harvest methods, for the purposes of this subsection, shall be determined in accordance with subsection (3) of this section.

(2) Timber harvest which would result in an area larger than two hundred forty acres harvested by even-aged harvest methods on land owned or controlled by one landowner shall be prohibited. The area harvested by even-aged harvest method for the purposes of this subsection shall be determined in accordance with subsection (3) of this section.

(3) In calculating areas harvested by even-aged harvest methods, the area harvested by even-aged harvest methods shall include the acreage of that harvest unit and, all contiguous acreage harvested by even-aged harvest methods which is owned or controlled by the same landowner, except that acreage harvested by even-aged harvest methods sharing 10% or less of the common perimeter with the harvest unit under consideration shall not be considered contiguous for the purposes of this section.

(4) Harvest units shall be designed so that each harvest unit meets at least one of the following criteria:

(a) At least thirty percent of the unit's perimeter is in stands of trees that are thirty years of age or older;

(b) At least sixty percent of the unit's perimeter is in stands of trees that are fifteen years of age or older; or

(c) At least ninety percent of the unit's perimeter is in stands of trees that have survived on site a minimum of five growing seasons or, if not, have reached an average height of four feet.

Evaluation of unit perimeters is subject to the conditions specified in subsection (6) of this section.

(5) The requirements of subsections (2), (3), and (4) of this section shall apply only to timber harvest by even-aged harvest methods and shall not apply to timber harvest to salvage timber damaged by wind, disease, insects, fire, or other natural causes or to forest practices involving the clearing of land of brush or understocked hardwoods to convert to managed hardwoods or conifers.

(6) In evaluating the perimeters of harvest units pursuant to subsection (4) of this section, the following conditions shall apply:

(a) The following shall be treated as fully stocked, mature stands that will not be counted as contiguous acreage harvested by even-aged methods for the purposes of subsections (1) and (2) of this section and which will be counted as

thirty-year-old stands for the purposes of subsection (4) of this section:

(i) In Western Washington, a wetland management zone that is twice the width required by WAC 222-30-021 and 222-30-023(1) along Type S or F Waters;

(ii) In Eastern Washington, wetland management zone that is the width required by WAC 222-30-022 and 222-30-023(2);

(iii) Designated upland management areas;

(iv) Lands in a shoreline of statewide significance where harvest is limited under RCW 90.58.150;

(v) The portions of a perimeter consisting of land in uses other than forest land, such as land in agricultural or residential use and natural openings, and land not owned or controlled by the landowner who has proposed the harvest unit subject to the application under consideration;

* (vi) Along Type S and F Waters, a continuous buffer meeting the requirements of WAC 222-30-021 and 222-30-022;

* (vii) Along Type Np Waters, a continuous 50-foot wide no-harvest, no-salvage buffer.

(b) A stand of trees other than those described in (a) of this subsection shall be treated as a certain age class only if the stand is at least three hundred feet wide;

(c) Timber harvest units subject to an approved application or a notification for timber harvesting shall be treated as if the timber harvesting operation proposed in the application or notification were completed and regeneration not yet established.

~~((7) This section shall not apply to notifications or applications approved before July 1, 1992, or to one renewal of those applications, and shall not apply to timber that the landowner or operator demonstrated to the department is subject to a cutting right created by written contract before July 1, 1992, which cutting right would expire before all the timber subject to it could reasonably be harvested.))~~

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

WAC 222-30-050 Felling and bucking. *(1) ~~((Felling))~~ **Felling along water.**

(a) No trees will be felled into Type S and F Waters RMZ core zones, sensitive sites, or Type A or B Wetlands except trees which cannot practically and safely be felled outside these areas using techniques in general use.

Such felling and removing in Type S or F Waters shall comply with the hydraulic project approval of the department of fish and wildlife.

(b) Within RMZ inner and outer zones, and wetland management zones, ~~((fall))~~ **fell** trees favorable to the lead consistent with safety standards to yard or skid away from the waters. The use of directional ~~((falling))~~ **felling**, lining, jacking and staged ~~((falling))~~ **felling** techniques are required.

(c) Trees may be felled into Type Np Water if logs are removed as soon thereafter as practical. See forest practices board manual section 4 guidelines for clearing slash and debris from Type Np and Ns Water.

* (2) **Bucking or limbing along water.**

No bucking or limbing shall be done on trees or portions thereof lying within the bankfull width of Type S, F or Np Waters, in the RMZ core zones, in sensitive sites, or in open water areas of Type A Wetlands. Such bucking or limbing in Type S or F Waters shall comply with the hydraulic project approval of the department of fish and wildlife.

* (3) ~~((Felling))~~ **Felling near riparian management zones, wetland management zones and setting boundaries.** Reasonable care shall be taken to avoid felling trees into riparian management zones, wetland management zones and areas outside the harvest unit.

(4) ~~((Felling))~~ **Felling in selective and partial cuts.** Reasonable care shall be taken to ~~((fall))~~ **fell** trees in directions that minimize damage to residual trees.

(5) **Disturbance avoidance for northern spotted owls.** Felling and bucking within a SOSEA boundary shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and August 31 provided that, this restriction shall not apply if:

(a) The landowner demonstrates that the owls are not actively nesting during the current nesting season; or

(b) The forest practice is operating in compliance with a plan or agreement developed for the protection of the northern spotted owl under WAC 222-16-080 (6)(a), (e), or (f).

(6) **Disturbance avoidance for marbled murrelets.** Felling and bucking shall not be allowed within 0.25 mile of an occupied marbled murrelet site during the daily peak activity periods within the critical nesting season, provided that, this restriction shall not apply if the forest practice is operating in compliance with a plan or agreement developed for the protection of the marbled murrelet under WAC 222-16-080 (6)(a) or (c).

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

WAC 222-30-110 Timber harvesting on islands. On an island:

(1) A landowner shall not harvest by clearcut so that more than forty contiguous acres of that landowner's forest land are in a clearcut condition;

(2) Forest land harvested by clearcut remains in the clearcut condition until it has reached canopy closure or it has been reforested for at least ten years;

(3) Clearcut harvest units are contiguous unless separated by a buffer at least two hundred feet wide that has reached canopy closure, has been reforested for at least ten years, or is in a land use other than timber production.

(4) Within two hundred feet of the bankfull width of salt-water timber harvest shall be by selective harvest only, so that no more than thirty percent of the merchantable trees are harvested in any ten-year period: Provided, That other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions, or silvicultural practices necessary for regeneration render selective harvest ecologically detrimental: Provided further, That harvest by clearcut on lands being converted to another use may be approved.

(5) The requirements of this section shall not apply to timber harvest or salvage timber damaged by wind, disease, insects, fire, or other natural causes.

~~((6) This section shall not apply to notifications or applications approved before July 1, 1992, or to one renewal of those applications, and shall not apply to timber that the landowner or operator demonstrated to the department is subject to a cutting right created by written contract before July 1, 1992, which cutting right would expire before all the timber subject to it could reasonably be harvested.))~~

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-34-010 Required reforestation—West of Cascades Summit. (1) Reforestation - where required.

(a) Unless the harvest application indicates that the land will be converted to another use, or the lands are identified in WAC 222-34-050 as having a likelihood of conversion to urban uses, reforestation is required for forest lands harvested after January 1, 1975 in the following instances:

- (i) Clearcutting; or
- (ii) Partial cutting where 50 percent or more of the timber volume is removed within any 5-year period, unless the department determines that the live trees remaining will reasonably utilize the timber growing capacity of the soils.
- (b) Reforestation is not required where:
 - (i) Individual dead, dying, down or windthrown trees are salvaged; or
 - (ii) A tree or trees not constituting a merchantable stand are removed from lands in actual use for other purposes; for example, removal of individual trees from lands used for farming or grazing; or
 - (iii) Trees are removed under a thinning program reasonably expected to maximize the long-term production of commercial timber; or
 - (iv) ~~((A))~~ An average minimum of 190 vigorous, undamaged, well-distributed seedlings per acre of a commercial tree species are established on the area harvested and not more than 20 percent of the harvested area has ~~((from 150 to 190))~~ less than 150 seedlings per acre; or

(v) A minimum of 100 vigorous, undamaged, well-distributed saplings or merchantable trees per acre of a commercial species or combinations thereof, remain on the area harvested.

~~((Acceptable stocking. Stocking levels are acceptable if a minimum of 190 well-distributed.))~~ **Reforestation standards. A harvested area is reforested when the area contains an average of 190 or more** vigorous, undamaged seedlings per acre of a commercial tree species ~~((or such lesser number as the department determines))~~ **that survived on the site for at least 1 growing season. Up to 20 percent of the harvested area may contain a minimum of 150 seedlings per acre. No portion of the harvested area with timber growing capacity may contain less than 150 seedlings per acre. The department may determine that less than an average of 190 seedlings per acre is acceptable if fewer seedlings will reasonably utilize the timber growing capacity of the site((, have survived on the site at least 1 growing season. "Well-distributed" means that not more than 20 percent of the harvested area**

~~contains less than a minimum of 150 seedlings per acre as determined by the department)).~~

(3) **Competing vegetation.** Competing vegetation shall be controlled to the extent necessary to allow establishment, survival, and growth by commercial species.

(4) **Artificial regeneration standards.**

(a) **Satisfactory reforestation - clearcuts.** Satisfactory reforestation of a clearcut harvest occurs if within 3 years of completion of harvest, or a period of from 1 to 10 years as determined by the department in the case of a natural regeneration plan, the site is restocked to at least the acceptable stocking levels described in subsection (2) of this section: Provided, That regeneration failures from causes beyond the applicant's control will not result in violation of this section, but supplemental planting or reforestation may be required except in riparian management zones (see WAC 222-34-030(4)).

The department may grant an extension of time for planting or seeding if suitable seedlings or seeds are unavailable, or if weather conditions or other circumstances beyond the forest land owner's control require delay in planting or seeding.

(i) **Reforestation species.** Where the species proposed for reforestation after timber harvesting differs from the removed stand, the department may approve use of the proposed species where the reforestation plan reveals that the proposed species is preferable from any of the following standpoints:

- (A) Site data indicates better potential production for the proposed species than the existing species.
- (B) Control of forest insects or diseases.
- (C) Greater economic return.

(ii) **Seedling or seeding standards.** Except as approved by the department to qualify as acceptable reforestation, the seedlings or seeds must be from an appropriate seed source zone. The department shall establish seed zones and guidelines for their use.

(b) **Satisfactory reforestation - partial cuts.** Where reforestation is required in connection with a partial cut, the harvest application shall include a plan for stocking improvement. The plan shall be approved unless the department determines that it will not reasonably utilize the timber growing capacity of the site.

(5) **Natural regeneration standards.** A natural regeneration plan may be approved as acceptable reforestation if:

(a) A seed source of well formed trees of commercial tree species, capable of seed production is available.

(b) The owner of the seed source agrees in writing not to harvest the seed source for the time period specified in the plan, or until issuance of a satisfactory reforestation inspection report.

(c) The seed source must consist of:

(i) Seed blocks of sizes and locations shown on the plan and satisfactory to the department; or

(ii) An average of at least 8 individually marked, well-distributed, undamaged, vigorous, windfirm seed trees per acre of plantable area and no inadequately stocked area is more than 400 feet from the nearest seed tree; and

(iii) Competing vegetation shall be controlled to the extent necessary to allow establishment, survival, and growth by commercial species.

(6) **Any alternate plan** for natural reforestation may be approved if it provides a practical method of achieving acceptable stocking levels as described in subsection (2) of this section within a period of 1 to 10 years.

AMENDATORY SECTION (Amending Order 535, filed 11/16/87, effective 1/1/88)

WAC 222-34-020 Required reforestation—East of Cascades Summit. (1) Reforestation - where required.

(a) Unless the harvest application indicates that the land will be converted to another use, or the lands are identified in WAC 222-34-050 as having a likelihood of conversion to urban use, reforestation is required for forest lands harvested after January 1, 1975 in the following instances:

(i) Clearcutting; or

(ii) Partial cutting where 50 percent or more of the timber volume is removed within any 5-year period, unless the department determines that the live trees remaining will reasonably utilize the timber growing capacity of the soils.

(b) Reforestation is not required where:

(i) Individual dead, dying, down or windthrown trees are salvaged; or

(ii) A tree or trees not constituting a merchantable stand are removed from lands in actual use for other purposes, for example, removal of individual trees from lands used exclusively for farming or cultivated pasture; or

(iii) Trees are removed under a thinning program reasonably expected to maximize the long-term production of commercial timber; or

(iv) ((A)) An average minimum of 150 vigorous, undamaged, well-distributed seedlings per acre of a commercial tree species are established on the area harvested and not more than 20 percent of the harvested area has ((from 120 to 150)) less than 120 seedlings per acre; or

(v) A minimum of 100 vigorous, undamaged, well-distributed advanced regeneration, saplings or merchantable trees per acre of a commercial tree species or combinations thereof, remain on the area harvested.

(2) ~~((Acceptable stocking. Stocking levels are acceptable if a minimum of 150 well-distributed,))~~ **Reforestation standards. A harvest area is reforested when the area contains an average of 150 or more vigorous, undamaged seedlings per acre of a commercial tree species ((or such lesser number as the department determines)) that survived on the site for at least 1 growing season. Up to 20 percent of the harvested area may contain a minimum of 120 seedlings per acre. No portion of the harvested area with timber growing capacity may contain less than 120 seedlings per acre. The department may determine that less than an average of 150 seedlings per acre is acceptable if fewer seedlings will reasonably utilize the timber growing capacity of the site ((have survived on the site at least 1 growing season. "Well-distributed" means that not more than 20 percent of the harvested area contains less than a minimum of 120 trees per acre as determined by the department)).**

(3) **Competing vegetation.** Competing vegetation shall be controlled to the extent necessary to allow establishment survival and growth by commercial species.

(4) **Artificial regeneration standards.**

(a) **Satisfactory reforestation - clearcuts.** Satisfactory reforestation of a clearcut harvest occurs if within 3 years of completion of harvest or a period of from 1 to 10 years as determined by the department in the case of a natural regeneration plan, the site is restocked to at least the acceptable stocking levels described in subsection (2) of this section: Provided, That regeneration failures from causes beyond the applicant's control will not result in a violation of this section, but supplemental planting may be required except in riparian management zones (see WAC 222-34-030(4)).

The department may grant an extension of time for planting or seeding if suitable seedlings or seeds are unavailable, or if weather conditions or other circumstances beyond the forest landowner's control require delay in planting or seeding.

(i) **Reforestation species.** Where the species proposed for reforestation after timber harvesting differs from the removed stand, the department may approve use of the proposed species where the reforestation plan reveals that the proposed species is preferable from any of the following standpoints:

(A) Site data indicates better potential production for the proposed species than the existing species.

(B) Control of forest insects or diseases.

(C) Greater economic return.

(ii) **Seedling and seed standards.** Except as approved by the department to qualify as acceptable reforestation, the seedlings and seed must be from an appropriate seed source zone. The department shall establish seed zones and guidelines for their use.

(b) **Satisfactory reforestation - partial cuts.** Partial cuts not meeting the specifications of subsection (1)(b)(iv) or (v) of this section shall have a seed source as required in subsection (5)(c)(ii) of this section.

(5) **Natural regeneration standards.** A natural regeneration plan may be approved by the department as acceptable reforestation if:

(a) A seed source of well-formed, vigorous trees of commercial tree species capable of seed production is available.

(b) The owner of the seed source agrees in writing not to harvest the seed source for the time period specified in the plan or until issuance of a satisfactory reforestation inspection report.

(c) The seed source consists of one of the following, or combinations thereof:

(i) Seed blocks which total a minimum of 5 percent of the area of each 40 acre subdivision or portion thereof harvested: Provided, That the seed block should be reasonably windfirm, at least 1/2 acre in size, and reserved in locations shown on the plan and approved by the department; or

(ii) A minimum of 4 undamaged seed trees per acre, well distributed over each 40 acre subdivision or portion thereof harvested: Provided, That the distance from seed trees of harvested areas that are not adequately stocked should not be more than 200 feet. Seed trees shall be of commercial tree species, vigorous and of seed-bearing age and size.

(6) **Any alternate plan** for natural reforestation may be approved if it provides a practical method of achieving acceptable stocking levels as described in subsection (2) of this section within a period of 1 to 10 years.

PROPOSED

WSR 05-06-103
PROPOSED RULES
WASHINGTON STATE
SCHOOL FOR THE DEAF

[Filed March 2, 2005, 9:51 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Time and place of board meetings.

Hearing Location(s): Washington State School for the Deaf, Administrative Conference Room, 611 Grand Boulevard, Vancouver, WA 98661, on April 21, 2005, at 9:00 a.m.

Date of Intended Adoption: April 21, 2005.

Submit Written Comments to: Todd Reeves, 611 Grand Boulevard, Vancouver, WA 98661, e-mail Judy.Smith@wsd.wa.gov, fax (360) 696-6291, by April 20, 2005.

Assistance for Persons with Disabilities: Contact Judy Smith by April 14, 2005, V/TTY (360) 696-6525 or (360) 696-6525.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To allow board of trustees to set regular monthly meeting schedule annually.

Reasons Supporting Proposal: The revision allows the board to change its regular meeting dates on an annual basis without a rule change. Exact meeting dates continue to be available in the Washington State Register or by contacting the superintendent's office.

Statutory Authority for Adoption: RCW 72.42.031.

Statute Being Implemented: RCW 72.42.031.

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

Name of Proponent: Todd Reeves, Superintendent and Board Secretary, governmental.

Name of Agency Personnel Responsible for Drafting: Bonnie Terada, AAG, 1220 Main Street, Suite 510, Vancouver, WA 98660, (360) 759-2100; Implementation and Enforcement: Todd Reeves, 611 Grand Boulevard, Vancouver, WA 98661, (360) 696-6525.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable under RCW 19.85.025(3).

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

March 1, 2005
Todd S. Reeves
Superintendent

AMENDATORY SECTION [Amending WSR 02-22-059, filed 11/1/02]

WAC 148-100-010 Time and place of board meetings. The board of trustees (~~(shall hold regular meetings on the first Wednesday of)~~) customarily holds a regular meeting

each month pursuant to a schedule established yearly by the board and such special meetings as may be requested by the chair of the board or by a majority of the members of the board and announced in accordance with RCW 42.30.080. A regular meeting may be canceled by action of the board or the board chair.

Meetings of the board shall be at the Washington School for the Deaf, 611 Grand Blvd., Vancouver, Washington 98661, or at such other location as the board may determine.

All regular and special meetings are open to the general public; however, the chair may call an executive session when permitted by law at which members of the general public shall not be present unless invited.

No official business may be conducted by the board of trustees except during a regular or special meeting. No individual member of the board may act on behalf of the board unless specifically instructed by action of the board.

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

WSR 05-06-106
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed March 2, 2005, 10:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-02-092.

Title of Rule and Other Identifying Information: WAC 232-28-351 2003-2005 Deer general seasons and special permits.

Hearing Location(s): Best Western Hallmark Inn, 3000 Marina Drive, Moses Lake, WA 98837, (509) 765-9211, on April 8-9, 2005, at 8:00 a.m.

Date of Intended Adoption: April 8, 2005.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2612, by Friday, March 25, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by April 4, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Deer general seasons are set on a three-year basis and permit seasons are adjusted annually. Both general and permit seasons can be adjusted annually in response to deer population changes and damage complaints. Maintain general deer hunting season opportunities for 2005. Adjust special deer permits for 2005 in response to deer population changes and damage complaints. Provides for recreational harvest of deer. Helps reduce agricultural damage and provides for population control of deer where needed.

Reasons Supporting Proposal: Provides recreational, deer hunting opportunity and protects deer from overharvest. Addresses deer damage problems.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Washington Fish and Wildlife Commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; and Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

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

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

Evan Jacoby
Rules Coordinator

AMENDATORY SECTION (Amending Order 04-98, filed 5/12/04, effective 6/12/04)

WAC 232-28-351 2003-2005 Deer general seasons and special permits.

Bag Limit: One (1) deer per hunter during the license year except where otherwise permitted by Fish and Wildlife Commission rule.

Hunting Method: Hunters must select one of the hunting methods (modern firearm, archery, muzzleloader).

Any Buck Deer Seasons: Open only to the taking of deer with visible antlers (buck fawns illegal).

Branched Antler Restrictions: APPLIES TO ALL HUNTERS DURING ANY GENERAL SEASON! Buck deer taken in these GMUs must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Antler points include eye guards but all antler points must be at least one inch long. The following GMUs have 2 or 3 point minimum requirements on buck deer taken.

2 Point minimum GMUs: 437, 558, 574, 578, 588, 636, 654, and 681.

3 Point minimum GMUs: All mule deer in 100, 200, and 300 series GMUs; whitetail deer in GMUs 127, 130, 133, 136, 139, 142, 145, 149, 154, 162, 163, 166, 169, 172, 175, 178, 181, and 186.

Permit Only Units: The following GMUs are closed during general seasons: 290 (Desert), 329 (Quilomene), 371 (Alkali), and 485 (Green River).

Private Lands Wildlife Management Areas (PLWMAs): Buckrun (PLWMA 201), Kapowsin (PLWMA 401), and Merrill and Ring (PLWMA 600) are closed to hunting, except by permit and/or written permission from the landowner.

GMUs Closed to Deer Hunting: 157 (Mill Creek Watershed), 490 (Cedar River), and 522 (Loo-wit).

Blacktail Deer: Any member of blacktail/mule deer (species *Odocoileus hemionus*) found west of a line drawn from the Canadian border south on the Pacific Crest Trail and along the Yakama Indian Reservation boundary in Yakima County to Klickitat County and in Klickitat County west of Highway 97.

Mule Deer: Any member of blacktail/mule deer (species *Odocoileus hemionus*) found east of a line drawn from the Canadian border south on the Pacific Crest Trail and along the Yakama Indian Reservation boundary in Yakima County to Klickitat County and in Klickitat County east of Highway 97.

Whitetail Deer: Means any whitetail deer (member of the species *Odocoileus virginianus*) except the Columbian whitetail deer (species *Odocoileus virginianus leucurus*).

MODERN FIREARM DEER SEASONS

License Required: A valid big game hunting license, which includes a deer species option.

Tag Required: Valid modern firearm deer tag on his/her person for the area hunted.

Hunting Method: Modern firearm deer tag hunters may use rifle, handgun, shotgun, bow or muzzleloader, but only during modern firearm seasons.

Hunt Season	2003 Dates	2004 Dates	2005 Dates	Game Management Units (GMUs)	Legal Deer
HIGH BUCK HUNTS					
	Sept. 15-25	Sept. 15-25	Sept. 15-25	Alpine Lakes, Glacier Peak, Pasayten and Olympic Peninsula Wilderness Areas and Lake Chelan Recreation Area and that part of the Henry Jackson Wilderness Area west of the Pacific Crest Trail	3 pt. min.
GENERAL SEASON HUNTS					
Western Washington Blacktail Deer	Oct. 11-31	Oct. 16-31	Oct. 15-31	407, 418, 426, 448 through 466, 501 through 520, 524 through 556, 560, 568, 572, 601 through 633, 638 through 673, 684	Any buck
				410, 564	Any deer
				437, 558, 574, 578, 588, 636, 654, 681	2 pt. min.
Eastern Washington Whitetail Deer	Oct. 11-24	Oct. 16-29	Oct. 15-28	101 through 124	Any whitetail buck
				203 through 247, and 249 through 251	Any whitetail buck

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Hunt Season	2003 Dates	2004 Dates	2005 Dates	Game Management Units (GMUs)	Legal Deer
				248, 254 through 381 except closed in GMUs 290, 329, 371	Any whitetail buck
				Deer Area 3081	Any white-tailed deer
Eastern Washington Mule Deer	Oct. 11-19	Oct. 16-24	Oct. 15-23	All 100 and 300 series GMUs, 248, and 254 through 284, except closed in GMUs 157, 329, and 371	3 pt. min.
	Oct. 11-24	Oct. 16-29	Oct. 15-28	Deer Area 3081	Any mule deer
				203 through 247 and 249 through 251	Mule deer, 3 pt. min.
LATE BUCK HUNTS					
Western Washington Blacktail Deer	Nov. 13-16	Nov. 18-21	Nov. 17-20	((All 400,)) 407, 410, 454, 466, and 500, and 600 series GMUs except closed in GMUs ((418, 426, 437, 448, 450, 460,)) 522, 574, 578, and 588	Any buck except 2 pt. min. in GMUs 558, 636, 654, 681 and any deer in GMUs 410 and 564
Eastern Washington Whitetail Deer	Nov. 3-19	Nov. 8-19	Nov. 7-19	105 through 124	Any whitetail buck
				127-142	Whitetail, 3 pt. min.
YOUTH & DISABLED HUNTERS					
Eastern Washington Whitetail Deer	Oct. 25-Nov. 2	Oct. 30-Nov. 7	Oct. 29-Nov. 6	105 through 124	Whitetail, antlerless only
HUNTERS 65 AND OVER, DISABLED, OR YOUTH SEASONS					
Eastern Washington Whitetail Deer	Oct. 11-24	Oct. 16-29	Oct. 15-28	101 through 124	Any whitetail deer
	Oct. 11-19	Oct. 16-24	Oct. 15-23	127 through 142, 145 through 154, 162, 163, and 172 through 181	Whitetail, 3 pt. min. or antlerless
Eastern Washington Mule Deer	Oct. 11-19	Oct. 16-24	Oct. 15-23	142	Mule deer, 3 pt. min. or antlerless
ADVANCED HUNTER EDUCATION (AHE) MASTER HUNTER SEASON					
Eastern Washington Whitetail Deer	Dec. 9-15	Dec. 9-15	Dec. 9-15	GMUs 130-142	Whitetail, antlerless only
Eastern Washington Mule Deer	Dec. 9-15	Dec. 9-15	Dec. 9-15	GMU 142	Mule deer, antlerless only

ARCHERY DEER SEASONS

License Required: A valid big game hunting license, which includes a deer species option.

Tag Required: Valid archery deer tag on his/her person for the area hunted.

Special Notes: Archery tag holders can only hunt during archery seasons with archery equipment (WAC 232-12-054).

Hunt Area	2003 Dates	2004 Dates	2005 Dates	Game Management Units (GMUs)	Legal Deer
Early Archery Deer Seasons					
Western Washington Blacktail Deer	Sept. 1-30	Sept. 1-30	Sept. 1-30	407 through 426, 448 through 466, 501 through 520, 524 through 556, 560, 564, 568, 572, 601 through 633, 638 through 653, 658 through 673, 684 and 699	Any Deer, except buck only in GMUs 460, 503, 506, 530, 550, 568, 673
				437, 558, 574, 578, 588, 636, 654, 681	2 pt. min. or antlerless
				Alpine Lakes, Glacier Peak, and Olympic Peninsula Wilderness areas	3 pt. min. or antlerless
Eastern Washington Mule Deer	Sept. 1-30	Sept. 1-30	Sept. 1-30	105 through 127, 243 ((through)), 244, 246, 247, 249, 250, 260, 262	3 pt. min.
				142 through 154, and 162 through 186, 245, 251, 328, 334 through 340, 346 through 368, 372	3 pt. min. or antlerless
				381	Any mule deer
	Sept. 1-15	Sept. 1-15	Sept. 1-15	101, 130 through 139, 204 through 242, 248, 254, 266, 269, 272, 278, 284, ((328, 334 through 340, 346 through 368,)) 382	3 pt. min.

PROPOSED

Hunt Area	2003 Dates	2004 Dates	2005 Dates	Game Management Units (GMUs)	Legal Deer
	Sept. 16-30	Sept. 16-30	Sept. 16-30	101, 130 through 139, 204 through 242, 248, 254, 266, 269, 272, 278, 284, 328, 334 through 340, 346 through 368, 382	3 pt. min. or antlerless
Eastern Washington Whitetail Deer	Sept. 1-30	Sept. 1-30	Sept. 1-30	101 through 124, 204 through 284, 381	Any whitetail deer
				127 through 154, 162 through 186	Whitetail, 3 pt. min. or antlerless
Late Archery Deer Seasons					
Western Washington Blacktail Deer	Nov. 19 - Dec. 8	Nov. 24 - Dec. 8	Nov. 23 - Dec. 8	437, 588, 654	2 pt. min. or antlerless
	Nov. 19 - Dec. 15	Nov. 24 - Dec. 15	Nov. 23 - Dec. 15	636, 681	2 pt. min. or antlerless
				558	2 pt. min.
				460, 466, 506 through 520, 524, 530, 556, 560, 572, 601, 607 through 618, 638, 648, and 699	Any deer, except buck only in GMUs 460, 506, 530
Nov. 19 - Dec. 31	Nov. 24 - Dec. 31	Nov. 23 - Dec. 31	407, 410, 454, 505, 603, 624, 627, 642, 652, 660 through 672	Any deer	
Eastern Washington Mule Deer	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	209, 215, 233, 243, 250	3 pt. min.
				145, 163, 178	((3-pt. min. or antlerless)) <u>Antlerless only</u>
				272, 278, 346, 352, 364, 368	3 pt. min. or antlerless
Eastern Washington Whitetail Deer	Nov. 10 - Dec. 15	Nov. 10 - Dec. 15	Nov. 10 - Dec. 15	101	Any whitetail deer
	Nov. 20 - Dec. 15	Nov. 20 - Dec. 15	Nov. 20 - Dec. 15	105, 117, 121, 124	Any whitetail deer
				127	3 pt. min. or antlerless whitetail
	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	145, 163, 178	3 pt. min. or antlerless whitetail
			204, 209, 215, 233, 243, 250, 272, 278	Any whitetail deer	

MUZZLELOADER DEER SEASONS

License Required: A valid big game hunting license, which includes a deer species option.

Tag Required: Valid muzzleloader deer tag on his/her person for the area hunted.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during muzzleloader seasons and must hunt with muzzleloader equipment.

Hunt Area	2003 Dates	2004 Dates	2005 Dates	Game Management Units (GMUs)	Legal Deer
High Buck Hunts	Sept. 15-25	Sept. 15-25	Sept. 15-25	Alpine Lakes, Glacier Peak, Pasayten and Olympic Peninsula Wilderness areas, Lake Chelan Recreation Area and that part of the Henry Jackson Wilderness Area west of the Pacific Crest Trail	3 pt. min.
Early Muzzleloader Deer Seasons					
Western Washington Blacktail Deer	Oct. 4-10	Oct. 2-8	Oct. 1-7	407, 418, 426, 448, 450, 501, 504, 505, 513, 520, 530, 554, 568, 603, 612, 624, 627, 638, 642, 660, 663, 672, 673, 684	Any buck
				410, 454, 564, 652, 666	Any deer
				437, 578	2 pt. min.
Eastern Washington Whitetail Deer	Oct. 4-10	Oct. 2-8	Oct. 1-7	204, 209, 233, 239, 242, 243, 244, 245, 246, 250, 251, 278, 284	Whitetail, any buck
				133, 142, 145, 149, 181, 381	Whitetail, 3 pt. min. or antlerless
				101, 108, 111, 117, 121, 124	Whitetail, any deer
				<u>Deer Areas 1030 & 1040</u>	<u>Whitetail, antlerless only</u>
Eastern Washington Mule Deer	Oct. 4-10	Oct. 2-8	Oct. 1-7	101, 108, 111, 117, 121, 124, 133, 204, 209, 233, 239, 242, 243, 244, 245, 246, 250, 251, 278, 284, 328, 330 through 342, 352 through 360, 368, 382	Mule deer, 3 pt. min.
				142, 145, 149, 181, 381	Mule deer, 3 pt. min. or antlerless
				<u>Deer Areas 1030, 1040</u>	<u>Whitetail, antlerless only</u>
Late Muzzleloader Deer Seasons					

PROPOSED

Hunt Area	2003 Dates	2004 Dates	2005 Dates	Game Management Units (GMUs)	Legal Deer
Western Washington Blacktail Deer	Nov. 19 - Dec. 15	Nov. 24 - Dec. 15	Nov. 23 - Dec. 15	410, 501, 504, 564, 633, 651, 666, 673, 684, and Deer Area 4926	Any deer
				654	2 pt. min.
	407, 460, 550, 602	Any buck			
Eastern Washington Whitetail Deer	Nov. 19 - Dec. 8	Nov. 24 - Dec. 8	Nov. 23 - Dec. 8	578	2 pt. min.
	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	113 130, 139, 172, 181	Whitetail, any deer Whitetail, 3 pt. min. or antlerless
Eastern Washington Mule Deer	Nov. 20-30	Nov. 20-30	Nov. 20-30	381, 382	3 pt. min.
	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	130, Deer Area 3081	3 pt. min. or antlerless

FIREARM RESTRICTED DEER HUNTS OPEN TO ALL DEER HUNTERS

License Required: Hunting license.

Tag Required: Valid modern firearm, archery or muzzleloader deer tag on his/her person for the area hunted.

Hunting Method: Must use weapon in compliance with tag. Firearm restrictions apply in some GMUs. In firearm restriction areas, modern firearm hunters may hunt with a muzzleloader equipped with a scope.

Firearm Restricted Hunts Open To All Deer Hunters					
Hunting license and deer tag required. Must use hunting method in compliance with tag. Check firearm restrictions. Archery, shotgun, muzzleloader or revolver type handgun only. Hunter orange required.					
Hunt Area	2003 Dates	2004 Dates	2005 Dates	Game Management Units (GMUs)	Legal Deer
Western Washington Blacktail Deer	Oct. 11-31	Oct. 16-31	Oct. 15-31	410, Vashon and Maury Islands	Any deer
	Nov. 19 - Dec. 31	Nov. 24 - Dec. 13	Nov. 23 - Dec. 31	564	Any deer

SPECIAL DEER PERMIT HUNTING SEASONS

(Open to Permit Holders Only)

Hunters must purchase a deer hunting license prior to purchase of a permit application.

Hunt Name	(2004) 2005 Permit Season	Special Restrictions	Boundary Description	(2004) 2005 Permits
Modern Firearm Deer Permit Hunts (Only modern firearm deer tag holders may apply.)				
Hunters may hunt only with weapon in compliance with tag.				
Sherman	Oct. ((16-29)) 15-28	Whitetail, antlerless	GMU 101	((100)) 75
Kelly Hill	Oct. ((16-29)) 15-28 & Nov. ((8-19)) 7-19	Whitetail, antlerless	GMU 105	((50)) 25
Douglas	Oct. ((16-29)) 15-28 & Nov. ((8-19)) 7-19	Whitetail, antlerless	GMU 108	300
Aladdin	Oct. ((16-29)) 15-28 & Nov. ((8-19)) 7-19	Whitetail, antlerless	GMU 111	75
Selkirk	Oct. ((16-29)) 15-28 & Nov. ((8-19)) 7-19	Whitetail, antlerless	GMU 113	50
49 Degrees North	Oct. ((16-29)) 15-28 & Nov. ((8-19)) 7-19	Whitetail, antlerless	GMU 117	250
Huckleberry A	Oct. ((16-29)) 15-28 & Nov. ((8-19)) 7-19	Whitetail, antlerless	GMU 121	600
Mt. Spokane A	Oct. ((16-29)) 15-28 & Nov. ((8-19)) 7-19	Whitetail, antlerless	GMU 124	400
Mica Peak A	Oct. ((16-24)) 15-23	Whitetail, antlerless	GMU 127	200
Cheney A	Oct. ((16-24)) 15-23	Antlerless	GMU 130	200
Roosevelt	Oct. ((16-24)) 15-23	Antlerless	GMU 133	400
Harrington	Oct. Oct. ((16-24)) 15-23	Antlerless	GMU 136	125
Steptoe	Oct. Oct. ((16-24)) 15-23 & Nov. 11-19	Antlerless	GMU 139	300
Almota A	Oct. ((16-24)) 15-23 & Nov. 11-19	Antlerless	GMU 142	((200)) 100
((Mayview A))	((Oct. 16-24))	((Antlerless))	((GMU 145))	((200))
Mayview ((B))	Nov. 1-14	Antlerless	GMU 145	((200)) 100
Prescott A	Nov. 1-14	Antlerless	GMU 149	((275)) 50

Hunt Name	((2004)) 2005 Permit Season	Special Restrictions	Boundary Description	((2004)) 2005 Permits
Prescott B	Nov. 1-14	Antlerless	Deer Area 1020	((150)) 50
Blue Creek	Nov. ((8-19)) 7-19	Whitetail, antlerless	GMU 154	((225)) 150
Dayton A	Nov. ((8-19)) 7-19	Whitetail, antlerless	GMU 162	((350)) 250
Dayton B	Nov. ((8-19)) 7-19	Antlerless	Deer Area 1010	75
Marengo A	Nov. 1-14	Whitetail, antlerless	GMU 163	((250)) 150
Marengo B	Nov. 1-14	Antlerless	GMU 163	((75)) 40
Peola	Nov. 1-14	Antlerless	GMU 178	((75)) 50
Blue Mtns. Foothills A	Nov. ((8-19)) 7-19	Whitetail, 3 pt. min. or antlerless	GMUs 149, 154, 162-166	100
Blue Mtns. Foothills B	Nov. ((8-19)) 7-19	Whitetail, 3 pt. min. or antlerless	GMUs 145, 172-181	50
Couse	Nov. 1-14	Antlerless	GMU 181	((100)) 50
East Okanogan A	Nov. 1-18	Any whitetail	GMU 204	100
West Okanogan	Nov. 1-18	Any whitetail	GMUs 218-242	100
Sinlahekin A	Nov. 1-18	Any whitetail	GMU 215	50
Sinlahekin B	Nov. 1-18	Whitetail, antlerless	GMU 215	50
Chewuch A	Nov. 1-18	Any ((buck)) deer	GMU 218	5
Pearygin A	Nov. 1-18	Any ((buck)) deer	GMU 224	10
Gardner A	Nov. 1-18	Any ((buck)) deer	GMU 231	5
Pogue A	Nov. 1-18	Any ((buck)) deer	GMU 233	5
Chiliwist A	Nov. 1-18	Any ((buck)) deer	GMU 239	5
Alta A	Nov. 1-18	Any ((buck)) deer	GMU 242	5
Manson	Nov. 1-18	Any ((buck)) deer	GMU 243	5
Chiwawa A	Nov. 1-18	Any ((buck)) deer	GMU 245	((40)) 30
Slide Ridge A	Nov. 1-18	Any ((buck)) deer	GMU 246	15
Entiat A	Nov. 1-18	Any ((buck)) deer	GMU 247	((50)) 40
Big Bend A	Nov. 1-18	Antlerless	GMU 248	50
Swakane A	Nov. 1-18	Any ((buck)) deer	GMU 250	((45)) 35
Mission A	Nov. 1-18	Any ((buck)) deer	GMU 251	((30)) 20
Mission B	Oct. ((16-29)) 15-28	Antlerless	GMU 251	125
St. Andrews	Oct. ((16-24)) 15-23	Antlerless	GMU 254	75
Foster Creek A	Oct. ((16-24)) 15-23	Antlerless	GMU 260	75
Foster Creek B	Nov. 1-18	Antlerless	GMU 260	75
Withrow A	Oct. ((16-24)) 15-23	Antlerless	GMU 262	50
Badger	Nov. 1-18	Antlerless	GMU 266	50
Ritzville A	Nov. 1-18	3 pt. min. or antlerless	GMU 284	((30)) 20
Desert A	Nov. 1-15	Any deer	GMU 290	15
Desert B	Dec. 1-7	Antlerless	GMU 290	50
Naneum	Oct. ((16-24)) 15-23	Antlerless	GMU 328	((30)) 200
Quilomene A	Nov. ((8-21)) 7-20	Any buck	GMU 329	75
Teanaway A	Oct. ((16-24)) 15-23	Antlerless	GMU 335	((30)) 200
Taneum	Oct. ((16-24)) 15-23	Antlerless	GMU 336	((20)) 150
Nile A	Oct. ((16-24)) 15-23	Antlerless	GMU 352	20
Bethel A	Nov. ((8-21)) 7-20	Any buck	GMU 360	10
Cowiche A	Oct. ((16-24)) 15-23	Antlerless	GMU 368	((20)) 50
Cowiche B	Nov. ((8-21)) 7-20	Any buck	GMU 368	15
Alkali A	Nov. ((20-28)) 19-27	Any buck	GMU 371	75
Alkali B	Nov. ((20-28)) 19-27	Antlerless	GMU 371	80
Whitcomb A	Sept. 18-24	Antlerless	Deer Area 3071	5
Paterson A	Sept. 18-24	Antlerless	Deer Area 3072	5
East Klickitat A	Oct. 16-24	3 pt. min. or antlerless	GMU 382	40
Sauk	Nov. 13-16	2 pt. min.	GMU 437	25
Stillaguamish	Nov. 13-16	2 pt. min.	GMU 448	10
Snoqualmie	Nov. 13-16	Any buck	GMU 460	25
Green River A	Oct. 30 - Nov. 5	Any buck	GMU 485	10
Lincoln A	Oct. 16-31	Any deer	GMU 501	40

PROPOSED

Hunt Name	((2004)) 2005 Permit Season	Special Restrictions	Boundary Description	((2004)) 2005 Permits
Stella A	Oct. 16-31	Any deer	GMU 504	35
Mossyrock A	Oct. 16-31	Any deer	GMU 505	85
Stormking A	Oct. 16-31	Any deer	GMU 510	30
South Rainier A	Oct. 16-31	Any deer	GMU 513	30
Packwood A	Oct. 16-31	Any deer	GMU 516	50
Winston A	Oct. 16-31	Any deer	GMU 520	50
Yale A	Oct. 16-31	Any deer	GMU 554	15
Toutle A	Oct. 16-31	Any deer	GMU 556	25
Marble A	Oct. 16-31	2 pt. min. or antlerless	GMU 558	20
Lewis River A	Oct. 16-31	Any deer	GMU 560	35
Siouxon A	Oct. 16-31	Any deer	GMU 572	35
Wind River A	Oct. 16-31	2 pt. min. or antlerless	GMU 574	10
Wind River B	Nov. 18-21	2 pt. min.	GMU 574	35
West Klickitat A	Oct. 16-31	2 pt. min. or antlerless	GMU 578	30
West Klickitat B	Nov. 18-21	2 pt. min	GMU 578	45
Grayback A	Oct. 16-31	2 pt. min. or antlerless	GMU 588	55
Grayback B	Nov. 18-21	2 pt. min	GMU 588	65
Pysht	Oct. 16-31	Any deer	GMU 603	15
Olympic	Oct. 16-31	Any deer	GMU 621	35
Kitsap	Oct. 16-31	Any deer	GMU 627	20
Wynoochee A	Oct. 16-31	Any deer	GMU 648	110
Wynoochee B	Nov. 1-11	Any buck	GMU 648	10
Satsop A	Nov. 1-11	Any buck	GMU 651	10
North River A	Oct. 16-31	Any deer	GMU 658	70
Minot Peak	Oct. 16-31	Any deer	GMU 660	70
Capitol Peak A	Oct. 16-31	Any deer	GMU 663	30
Capitol Peak B	Nov. 1-11	Any buck	GMU 663	10
Deschutes	Oct. 16-31	Any deer	GMU 666	80
Skookumchuck A	Oct. 16-31	Any deer	GMU 667	160
Skookumchuck B	Nov. 1-11	Any buck	GMU 667	10
Muzzleloader Only Deer Permit Hunts (Only muzzleloader tag holders may apply.)				
((Cheney-B))	((Nov. 20 - Dec. 8))	((Mule deer, 3 pt. min. or antlerless))	((GMU 130))	((75))
Blue Mtns. Foothills C	Nov. 20 - Dec. 8	Whitetail, 3 pt. min. or antlerless	GMUs 149, 154, 162, 166	60
Green Bluff	Dec. 9-31	Whitetail, antlerless	That portion of GMU 124 east of Hwy 2	90
Wannacut A	Nov. 1-18	Antlerless	GMU 209	50
Chiwawa B	Nov. ((20-28)) 19-27	Any ((buck)) deer	GMU 245	15
Foster Creek C	Dec. 1-31	Antlerless	GMU 260	100
Moses Coulee A	Nov. 1-18	Any ((buck)) deer	GMU 269	20
Moses Coulee B	Dec. 1-31	Antlerless	GMU 269	100
Ritzville B	Nov. 19-30	Mule deer, 3 pt. min. or antlerless; any white-tailed deer	GMU 284	((30)) 20
Benge A	Dec. ((1-31)) 1-15	Antlerless	Deer Area 2010	((50)) 20
Lakeview ((B)) A	Nov. 1-18	Antlerless	Deer Area 2011	10
Desert C	Oct. 25-31	Any deer	GMU 290	5
Quilomene B	Oct. ((2-8)) 1-7	Any buck	GMU 329	10
Teanaway B	Oct. ((2-8)) 1-7	Antlerless	GMU 335	((25)) 100
Manastash	Oct. ((2-8)) 1-7	Antlerless	GMU 340	((25)) 90
Cowiche C	Oct. ((2-8)) 1-7	Antlerless	GMU 368	((10)) 50
Alkali C	Dec. ((4-11)) 3-10	Any buck	GMU 371	12
Alkali D	Dec. ((4-11)) 3-10	Antlerless	GMU 371	15
Esquatzel A	Nov. 20 - Dec. 8	Any deer	GMU 381	100
East Klickitat B	Nov. 22-30	3 pt. min or antlerless	GMU 382	5
West Klickitat B	Nov. 24 - Dec. 8	2 pt. min. or antlerless	GMU 578	30

Hunt Name	((2004)) 2005 Permit Season	Special Restrictions	Boundary Description	((2004)) 2005 Permits
Mossyrock B	Oct. 2-8	Any deer	GMU 505	10
Stormking B	Oct. 2-8	Any deer	GMU 510	5
South Rainier B	Oct. 2-8	Any deer	GMU 513	5
Packwood B	Oct. 2-8	Any deer	GMU 516	5
Winston B	Oct. 2-8	Any deer	GMU 520	5
Yale B	Oct. 2-8	Any deer	GMU 554	2
Toutle B	Oct. 2-8	Any deer	GMU 556	3
Marble B	Oct. 2-8	2 pt. min. or antlerless	GMU 558	2
Lewis River B	Oct. 2-8	Any deer	GMU 560	5
Siouxon B	Oct. 2-8	Any deer	GMU 572	5
Wind River C	Oct. 2-8	2 pt. min. or antlerless	GMU 574	1
Grayback C	Oct. 2-8	2 pt. min. or antlerless	GMU 588	15
North River B	Oct. 4-10	Any deer	GMU 658	5
Archery Only Deer Permit Hunts (Only archery deer tag holders may apply.)				
Chiwawa C	Dec. 1-12	Any ((buck)) deer	GMU 245	10
Entiat B	Nov. 20-29	Any ((buck)) deer	GMU 247	((160)) 145
Entiat C	Nov. 30 - Dec. 8	Any ((buck)) deer	GMU 247	((150)) 135
Big Bend B	Nov. 20 - Dec. 8	Any deer	GMU 248	10
Desert D	Nov. 16-30	Any deer	GMU 290	20
Quilomene C	((Nov. 22 - Dec. 5)) Nov. 21- Dec. 4	Any deer	GMU 329	73
Alkali E	Dec. ((12-26)) 11-25	Any deer	GMU 371	79
Washougal A	Sept. 16-30	Any deer	GMU 568	30
Special Modern Firearm Deer Permit Hunts for Hunters 65 or older				
Blue Mtns. Foothills ((B)) D	Oct. ((16-24)) 15-23	((3-pt. min. or antlerless)) Antlerless	GMUs 145, 149	((150)) 75
East Okanogan B	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 204	((5)) 15
Wannacut B	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 209	5
Sinlahekin C	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 215	5
Chewuch B	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 218	5
Pearrygin B	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 224	((5)) 15
Gardner B	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 231	((5)) 15
Pogue B	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 233	((5)) 15
Chiliwist B	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 239	5
Alta B	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 242	5
Mission C	Oct. ((16-29)) 15-28	Any deer	GMU 251	5
Bridgeport A	Oct. ((16-24)) 15-23	((Any-deer)) Antlerless	GMUs 248, 260	10
Palisades A	Oct. ((16-24)) 15-23	((Any-deer)) Antlerless	GMUs 266, 269	10
Quilomene D	Nov. ((8-21)) 7-20	Antlerless	GMU 329	20
Manastash	Oct. 15-23	Antlerless	GMU 340	50
Umtanum A	Nov. ((8-21)) 7-20	Antlerless	GMU 342	20
Bethel B	Oct. ((16-24)) 15-23	Antlerless	GMU 360	10
Kiona A	Oct. ((16-24)) 15-23	Antlerless	GMU 372	15
Esquatzel B	Oct. ((16-24)) 15-23	Antlerless	GMU 381	10
East Klickitat C	Oct. 16-24	3 pt. min. or antlerless	GMU 382	15
Lincoln B	Oct. 16-31	Any deer	GMU 501	5
Stella B	Oct. 16-31	Any deer	GMU 504	5
Mossyrock C	Oct. 16-31	Any deer	GMU 505	15
Stormking C	Oct. 16-31	Any deer	GMU 510	5
South Rainier C	Oct. 16-31	Any deer	GMU 513	5
Packwood C	Oct. 16-31	Any deer	GMU 516	5
Winston C	Oct. 16-31	Any deer	GMU 520	5
Yale C	Oct. 16-31	Any deer	GMU 554	5
Toutle C	Oct. 16-31	Any deer	GMU 556	10
Marble C	Oct. 16-31	2 pt. min. or antlerless	GMU 558	5
Lewis River C	Oct. 16-31	Any deer	GMU 560	5

PROPOSED

Hunt Name	((2004)) 2005 Permit Season	Special Restrictions	Boundary Description	((2004)) 2005 Permits
Washougal B	Oct. 16-31	Any deer	GMU 568	10
Siouxon C	Oct. 16-31	Any deer	GMU 572	5
Wind River D	Oct. 16-31	2 pt. min. or antlerless	GMU 574	2
West Klickitat C	Oct. 16-31	2 pt. min. or antlerless	GMU 578	5
Grayback D	Oct. 16-31	2 pt. min. or antlerless	GMU 588	10
Williams Creek	Oct. 16-31	Any deer	GMU 673	20
Copalis	Oct. 16-31	Any deer	GMU 642	20
North River C	Oct. 16-31	Any deer	GMU 658	10
Disabled Hunter Deer Permits				
East Okanogan C	Restricted to general, early season by tag choice	((Any deer)) Antlerless	GMU 204	5
Wannacut C		((Any deer)) Antlerless	GMU 209	5
Sinlahekin D		((Any deer)) Antlerless	GMU 215	((5)) 15
Chewuch C		((Any deer)) Antlerless	GMU 218	((5)) 15
Pearygin C		((Any deer)) Antlerless	GMU 224	5
Gardner C		((Any deer)) Antlerless	GMU 231	5
Pogue C		((Any deer)) Antlerless	GMU 233	5
Chiliwist C		((Any deer)) Antlerless	GMU 239	((5)) 15
Alta C		((Any deer)) Antlerless	GMU 242	((5)) 15
Mission D	Oct. ((16-29)) 15-28	Any deer	GMU 251	10
Bridge Port B	Restricted to general, early season by tag choice	Any deer	GMUs 248, 260	5
Palisades B		Any deer	GMUs 266, 269	5
Quilomene E	Nov. ((8-21)) 7-20	Antlerless	GMU 329	10
Manastash C	Oct. 15-23	Antlerless	GMU 340	20
Umtanum B	Nov. 8-21	Antlerless	GMU 342	10
Nile B	Restricted to general, early season by tag choice	Antlerless	GMU 352	5
Kiona B		Antlerless	GMU 372	10
Esquatzel C		Antlerless	GMU 381	5
East Klickitat D		3 pt. min. or antlerless	GMU 382	5
Green River B	Oct. 30 - Nov. 5	Any deer	GMU 485	5
Lincoln C	Restricted to general, early season by tag choice	Any deer	GMU 501	3
Stella C		Any deer	GMU 504	3
Mossyrock D		Any deer	GMU 505	5
Stormking D		Any deer	GMU 510	3
South Rainier D		Any deer	GMU 513	3
Packwood D		Any deer	GMU 516	3
Winston D		Any deer	GMU 520	3
Yale D		Any deer	GMU 554	3
Toutle D		Any deer	GMU 556	5
Marble D		2 pt. min. or antlerless	GMU 558	2
Lewis River D		Any deer	GMU 560	2
Washougal C		Any deer	GMU 568	2
Siouxon D		Any deer	GMU 572	3
Wind River E		2 pt. min. or antlerless	GMU 574	1
West Klickitat D		2 pt. min. or antlerless	GMU 578	3
Grayback E		2 pt. min. or antlerless	GMU 588	10
Capitol Peak C		Any deer	GMU 663	30
Skookumchuck C		Any deer	GMU 667	30
North River D		Any deer	GMU 658	5
Youth Special Deer Permit Hunts (Must be eligible for the youth hunting license and accompanied by an adult during the hunt.)				
Modern Firearm				
Blue Mtns. Foothills E	Oct. ((16-24)) 15-23	((3 pt. min. or antlerless)) Antlerless	GMUs 149, 154, 162-163	((100)) 75
Blue Mtns. Foothills F	Oct. ((16-24)) 15-23	((3 pt. min. or antlerless)) Antlerless	GMUs 145, 172-181	75
East Okanogan D	Oct. ((16-29)) 15-28	((Any deer)) Antlerless	GMU 204	((40)) 70

Hunt Name	((2004)) 2005 Permit Season	Special Restrictions	Boundary Description	((2004)) 2005 Permits
Wannacut D	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 209	((20)) 35
Sinlahekin E	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 215	((45)) 75
Chewuch D	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 218	((75)) 120
Pearrygin D	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 224	((65)) 115
Gardner D	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 231	((25)) 45
Pogue D	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 233	((29)) 35
Chiliwist D	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 239	((40)) 70
Alta D	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 242	((45)) 80
Mission E	Oct. ((16-29)) 15-28	((Any-deer)) Antlerless	GMU 251	100
Bridge Port C	Oct. ((16-24)) 15-23	Any deer	GMUs 248, 260	100
Palisades C	Oct. ((16-24)) 15-23	Any deer	GMUs 266, 269	100
Lakeview C	Oct. ((16-24)) 15-23	Any deer	Deer Area 2011	10
Wahluke A	Oct. ((16-24)) 15-23	Any deer	GMU 278	50
<u>Benge B</u>	<u>Oct. 15-23</u>	<u>Antlerless</u>	<u>Deer Area 2010</u>	<u>20</u>
Quilomene F	Nov. ((8-21)) 7-20	Antlerless	GMU 329	75
<u>Manastash D</u>	<u>Oct. 15-23</u>	<u>Antlerless</u>	<u>GMU 340</u>	<u>75</u>
Umtanum C	Nov. ((8-21)) 7-20	Antlerless	GMU 342	75
Cowiche D	Oct. ((16-24)) 15-23	Antlerless	GMU 368	((15)) 50
Esquatzel D	Oct. ((16-24)) 15-23	Antlerless	GMU 381	10
Whitcomb B	Sept. 11-17	Antlerless	Deer Area 3071	5
Paterson B	Sept. 11-17	Antlerless	Deer Area 3072	5
East Klickitat E	Oct. 16-24	Any deer	GMU 382	20
Lincoln D	Oct. 16-31	Any deer	GMU 501	10
Stella D	Oct. 16-31	Any deer	GMU 504	10
Mossyrock E	Oct. 16-31	Any deer	GMU 505	10
Stormking E	Oct. 16-31	Any deer	GMU 510	10
South Rainier E	Oct. 16-31	Any deer	GMU 513	10
Packwood E	Oct. 16-31	Any deer	GMU 516	10
Winston E	Oct. 16-31	Any deer	GMU 520	10
Yale E	Oct. 16-31	Any deer	GMU 554	10
Toutle E	Oct. 16-31	Any deer	GMU 556	60
Marble E	Oct. 16-31	Any deer	GMU 558	10
Lewis River E	Oct. 16-31	Any deer	GMU 560	10
Washougal D	Oct. 16-31	Any deer	GMU 568	10
Siouxon E	Oct. 16-31	Any deer	GMU 572	10
Wind River F	Oct. 16-31	Any deer	GMU 574	15
West Klickitat E	Oct. 16-31	Any deer	GMU 578	15
Grayback F	Oct. 16-31	Any deer	GMU 588	20
Satsop B	Oct. 16-31	Any deer	GMU 651	10
Skookumchuck D	Oct. 9-31	Any deer	GMU 667	60
North River E	Oct. 16-31	Any deer	GMU 658	10
Youth Special Deer Permit Hunts (Must be eligible for the youth hunting license and accompanied by an adult during the hunt.)				
Muzzleloader				
East Okanogan ((D)) E	Oct ((2-8)) 1-7	((Any-deer)) Antlerless	GMU 204	5
Wannacut E	Oct ((2-8)) 1-7	((Any-deer)) Antlerless	GMU 209	5
Pogue E	Oct ((2-8)) 1-7	((Any-deer)) Antlerless	GMU 233	5
Chiliwist E	Oct ((2-8)) 1-7	((Any-deer)) Antlerless	GMU 239	5
Mission F	Oct ((2-8)) 1-7	Any deer	GMU 251	20
Wahluke B	Oct ((2-8)) 1-7	Any deer	GMU 278	50
Ritzville C	Oct ((2-8)) 1-7	((Any-deer)) Antlerless	GMU 284	50
Special Deer Permits - Second Deer Tag				
((Open to all tag types during specified season. Successful applicants may purchase an appropriate second hunting license and tag for an antlerless animal only, within fifteen days of notification by the department. Failure to purchase within fifteen days forfeits the opportunity for a second license.)) These permits are only valid when a second license and tag is purchased.				

PROPOSED

Hunt Name	((2004)) 2005 Permit Season	Special Restrictions	Boundary Description	((2004)) 2005 Permits
((The Wedge)) Ten-Thirty	((Restricted to general (early and late) seasons by tag choice; and Dec. 16-31 for all tag holders)) Oct.-Dec. 31	Whitetail, antlerless	Deer Areas 1030 and 1040	((400)) 450
Huckleberry B	Restricted to general, early season by tag choice	Whitetail, antlerless	GMU 121	100
Mt. Spokane B		Whitetail, antlerless	GMU 124	400
Almota B		Antlerless	GMU 142	200
Columbia		Whitetail, antlerless	Deer Area 1010, GMU 163	150
Islands		Antlerless	GMU 410	100
South Sound		Antlerless	Vashon, Maury, and Anderson islands	125
<u>Benge C</u>	<u>Dec. 16-31</u>	<u>Antlerless</u>	<u>Deer Area 2010</u>	<u>20</u>
Lakeview C	Jan. 1-31	Antlerless	Deer Area 2011	20
((Open to modern firearm and archery tag types only. Successful applicants may purchase an appropriate second hunting license and tag for an antlerless animal only, within fifteen days of the published notification deadline by the department. Failure to purchase within fifteen days forfeits the opportunity for a second license.)) <u>These permits are only valid when a second license and tag is purchased.</u>				
Mica Peak B	Restricted to general, early season by tag choice	Whitetail, antlerless	GMU 127	100
Advanced Hunter Education (AHE) Master Hunter Special Deer Permit Hunts: Only AHE master hunters may apply; antlerless only hunts will not affect accumulated points; any weapon may be used.				
Lakeview D	Dec. 9-31	Antlerless	Deer Area 2011	20

Hunter Education Instructor Incentive Permits

- Special deer permits will be allocated through a random drawing to those hunter education instructors that qualify.
- Permit hunters must use archery equipment during archery seasons, muzzleloader equipment during muzzleloader seasons, and any legal weapon during modern firearm seasons.
- Qualifying hunter education instructors must be certified and have been in active status for a minimum of three consecutive years, inclusive of the year prior to the permit drawing.
- Instructors who are drawn, accept a permit, and are able to participate in the hunt, will not be eligible for these incentive permits for a period of ten years thereafter.
- Permittees may purchase a second license for use with the permit hunt only.

Area	Dates	Restrictions	GMUs	Permits
Region 1	All general season and permit seasons established for GMUs included with the permit.	Any white-tailed deer	Any 100 series GMU	2
Region 2		Any deer	GMUs 215-251	1
Region 2		Any deer	GMU 290	1
Region 3		Any deer	GMUs 335-368	1
Region 4		Any deer	Any 400 series GMU except GMU 485	2
Region 5		Legal buck for 500 series GMU of choice or antlerless.	Any 500 series GMU open for a general deer hunting season or a special deer permit hunting season.	2
Region 6		Legal buck for GMU of choice.	GMUs 654, 660, 672, 673, 681	1

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 05-06-107
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Filed March 2, 2005, 10:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-02-092.

Title of Rule and Other Identifying Information: WAC 232-28-352 2003-2005 Elk general seasons and special permits.

Hearing Location(s): Best Western Hallmark Inn, 3000 Marina Drive, Moses Lake, WA 98837, (509) 765-9211, on April 8-9, 2005 at 8:00 a.m.

Date of Intended Adoption: April 8, 2005.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2612, by Friday, March 25, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by April 4, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Elk general seasons are set on a three year basis and permit seasons are adjusted annually. Both general and permit seasons can be adjusted annually in response to elk population changes and damage complaints. Maintain general elk hunting season opportunities for 2005. Adjust special elk permits for 2005 in response to elk population changes and damage complaints. Provides for recreational harvest of elk. Helps reduce agricultural damage and provides for population control of elk where needed.

Reasons Supporting Proposal: Provides recreational, elk hunting opportunity and protects elk from overharvest. Addresses elk damage problems.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Washington Fish and Wildlife Commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; and Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

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

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

Evan Jacoby
 Rules Coordinator

AMENDATORY SECTION (Amending Order 04-98, filed 5/12/04, effective 6/12/04)

WAC 232-28-352 2003-2005 Elk general seasons and special permits.

Bag Limit: One (1) elk per hunter during the license year except where otherwise permitted by fish and wildlife commission rule.

Hunting Method: Elk hunters must select only one of the hunting methods (modern firearm, archery, or muzzleloader).

Elk Tag Areas: Elk hunters must choose either Eastern or Western Washington to hunt in and buy the appropriate tag for that area.

Any Bull Elk Seasons: Open only to the taking of elk with visible antlers (bull calves are illegal).

Spike Bull Restrictions: Bull elk taken in these GMUs must have at least one antler that is a spike above the ears (does not branch above ears). An animal with branched antlers on both sides is illegal but an animal with a spike on one side is legal in spike only units.

Spike Only GMUs: 145-154, 162-186, 249-251, 328, 329, and 335-368.

3 Point Restriction: Legal bull elk taken must have at least 3 antler points on one side only. Antler points may include eye guards, but at least 2 antler points must be on the upper half of the main beam. All antler points must be at least one (1) inch long, measured from the antler tip to nearest edge of the beam. Antler restrictions apply to all hunters during any open season.

3 Point GMUs: All of Western Washington except for GMUs 454, 564, 568, 574, 578, 588, and Elk Area 4941.

Permit Only Units: The following GMUs are closed during general seasons: 157, 371, 485, 522, 524, 556, 621, and 636.

GMUs Closed to Elk Hunting: 418, 437 (except for Elk Area 4941), and 490.

Private Lands Wildlife Management Areas (PLWMA): Buckrun (PLWMA 201), Kapowsin (PLWMA 401), and Merrill and Ring (PLWMA 600) are closed to hunting, except by permit or written permission from the landowner.

Special Permits: Only hunters with elk tag prefix identified in the Special Elk Permits tables may apply for special bull or antlerless permits. Please see permit table for tag eligibility. Hunters drawn for a special permit may hunt only with a weapon in compliance with their tag and during the dates listed for the hunt.

Elk Tag Areas

Eastern Washington: All 100, 200, and 300 GMUs except permit only for all hunters in GMUs 157 and 371. Modern firearm restrictions in GMU 334.

EA - Eastern Washington Archery Tag

EF - Eastern Washington Modern Firearm General Elk Tag

EM - Eastern Washington Muzzleloader Tag

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Western Washington: All 400, 500, and 600 GMUs except closed in GMUs 418, 437 (except for Elk Area 4941), 490, and modern firearm restrictions in portions of GMU 660. GMU 554 is open only for early archery and muzzleloader seasons. Elk Area 6063 in GMU 638 (Quinault) is open to AHE hunters only. Elk hunting by permit only in GMUs 485, 522, 524, 556, 621, 636, and PLWMAs 401 and 600.

WA - Western Washington Archery Tag

WF - Western Washington Modern Firearm General Elk Tag

WM - Western Washington Muzzleloader Tag

Modern Firearm Elk Seasons

License Required: A valid big game hunting license with an elk tag option.

Tag Required: Valid modern firearm elk tag as listed below on his/her person for the area hunted.

Hunting Method: May use modern firearm, bow and arrow, or muzzleloader, but only during modern firearm seasons.

Hunt Area	Elk Area	Game Management Units (GMUs)	2003 Dates	2004 Dates	2005 Dates	Legal Elk
Eastern Washington	EF	111, 113, 117	Oct. 25 - Nov. 2	Oct. 30 - Nov. 7	Oct. 29 - Nov. 6	Any bull
		157, 371				Permit only
		145 through 154, 162 through 186, 249, 251, 328, 329, 335 through 368	Oct. 25 - Nov. 2	Oct. 30 - Nov. 7	Oct. 29 - Nov. 6	Spike bull
		((372)) Elk Area 3722*	Sept. 2-15	Sept. 7-19	Sept. 17-30	Antlerless
			Oct. 6-19	Oct. 4-17	Oct. 29-Nov. 6	Antlerless
		Elk Area 3721*	Oct. 25 - Nov. 2	Oct. 30 - Nov. 7	Oct. 29-Nov. 6	Any elk
		<i>*Elk Areas 3721 & 3722 are mainly private property. hunters are not advised to try hunting these areas without making prior arrangements for access.</i>				
		101, 105, 108, 121 through 142, and 382	Oct. 25 - Nov. 2	Oct. 30 - Nov. 7	Oct. 29 - Nov. 6	Any elk
Western Washington	WF	407, 448, 460, 466, 503 through 520, 530, 550, 558, 560, 572, 601 through 618, 624 (except for Elk Area 6071), 627 through 633, 638 through 663, and 667 through 684. Except AHE master hunters only in Elk Area 6063	Nov. 1-9	Nov. 6-14	Nov. 5-13	3 pt. min.
		501	Nov. 1-9	Nov. 6-14	Nov. 5-13	3 pt. min. or antlerless
		564, 568, 574 through 588, 666	Nov. 1-9	Nov. 6-14	Nov. 5-13	Any elk
		454	Nov. 1-9	Nov. 6-14	Nov. 5-13	Any bull
		485, 522, 524, 556, 621, 636, Elk Area 6071, and PLWMAs 401 and 600				Permit only

Archery Elk Seasons

License Required: A valid big game hunting license with an elk tag option.

Tag Required: Valid archery elk tag as listed below on his/her person for the area hunted.

Hunting Method: Bow and arrow only as defined by WAC 232-12-054.

Special Notes: Archery tag holders can hunt only during archery seasons and must hunt with archery equipment (WAC 232-12-054). Archery elk hunters may apply for special bull permits. Please see permit table for tag eligibility for all elk permits.

Hunt Area	Elk Tag	Game Management Units (GMUs)	2003 Dates	2004 Dates	2005 Dates	Legal Elk
Early Archery Elk Seasons						
Eastern Washington	EA	101 through 142, 243, 247, 249, 250, 334	Sept. 8-21	Sept. 8-21	Sept. 8-21	Any elk
		145, 149, 162, 163 through 172, 178 through 186, 328, 329, and 335	Sept. 8-21	Sept. 8-21	Sept. 8-21	Spike bull

PROPOSED

Hunt Area	Elk Tag	Game Management Units (GMUs)	2003 Dates	2004 Dates	2005 Dates	Legal Elk
		154, Elk Area 1010, Elk Area 1012, Elk Area 1013, 175, 330, 336, 340, 352, 356, 364	Sept. 8-21	Sept. 8-21	Sept. 8-21	Spike bull or antlerless
Western Washington	WA	454, 564, 568, 574, 578, 588, 652, 666	Sept. 8-21	Sept. 8-21	Sept. 8-21	Any elk
		407, 448, 501 through 505, 550, 554, 558, 560, 572, 624, except for Elk Area 6071, Elk Area 6061, 654, 660, 663, 667 through 673, 684, and 699	Sept. 8-21	Sept. 8-21	Sept. 8-21	3 pt. min. or antlerless
		460, 466, 506, 510, 513, 516, 520, 530, 601, 602, 603, 607, 612 through 618, 627, 633, 638 through 648, 651, 653, 658, and 681. AHE hunters only in Elk Area 6063. Permit only in PLWMA 600 in GMU 603	Sept. 8-21	Sept. 8-21	Sept. 8-21	3 pt. min.

Late Archery Elk Seasons

Hunt Area	Elk Tag	Game Management Units (GMUs)	2003 Dates	2004 Dates	2005 Dates	Legal Elk
Eastern Washington	EA	101, 105, 117 through 127	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Any elk
		372	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Any elk
		178, 186	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Antlerless only
		328, 335		Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Spike bull
		336, 346, 352, 364, 368	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Spike bull or antlerless
	((Elk Area 3010))	((Nov. 20 - Jan. 31, 2004))	((Nov. 20 - Jan. 31, 2005))	((Nov. 20 - Jan. 31, 2006))	((Antlerless-only))	

Hunt Area	Elk Tag	Game Management Units (GMUs)	2003 Dates	2004 Dates	2005 Dates	Legal Elk
Western Washington	WA	407, 503, 505, 667, 672, 681, Elk Area 6066 in GMU 660, and 699. Elk Area 6064, except AHE master hunters only in Elk Area 6063 in GMU 638	Nov. 19 - Dec. 15	Nov. 24 - Dec. 15	Nov. 23 - Dec. 15	3 pt. min. or antlerless
		454, 564, 588, 666	Nov. 19 - Dec. 15	Nov. 24 - Dec. 15	Nov. 23 - Dec. 15	Any elk
		603, 612, 615, 638, and 648, except closed in PLWMA 600 in GMU 603	Nov. 19 - Dec. 15	Nov. 24 - Dec. 15	Nov. 23 - Dec. 15	3 pt. min.
		506, 520, 530	Nov. 19 - Dec. 7	Nov. 24 - Dec. 7	Nov. 23 - Dec. 7	3 pt. min. or antlerless
		506, 520, 530	Dec. 8-15	Dec. 8-15	Dec. 8-15	3 pt. min.

Muzzleloader Elk Seasons

License Required: A valid big game hunting license with an elk tag option.

Tag Required: Valid muzzleloader elk tag as listed below on his/her person for the area hunted.

Hunting Method: Muzzleloader only as defined by WAC 232-12-051.

Special Notes: Muzzleloader tag holders can only hunt during the muzzleloader seasons and must hunt with muzzleloader equipment. Only hunters with tags identified in the Special Elk Permits tables may apply for special elk permits.

Hunt Area	Elk Tag	Game Management Units (GMUs)	2003 Dates	2004 Dates	2005 Dates	Legal Elk
Early Muzzleloader Elk Seasons						
Eastern Washington	EM	111, 113, 247	Oct. 4-10	Oct. 2-8	Oct. 1-7	Any bull
		101 through 108, 121 through 142	Oct. 4-10	Oct. 2-8	Oct. 1-7	Any elk
		172, 245, 250, Elk Area 2051, 335 through 342, 352 through 360, 368	Oct. 4-10	Oct. 2-8	Oct. 1-7	Spike bull
Western Washington	WM	454, 564, 568, 574, 578, 666, 684	Oct. 4-10	Oct. 2-8	Oct. 1-7	Any elk
		460, 504, 513, 530, 554, 602, 603, 607, 654, 660, 672	Oct. 4-10	Oct. 2-8	Oct. 1-7	3 pt. min.

PROPOSED

Hunt Area	Elk Tag	Game Management Units (GMUs)	2003 Dates	2004 Dates	2005 Dates	Legal Elk
		501, 652, 663, 667	Oct. 4-10	Oct. 2-8	Oct. 1-7	3 pt. min. or antlerless
Late Muzzleloader Elk Seasons						
Eastern Washington	EM	130 through 142	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Nov. 20 - Dec. 8	Any elk
Western Washington	WM	501, 503, 505, 652	Nov. 19 - Dec. 8	Nov. 24 - Dec. 8	Nov. 23 - Dec. 8	3 pt. min. or antlerless
		454, 564, 568, 666, 684	Nov. 19 - Dec. 15	Nov. 24 - Dec. 15	Nov. 23 - Dec. 15	Any elk
		574, 578	Nov. 19-30	Nov. 24-30	Nov. 23-30	Any elk
		504, 550, 601, 667	Nov. 19 - Dec. 15	Nov. 24 - Dec. 15	Nov. 23 - Dec. 15	3 pt. min.

Special Elk Hunts Open to Specified Tag Holders

License Required: A valid big game hunting license with an elk tag option.

Tag Required: Proper elk tags are listed with each GMU below.

Hunting Method: Hunters must use method listed on their tag, except in firearm restriction areas, where some types of weapons are banned from use. See elk tag required, dates, and legal elk in table below. In firearm restriction areas modern firearm hunters may hunt with a muzzleloader equipped with a scope.

Hunt Area	Elk Tag	Game Management Units (GMUs)	2003 Dates	2004 Dates	2005 Dates	Legal Elk
Eastern Washington	EA, EM, EF	127 through 142, advanced hunter education master hunters only	Dec. 9-31	Dec. 9-31	Dec. 9-31	Any elk
		203-248, 250, 254-290, 373, and 381 except closed within 1/2 mile of the Columbia River in Douglas and Grant counties	Oct. 28 - Nov. 15	Oct. 30 - Nov. 15	Oct. 29 - Nov. 15	Any elk
	EA, EM, EF	371, Elk Areas 3911 and 3912 advanced hunter education master hunters only	Aug. 1 - Feb. 28, 2004	Aug. 1 - Feb. 28, 2005	Aug. 1 - Feb. 28, 2006	Antlerless only
		((371 advanced hunter education master hunters only))		((Oct. 11 - Nov. 19))		((Antlerless-only))
Western Washington	WM	Elk Area 4941 (muzzleloader only)	Nov. 1 - Jan. 31, 2004	Nov. 1 - Jan. 31, 2005	Nov. 1 - Jan. 31, 2006	Any elk
	WA	Elk Area 4941 (archery only)	Oct. 1-31	Oct. 1-31	Oct. 1-31	Any elk

Special Elk Permit Hunting Seasons

(Open to Permit Holders Only)

Permit hunters may hunt only with a weapon in compliance with their tag. Applicants must have purchased the proper tag for these hunts (see elk tag prefix required to apply for each hunt).

Hunt Name	((2004)) 2005 Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description	((2004)) 2005 Permits
Modern Firearm Bull Permit Hunts (Only modern firearm elk tag holders may apply.)					
Blue Creek A	((Oct. 25 - Nov. 7)) Oct. 24-Nov. 6	Any bull	EF	GMU 154	((3))
Watershed	((Oct. 25 - Nov. 7)) Oct. 24-Nov. 6	3 pt. min. or Antlerless	EA, EF, EM	GMU 157	40
Dayton A	((Oct. 25 - Nov. 7)) Oct. 24-Nov. 6	Any bull	EF	GMU 162	((3))
Tucannon A	Oct. 24-Nov. 6	Any bull	EF	Elk Area 1014	
Wenaha A	((Oct. 25 - Nov. 7)) Oct. 24-Nov. 6	Any bull	EF	GMU 169	((4))
Mountain View A	((Oct. 25 - Nov. 7)) Oct. 24-Nov. 6	Any bull	EF	GMU 172	((5))
Couse A	Oct. 24-Nov. 6	Any bull	EF	GMU 181	
Mission A	((Oct. 25 - Nov. 7)) Oct. 24-6	Any bull	EF	GMU 251	((10)) 7
Naneum A	Oct. 25 - Nov. 7	Any bull	EF	GMU 328	19
Quilomene A	Oct. 25 - Nov. 7	Any bull	EF	GMU 329	18
Teanaway A	Oct. 25 - Nov. 7	Any bull	EF	GMU 335	12
Peaches Ridge A	Oct. 25 - Nov. 7	Any bull	EF	GMUs 336, 346	152
Little Naches A	Oct. 1-10	Any bull	EF	GMU 346	20
Observatory A	Oct. 25 - Nov. 7	Any bull	EF	GMUs 340, 342	77
Goose Prairie A	Oct. 25 - Nov. 7	Any bull	EF	GMUs 352, 356	94
Bethel A	Oct. 25 - Nov. 7	Any bull	EF	GMU 360	48
Rimrock A	Oct. 25 - Nov. 7	Any bull	EF	GMU 364	118
Cowiche A	Oct. 25 - Nov. 7	Any bull	EF	GMU 368	25
Green River	((Oct. 30 - Nov. 5)) Oct. 29-Nov. 4	Any bull	WF	GMU 485	1

Hunt Name	((2004)) 2005 Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description	((2004)) 2005 Permits
Margaret A	Nov. 6-14	3 pt. min.	WF	GMU 524	22
Toutle A	Nov. 6-14	3 pt. min.	WF	GMU 556	87
Matheny	Oct. 1-10	3 pt. min.	WA, WF, WM	GMU 618	3
Olympic A	Nov. 1-9	3 pt. min.	WF	GMU 621, EXCEPT for Elk Area 6071	21
Skokomish A	Nov. 1-9	3 pt. min.	WF	GMU 636	((6)) 12
Modern Firearm Elk Permit Hunts (Only modern firearm elk tag holders may apply.)					
Aladdin A	Oct. 30 - Nov. 7	Any elk	EF	GMU 111	10
Selkirk A	Oct. 30 - Nov. 7	Any elk	EF	GMU 113	10
49 Degrees North	Oct. 30 - Nov. 7	Any elk	EF	GMU 117	15
Blue Creek B	((Oct. 30 - Nov. 7)) Oct. 29-Nov. 6	Antlerless	EF	GMUs 149, 154	100
Dayton B	((Oct. 30 - Nov. 7)) Oct. 29-Nov. 6	Antlerless	EF	GMU 163 and Elk Area 1011	200
Dayton C	((Oct. 30 - Nov. 7)) Oct. 29-Nov. 6	Antlerless	EF	GMU 149 and Elk Area 1012	((75)) 100
Peola	Oct. 29-Nov. 6	Antlerless	EF	GMU 178	50
Couse ((A)) B	((Oct. 30 - Nov. 7)) Oct. 29-Nov. 6	Antlerless	EF	GMU 181	25
Couse ((B)) C	Oct. 1-10	Antlerless	EF	GMU 181	25
Mountain View B	((Oct. 30 - Nov. 7)) Oct. 29-Nov. 6	Antlerless	EF	Elk Area 1013	((50)) 60
Lick Creek A	((Oct. 30 - Nov. 7)) Oct. 29-Nov. 6	Antlerless	EF	GMU 175	25
Malaga A	((Aug. 14 - Sept. 26)) Aug. 13-Sept. 25	Antlerless	EF	Elk Area 2032	100
Malaga B	((Sept. 6 - Oct. 1)) Sept. 5-Sept. 30	Any elk	EF	Elk Area 2032	10
Malaga C	((Nov. 8 - Feb. 28, 2005)) Nov. 7-Feb. 28, 2006	Antlerless	EF	Elk Area 2032	150
Malaga D	((Nov. 8 - Dec. 19)) Nov. 7-Dec. 18	Any elk	EF	Elk Area 2032	10
Malaga E	((Dec. 20 - Feb. 28, 2005)) Dec. 19-Feb. 28, 2006	Any elk	EF	Elk Area 2032	15
Peshastin A	((Aug. 16-25)) Aug. 15-31	Antlerless	EF	Elk Area 2033	20
Peshastin B	Sept. 15 - Oct. 1	Antlerless	EF	Elk Area 2033	20
Peshastin C	Sept. 22-30	Any elk	EF	Elk Area 2033	5
Peshastin D	Nov. 30 - Feb. 28, ((2005)) 2006	Antlerless	EF	Elk Area 2033	30
Peshastin E	Dec. 15 - Feb. 28, ((2005)) 2006	Any elk	EF	Elk Area 2033	10
West Bar A	Oct. 30 - Nov. 3	Antlerless	EF	GMU 330	5
West Bar B	Nov. 4-7	Antlerless	EF	GMU 330	5
Colockum A	Oct. 9-15	Antlerless	EF	Elk Area 3028	35
Taneum A	Nov. 3-7	Antlerless	EF	GMU 336	175
Manastash A	Nov. 3-7	Antlerless	EF	GMU 340	375
Umtnum A	Nov. 3-7	Antlerless	EF	GMU 342	375
Cleman	Dec. 9-31	Antlerless	EF	Elk Area 3944	70
Little Naches B	Nov. 3-7	Antlerless	EF	GMU 346	225
Nile A	Nov. 3-7	Antlerless	EF	GMU 352	50
Bumping B	Nov. 3-7	Antlerless	EF	GMU 356	100
Bethel B	Nov. 3-7	Antlerless	EF	GMU 360	100
Rimrock B	Nov. 3-7	Antlerless	EF	GMU 364	200
Cowiche B	Nov. 3-7	Antlerless	EF	GMU 368	200
Alkali A	Oct. 25 - Nov. 7	Any elk	EF	GMU 371	25
Alkali B	Sept. 7-30	Antlerless	EF	GMU 371	25
Willapa Hills A	Nov. 6-14	Antlerless	WF	GMU 506	35
Raymond A	Nov. 6-10	3 pt. min. or antlerless	WF	Elk Area 6010	20
Raymond B	Dec. 16-31	Antlerless	WF	Elk Area 6010	30
Raymond C	Jan. 1-31, ((2004)) 2006	Antlerless	WF	Elk Area 6010	15
Raymond D	Feb. 1-28, ((2004)) 2006	Antlerless	WF	Elk Area 6010	15
Winston A	Nov. 6-14	Antlerless	WF	GMU 520	12
Margaret B	Nov. 6-14	Antlerless	WF	GMU 524	25

PROPOSED

Hunt Name	((2004)) 2005 Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description	((2004)) 2005 Permits
Ryderwood A	Nov. 6-14	Antlerless	WF	GMU 530	32
Coweeman A	Nov. 6-14	Antlerless	WF	GMU 550	15
Toutle B	Nov. 6-14	Antlerless	WF	GMU 556	35
Marble A	Nov. 6-14	Antlerless	WF	GMU 558	50
Carlton	Oct. 1-10	3 pt. min.	WF	Elk Area 5057	5
West Goat Rocks	Oct. 1-10	3 pt. min.	WF	Elk Area 5058	5
Mt. Adams	Oct. 1-10	3 pt. min.	WF	Elk Area 5059	5
Lewis River A	Nov. 6-14	Antlerless	WF	GMU 560	60
Siouxon A	Nov. 6-14	Antlerless	WF	GMU 572	40
((Twin Satsop-A))	((Dec. 1-15))	((Antlerless))	((WF))	((Elk Area 6061))	((30))
((Twin Satsop-B))	((Jan. 5-15, 2004))	((Antlerless))	((WF))	((Elk Area 6061))	((10))
Chehalis Valley A	Sept. 15-30	Antlerless	WF	Elk Area 6066	10
Chehalis Valley B	Oct. 1-31	Antlerless	WF	Elk Area 6066	10
Chehalis Valley C	Nov. 6-10	Antlerless	WF	Elk Area 6066	30
Chehalis Valley D	Nov. 15-30	Antlerless	WF	Elk Area 6066	15
Chehalis Valley E	Feb. 1-28, ((2004)) 2006	Antlerless	WF	Elk Area 6066	15
North Minot A	Oct. 20-31	Antlerless	WF	Elk Area 6067	60
Deschutes	Jan. 15-23, ((2004)) 2006	Antlerless	WF	GMU 666	10
Williams Creek	Nov. 5-9	Antlerless	WF	GMU 673	40
North Shore A	Nov. 5-9	Antlerless	WF	Elk Area 6068	5
Muzzleloader Bull Permit Hunts (Only muzzleloader elk tag holders may apply.)					
Note: Fire closures may limit access during early October seasons.					
Blue Creek C	Oct. 1-10	Any bull	EM	GMU 154	((+))
Dayton D	Oct. 1-10	Any bull	EM	GMU 162	((+))
<u>Tucannon B</u>	<u>Oct. 1-10</u>	<u>Any bull</u>	<u>EM</u>	<u>Elk Area 1014</u>	
Wenaha B	Oct. 1-10	Any bull	EM	GMU 169	((+))
Mountain View C	Oct. 1-10	Any bull	EM	GMU 172	((2))
<u>Couse D</u>	<u>Oct. 1-10</u>	<u>Any bull</u>	<u>EM</u>	<u>GMU 181</u>	
<u>Mission B</u>	<u>Oct. 1-10</u>	<u>Any bull</u>	<u>EM</u>	<u>GMU 251</u>	5
Naneum B	Oct. 1-10	Any bull	EM	GMU 328	4
Quilomene B	Oct. 1-10	Any bull	EM	GMU 329	5
Teanaway C	Oct. 1-10	Any bull	EM	GMU 335	3
Peaches Ridge B	Oct. 1-10	Any bull	EM	GMUs 336, 346	21
Observatory B	Oct. 1-10	Any bull	EM	GMUs 340, 342	54
Goose Prairie B	Oct. 1-10	Any bull	EM	GMUs 352, 356	15
Bethel C	Oct. 1-10	Any bull	EM	GMU 360	9
Rimrock C	Oct. 1-10	Any bull	EM	GMU 364	18
Cowiche C	Oct. 1-10	Any bull	EM	GMU 368	9
Margaret C	Oct. 2-8	3 pt. min.	WM	GMU 524	5
Toutle C	Oct. 2-8	3 pt. min.	WM	GMU 556	17
Olympic B	Oct. 4-10	3 pt. min.	WM	GMU 621, EXCEPT for Elk Area 6071	3
Skokomish B	Oct. 4-10	3 pt. min.	WM	GMU 636	((+)) 2
Muzzleloader Permit Hunts (Only muzzleloader elk tag holders may apply.)					
Aladdin B	Oct. ((2-10)) 1-7	Any elk	EM	GMU 111	10
Selkirk B	Oct. ((2-10)) 1-7	Any elk	EM	GMU 113	20
<u>49 Degrees North</u>	<u>Oct. 1-7</u>	<u>Antlerless</u>	<u>EM</u>	<u>GMU 117</u>	10
Blue Creek C	((Dec. 9, 2004 - Jan. 31, 2005)) Dec. 9-Jan. 31, 2006	Antlerless	EM	GMUs 149, 154	60
Columbia A	Dec. 1-31	Antlerless	EM	Elk Area 1011 and GMU 163	100
Columbia B	Jan. 1-31, ((2005)) 2006	Antlerless	EM	Elk Area 1011 and GMU 163	100
Columbia C	((Dec. 20, 2004 - Jan. 31, 2005)) Dec. 20-Jan. 31, 2006	Antlerless	EM	Elk Area 1012 and GMU 149	60
Mountain View D	Oct. ((2-8)) 1-10	Antlerless	EM	Elk Area 1013	((20)) 25

PROPOSED

Hunt Name	((2004)) 2005 Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description	((2004)) 2005 Permits
Lick Creek B	Oct. 1-10	Antlerless	EM	GMU 175	25
West Bar C	Oct. 1-10	Antlerless	EM	GMU 330	5
Taneum B	Oct. 2-8	Antlerless	EM	GMU 336	25
Manastash B	Oct. 2-8	Antlerless	EM	GMU 340	25
Umtanum B	Oct. 2-8	Antlerless	EM	GMU 342	275
Nile B	Oct. 2-8	Antlerless	EM	GMU 352	40
Bumping B	Oct. 2-8	Antlerless	EM	GMU 356	90
Bethel D	Oct. 2-8	Antlerless	EM	GMU 360	40
Cowiche D	Oct. 2-8	Antlerless	EM	GMU 368	250
Alkali C	Oct. 1-10	Any elk	EM	GMU 371	25
Stella A	Nov. 24 - Dec. 15	Antlerless	WM	GMU 504	75
Stella B	Jan. 1-16, ((2005)) 2006	Antlerless	WM	GMU 504	50
Toledo A	Jan. 1-16, ((2005)) 2006	Antlerless	WM	Elk Area 5029	30
Malaga F	Oct. ((2-22)) 1-21	Antlerless	EM	Elk Area 2032	100
Malaga G	Oct. ((2-22)) 1-21	Any elk	EM	Elk Area 2032	15
Mossyrock A	Jan. 1-16, ((2005)) 2006	Antlerless	WM	Elk Area 5052	20
Randle A	Jan. 1-16, ((2005)) 2006	Antlerless	WM	Elk Area 5053	15
Boistfort	Jan. 1-16, ((2005)) 2006	Antlerless	WM	Elk Area 5054	40
Willapa Hills B	Nov. 24 - Dec. 15	Antlerless	WM	GMU 506	15
Green Mt. A	Jan. 1-16, ((2005)) 2006	Antlerless	WM	Elk Area 5051	30
Winston B	Nov. 24 - Dec. 15	Antlerless	WM	GMU 520	3
Margaret D	Nov. 24 - Dec. 15	Antlerless	WM	GMU 524	10
Ryderwood B	Oct. 2-8	Antlerless	WM	GMU 530	8
Coweeman B	Nov. 24 - Dec. 15	Antlerless	WM	GMU 550	5
Toutle D	Nov. 24 - Dec. 15	Antlerless	WM	GMU 556	10
Marble B	Oct. 2-8	Antlerless	WM	GMU 558	10
Lewis River B	Oct. 2-8	Antlerless	WM	GMU 560	15
Siouxon B	Oct. 2-8	Antlerless	WM	GMU 572	10
Yale	Nov. 24 - Dec. 15	3 pt. min. or antlerless	WM	GMU 554	75
<u>Twin Satsop A</u>	<u>Jan. 5-15, 2006</u>	<u>Antlerless</u>	<u>WM</u>	<u>Elk Area 6061</u>	<u>10</u>
<u>Twin Satsop ((A)) B</u>	<u>Oct. 6-10</u>	<u>Antlerless</u>	<u>WM</u>	<u>Elk Area 6061</u>	<u>10</u>
North River	Nov. 26 - Dec. 15	Antlerless	WM	GMU 658	20
North Minot B	Oct. 2-8	Antlerless	WM	Elk Area 6067	60
Raymond E	Oct. 1-31	Antlerless	WM	Elk Area 6010	30
Chehalis Valley	Jan. 1-31, ((2004)) 2006	Antlerless	WM	Elk Area 6066	15
Capitol Peak A	Nov. 19 - Dec. 15	Antlerless	WM	GMU 663	10
Capitol Peak B	Dec. 16-31	Antlerless	WM	GMU 663	10
<u>Tri Valley</u>	<u>Jan. 1-31, 2006</u>	<u>Antlerless</u>	<u>WM</u>	<u>Elk Area 6012</u>	<u>10</u>

Archery Permit Hunts (Only archery elk tag holders may apply.)

Note: Fire closures may limit access during September seasons.

Blue Creek D	Sept. 8-21	Any bull	EA	GMU 154	2
Dayton E	Sept. 8-21	Any bull	EA	GMU 162	3
<u>Tucannon C</u>	<u>Sept. 8-21</u>	<u>Any bull</u>	<u>EA</u>	<u>Elk Area 1014</u>	
Wenaha C	Sept. 8-21	Any bull	EA	GMU 169	2
Mountain View E	Sept. 8-21	Any bull	EA	GMU 172	6
<u>Couse E</u>	<u>Sept. 8-21</u>	<u>Any bull</u>	<u>EA</u>	<u>GMU 181</u>	
Naneum C	Sept. 8-21	Any bull	EA	GMU 328	30
Quilomene C	Sept. 8-21	Any bull	EA	GMU 329	41
Teaway E	Sept. 8-21	Any bull	EA	GMU 335	31
Peaches Ridge C	Sept. 8-21	Any bull	EA	GMUs 336, 346	180
Observatory C	Sept. 8-21	Any elk	EA	GMUs 340, 342	106
Goose Prairie C	Sept. 8-21	Any bull	EA	GMUs 352, 356	188
Bethel E	Sept. 8-21	Any bull	EA	GMU 360	43
Rimrock D	Sept. 8-21	Any bull	EA	GMU 364	118
Cowiche E	Sept. 8-21	Any bull	EA	GMU 368	24

PROPOSED

Hunt Name	((2004)) 2005 Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description	((2004)) 2005 Permits
Peshastin G	Sept. 1-14	Any elk	EA	Elk Area 2033	30
Margaret E	Sept. 8-21	3 pt. min.	WA	GMU 524	9
Toutle E	Sept. 8-21	3 pt. min.	WA	GMU 556	58
Olympic C	Sept. 8-21	3 pt. min.	WA	GMU 621, EXCEPT for Elk Area 6071	6
Mashel A	Jan. 1-15, ((2005)) 2006	Antlerless	WA	Elk Area 6054	25
Skokomish C	Sept. 8-21	3 pt. min.	WA	GMU 636	((6)) 12
Advanced Hunter Education (AHE) Master Hunter Special Elk Permit Hunts: Only AHE master hunters may apply; antlerless only hunts will not affect accumulated points; and ((in any elk tag hunts)) any weapon may be used.					
<u>Corral Canyon A</u>	<u>Sept. 1-30</u>	<u>Any elk</u>	<u>Any elk tag</u>	<u>Elk Area 3721</u>	<u>10</u>
<u>Corral Canyon B</u>	<u>Nov. 15-March 31, 2006</u>	<u>Any elk</u>	<u>Any elk tag</u>	<u>Elk Area 3721</u>	<u>40</u>
<u>Blackrock A</u>	<u>Aug. 1-March 31, 2006</u>	<u>Any elk</u>	<u>Any elk tag</u>	<u>Elk Area 3722</u>	<u>18</u>
Toledo B	Jan. 17-31, ((2005)) 2006	Antlerless	Any elk tag	Elk Area 5029	20
Peshastin F	Aug. 18-25	Any elk	Any elk tag	Elk Area 2033	5
Mossyrock B	Jan. 17-31, ((2004)) 2006	Antlerless	Any elk tag	Elk Area 5052	20
Randle B	Jan. 17-31, ((2004)) 2006	Antlerless	Any elk tag	Elk Area 5053	15
Quinault Ridge	Oct. 1-10	3 pt. min. or antlerless	Any elk tag	GMU 638	5
Green Mt. B	Jan. 17-31, ((2005)) 2006	Antlerless	Any elk tag	Elk Area 5051	20
Merwin A	Nov. 24 - Dec 15	Antlerless	Any elk tag	Elk Area 5055	10
Merwin B	Jan. 17-31, ((2005)) 2006	Antlerless	Any elk tag	Elk Area 5055	10
<u>JBH A*</u>	<u>Nov. 28-Dec. 2</u>	<u>Antlerless</u>	<u>Any elk tag</u>	<u>Elk Area 5090</u>	<u>5</u>
<u>JBH B*</u>	<u>Dec. 12-16</u>	<u>Antlerless</u>	<u>Any elk tag</u>	<u>Elk Area 5090</u>	<u>5</u>
Advanced Hunter Education (AHE) Master Hunter, Second Elk Tag Hunts: Only AHE Master Hunters may apply; antlerless only hunts will not affect accumulated points; a second tag may be purchased by successful applicants as needed (second tag purchase deadlines do not apply to these hunts); and ((in any elk tag hunts)) any weapon may be used.					
Kiona	Aug. 1 - Feb. 28, ((2005)) 2006	Antlerless	Any elk tag	Designated areas in GMU 372	20 ^{HM}
Grays River A	Sept. 15-30	Antlerless	Any elk tag	Elk Area 5056	((8)) 6
((Grays River B))	((Oct. 1-15))	((Antlerless))	((Any elk tag))	((Elk Area 5056))	((8))
((Grays River C))	((Dec. 16-31))	((Antlerless))	((Any elk tag))	((Elk Area 5056))	((8))
Grays River ((D)) B	Jan. 1-15, ((2005)) 2006	Antlerless	Any elk tag	Elk Area 5056	((8)) 6
Grays River ((E)) C	Jan. 16-31, ((2005)) 2006	Antlerless	Any elk tag	Elk Area 5056	((8)) 6
Grays River ((F)) D	Feb. 1-14, ((2005)) 2006	Antlerless	Any elk tag	Elk Area 5056	((8)) 6
Grays River ((G)) E	Feb. 15-28, ((2005)) 2006	Antlerless	Any elk tag	Elk Area 5056	((8)) 6
<u>JBH C*</u>	<u>Dec. 17-Feb. 28, 2006</u>	<u>Antlerless</u>	<u>Any elk tag</u>	<u>Elk Area 5090</u>	<u>15^{HM}</u>
North River B	Dec. 16 - Feb. 28, ((2005)) 2006	Antlerless	Any elk tag	Designated areas in GMU 658	10 ^{HM}
Chehalis G	Aug. 1 - Feb. 28, ((2005)) 2006	Antlerless	Any elk tag	Designated areas in Elk Area 6066	((20)) 10 ^{HM}
Hannaford C	Aug. 1 - Feb. 28, ((2005)) 2006	Antlerless	Any elk tag	Designated areas in Elk Area 6069	5 ^{HM}
Dungeness A	Sept. 8-29	Antlerless only	WA	Elk Area 6071	3
Dungeness B	Oct. 9-31	Spike bull or antlerless	WM	Elk Area 6071 South of Hwy. 101	3
Dungeness C	Nov. 12 - Dec. 12	Antlerless only	WF	Elk Area 6071	4
Dungeness D	Dec. 18 - Jan. 9, ((2005)) 2006	Antlerless only	WA	Elk Area 6071	3
Dungeness E	Jan 22 - Feb. 28, ((2005)) 2006	Antlerless only	WF	Designated areas in Elk Area 6071	8 ^{HM}
Youth 15 and Under - Special Elk Permit Hunts					
<u>Blackrock B</u>	<u>Aug. 1-March 31, 2006</u>	<u>Any elk</u>	<u>Any elk tag</u>	<u>Elk Area 3722</u>	<u>10</u>
Persons of Disability Only - Special Elk Permit Hunts					
Observatory D	Oct. 25 - Nov. 7	Any elk	EF or EM	GMUs 340, 342	7
Little Naches C	Oct. 1-10	Any elk	EF, EM, EA	GMU 346	5
Little Naches D	Nov. 3-7	Antlerless	EF, EM, EA	GMU 346	8
<u>Blackrock C</u>	<u>Aug. 1-March 31, 2006</u>	<u>Any elk</u>	<u>Any elk tag</u>	<u>Elk Area 3722</u>	<u>2</u>
Mudflow A	Nov. ((22-28)) 7-13	Antlerless	Any elk tag	Elk Area 5099	5
Mudflow B	Nov. ((29-Dec-5)) 21-27	Antlerless	Any elk tag	Elk Area 5099	5

PROPOSED

Hunt Name	((2004)) 2005 Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description	((2004)) 2005 Permits
Centralia Mine A	Oct. 23-24	Antlerless	Any elk tag	Elk Area 6011	2
Centralia Mine B	Oct. 30-31	Antlerless	Any elk tag	Elk Area 6011	2
North Shore B	Oct. 1-31	Antlerless	Any elk tag	Elk Area 6068	5
North Shore C	Dec. 16-31	Antlerless	Any elk tag	Elk Area 6068	5
North Shore D	Jan. 1-31, ((2004)) 2006	Antlerless	Any elk tag	Elk Area 6068	5
North Shore E	Feb. 1-28, ((2004)) 2006	Antlerless	Any elk tag	Elk Area 6068	5
Chehalis Valley F	Dec. 16-31	Antlerless	Any elk tag	Elk Area 6066	15
Hannaford A	Jan. 1-15, ((2005)) 2006	Antlerless	Any elk tag	Elk Area 6069	5
Hunters 65 or older only - Special Elk Permit Hunts					
Hannaford B	Jan. 16-31, ((2005)) 2006	Antlerless	Any elk tag	Elk Area 6069	5

* Muzzleloaders only: scopes allowed in JBH hunt

HM This is a damage hunt administered by a WDFW designated Hunt Master. Successful applicants will be contacted on an as-needed basis to help with specific sites of elk damage on designated landowner's property. Not all successful applicants will be contacted in any given year depending on elk damage activity for that year.

Hunter Education Instructor Incentive Permits

- Special elk permits will be allocated through a random drawing to those hunter education instructors that qualify.
- Permit hunters must use archery equipment during archery seasons, muzzleloader equipment during muzzleloader seasons, and any legal weapon during modern firearm seasons.
- Qualifying hunter education instructors must be certified and have been in active status for a minimum of three consecutive years, inclusive of the year prior to the permit drawing.
- Instructors who are drawn, accept a permit, and are able to participate in the hunt, will not be eligible for these incentive permits for a period of ten years thereafter.
- Permittees may purchase a second license for use with the permit hunt only.

Area	Dates	Restrictions	GMUs	Permits
Region 3	All general season and permit seasons established for GMUs included with the permit.	Any elk	GMUs 335-368	1
Region 5		Any elk	All 500 series GMUs except GMU 522	1
Region 6		Any elk	GMUs 654, 660, 672, 673, 681	1

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 05-06-108
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
[Filed March 2, 2005, 10:20 a.m.]**

Original Notice.

Preproposal statement of inquiry was filed as WSR 05-02-092.

Title of Rule and Other Identifying Information: WAC 232-28-273 2005 Moose, bighorn sheep and mountain goat seasons and permit quotas, 232-28-282 Big game and wild turkey auction, raffle, and special incentive permits, 232-28-341 2003-04, 2004-05, 2005-06 Small game seasons, 232-28-333 Game management units (GMUs) boundary descriptions—Region three, 232-28-335 Game management units (GMUs) boundary descriptions—Region five, 232-28-337 Deer and elk area descriptions, 232-28-266 Landowner damage hunts, and 232-28-248 Special closures and firearm restriction areas.

Hearing Location(s): Best Western Hallmark Inn, 3000 Marina Drive, Moses Lake, WA 98837, (509) 765-9211, on April 8-9, 2005, at 8:00 a.m.

Date of Intended Adoption: April 8, 2005.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2612, by Friday, March 25, 2005.

Assistance for Persons with Disabilities: Contact Susan Yeager by April 4, 2005, TTY (360) 902-2207 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 232-28-273 2005 Moose, bighorn sheep and mountain goat seasons and permit quotas.

Summary: The recommended changes are to establish 2005 seasons with adjustments in permit quotas based on population objectives.

Purpose of the Proposal and Its Anticipated Effects, Including Any Change in Existing Rules: This rule establishes 2005 seasons and permit quotas for moose, bighorn sheep, and mountain goats. The purpose of the rule is to maximize recreational hunting opportunities for these species while meeting the population and recreational objectives for each herd as indicated in the game management plan.

Reasons Supporting Proposal: Recommended adjustments in permit quotas are based on meeting population

objectives for each species as indicated in the game management plan.

WAC 232-28-282 Big game and wild turkey auction, raffle, and special incentive permits.

Summary: Recommend minor hunt area changes for elk and bighorn sheep.

Reasons Supporting Proposal: The proposed change closes game management unit (GMU) 485 for elk auction and raffle hunters and the Lincoln Cliffs area for bighorn sheep auction and raffle hunters. For the elk auction and raffle tags in GMU 485, the land manager, Tacoma Water, is unwilling to allow access for auction and raffle elk hunters through the time period listed in the rule. Wildlife management in the Green River watershed is a three-way agreement with the department, the Muckleshoot Indian Tribe, and Tacoma Water. In the Lincoln Cliffs, bighorn sheep ram populations are at lower than objective levels.

Short Explanation of Rule, its Purpose, and Anticipated Effects: The rules provide seasons, bag limits, and hunt areas for big game auction and raffle hunting opportunities. The purpose of the proposed changes is to maintain sustainable wildlife populations while providing species specific revenue. Additionally, the department is trying to maintain a good working relationship with land managers in the Green River watershed.

Describe How Proposed Rule Changes Existing Rule: Closes some areas for elk and bighorn sheep auction and raffle hunters.

WAC 232-28-341 2003-04, 2004-05, 2005-06 Small game seasons.

Summary: Hunting seasons for small game species.

Purpose of the Proposal and Its Anticipated Effects, Including Any Change in Existing Rules: This proposal has two purposes. First, this proposal will increase pheasant hunting opportunity in eastern Washington by extending the seasons closing date to January 16, 2006. This would make the season ending date consistent with quail, chukar and gray partridge. Second, the youth turkey season would be expanded to include all GMUs. WAC 232-28-341 is the only WAC these changes will affect.

Reasons Supporting Proposal: In 2003, the opening date for eastern Washington pheasant season was moved to the weekend following opening day of deer season. For several years prior to 2003, the pheasant season was opened on the first weekend of October. In 2003 pheasant season opened on October 18, two weeks later than 2002. In 2004, the pheasant season opened on October 23, which made the 2004 season eighteen days shorter than 2002. This shortening of pheasant season is not based on biological necessity but rather social issues related to hunter and landowner relationships.

Youth turkey season was implemented in 2004 on approximately half of the state's GMUs. This was a conservative approach to opening a youth season before the general season opened to address concerns that had been expressed by turkey hunters who didn't want to see the youth season open before the general season. Comments received during and after the 2004 spring turkey season were very positive and supportive of this youth opportunity. In addition,

WDFW has received requests to open additional GMUs for youth hunting. Since we have increased interest and supportive comments, we think it is appropriate to increase youth spring turkey hunting opportunity to be effective in the spring of 2006.

WAC 232-28-333 Game management units (GMUs) boundary descriptions—Region 3.

Summary: GMU 372 will be divided into two GMUs to better deal with elk harvest and elk management in Benton County.

Purpose of the Proposal and Its Anticipated Effects, Including Any Change in Existing Rules: GMU boundary rules define legal hunting areas. The GMUs need readily discernable boundaries to direct hunters to appropriate hunting areas. The change will allow the department to implement two different harvest strategies for elk in two different locations.

Reasons Supporting Proposal: Two separate harvest strategies are needed to manage the elk populations in the current GMU 372.

WAC 232-28-335 Game management units (GMUs) boundary descriptions—Region 5.

Summary: The boundary description for game management unit (GMU) 522 needs modification to adjust a transposition of road numbers.

Purpose of the Proposal and Its Anticipated Effects, Including Any Change in Existing Rules: GMU boundary rules define legal hunting areas. The GMUs need readily discernable boundaries to direct hunters to appropriate hunting areas. The change will correct the boundary language and make it less confusing.

Reasons Supporting Proposal: The proposed language corrects a typographical error.

WAC 232-28-337 Deer and elk areas.

Summary: The proposed language adjusts some existing deer and elk area boundaries to allow staff to be more effective in dealing with damage concerns. New elk areas are also proposed to facilitate hunting seasons on a smaller scale than the game management unit (GMU).

Purpose of the Proposal and Its Anticipated Effects, Including Any Change in Existing Rules: The proposed language adjusts the boundaries of some deer and elk areas and also creates some new deer and elk areas. Adjustment of the boundaries will help staff deal with wildlife damage problems where they are occurring. Creation of new areas also defines areas for new hunts.

Reasons Supporting Proposal: The proposed language makes existing boundaries more appropriate when the department is dealing with damage issues. Two additional elk areas will help facilitate new hunts.

WAC 232-28-266 2003-2004, 2004-2005, 2005-2006 Landowner damage permits.

Summary: The proposed language adjusts the number of landowner damage permits available to the department to disperse to landowners suffering deer or elk damage to their crops, orchards, or vineyards. To provide some harvest of elk on private land near Hanford National Monument and to address landowner concerns, the director issued twenty any

PROPOSED

elk, twenty spike bull or antlerless elk, and sixty antlerless elk permits by emergency rule. As a result several key landowners reopened their property for hunting. The proposed amendments would establish permit levels as requested by landowners to assist with the harvest of elk and better achieve harvest objectives in the Hanford area. The rule change makes permanent the director's temporary rule change that was implemented last fall.

Purpose of the Proposal and Its Anticipated Effects, Including Any Change in Existing Rules: The rule allows the department to issue deer or elk permits to landowners that are suffering agricultural damage. The purpose is to provide some relief and compensation to landowners if they are willing to forgo damage claims. The rule change will allow the department more flexibility in how it uses landowner damage permits in Benton and Yakima counties to deal with damage problems. Provides recreational opportunity for citizens, helps reduce wildlife damage, and achieves elk harvest objectives.

Reasons Supporting Proposal: The proposed language allows the department to better address wildlife damage and population control of elk.

WAC 232-28-248 Special closures and firearm restrictions.

Summary: Proposed amendments add more restrictive rules to one area for safety reasons.

Purpose of the Proposal and Its Anticipated Effects, Including Any Change in Existing Rules: The proposed rule amendment would make a current firearm restriction area in King County open to archery only. The purpose is to address potential safety issues that might be encountered if muzzle-loaders, shotguns, or handguns are allowed. The effect will maintain some hunting in the area and provide some harassment to the local elk population that is causing damage.

Reasons Supporting Proposal: The proposed language retains some limited level of hunting that is compatible with urban expansion. Also helps deal with damage.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 77.12.047.

Statute Being Implemented: RCW 77.12.047.

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

Name of Proponent: Washington Fish and Wildlife Commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Natural Resources Building, Olympia, (360) 902-2504; and **Enforcement:** Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2932.

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

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

Evan Jacoby
Rules Coordinator

AMENDATORY SECTION (Amending Order 04-98, filed 5/12/04, effective 6/12/04)

WAC 232-28-273 ((2004)) 2005 Moose, bighorn sheep, and mountain goat seasons and permit quotas.

((2004)) 2005 Moose Permit Hunts

Who May Apply: Anyone may apply; EXCEPT those who harvested a moose previously in Washington state. An individual may only harvest one moose during their lifetime (except waived for antlerless only hunts and raffle and auction hunts).

Bag Limit: One moose of either sex, EXCEPT antlerless only for the 49 Degrees North B persons with disabilities hunt, Hangman B Hunt, Mt. Spokane B Hunt and the Mt. Spokane Youth Hunt.

Weapon Restrictions: Permit holders may use any legal weapon.

Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	((2004)) 2005 Permits
Kettle Range	Oct. 1-Nov. 30	GMU 101, 105	Any Moose	1
Selkirk Mtns.	Oct. 1-Nov. 30	GMU 113	Any Moose	20
Mt. Spokane A	Oct. 1-Nov. 30	GMU 124, east of Hwy 395	Any Moose	10
Mt. Spokane B	Oct. 1-Nov. 30	GMU 124, east of Hwy 395	Antlerless Only	12
Mt. Spokane Youth Only ^a	Oct. 1-Nov. 30	GMU 124, east of Hwy 395	Antlerless Only	8
49 Degrees North	Oct. 1-Nov. 30	GMU 117	Any Moose	22
49 Degrees North B ^b	Oct. 1-Nov. 30	GMU 117	Antlerless Only	3
Three Forks	Oct. 1-Nov. 30	GMUs 108, 111	Any Moose	6
Hangman A	Oct. 1-Nov. 30	GMU 127, 130	Any Moose	5
Hangman B	Oct. 1-Nov. 30	GMU 127, 130	Antlerless Only	3
Huckleberry Range	Oct. 1-Nov. 30	GMU 121, 124 west of Hwy 395	Any Moose	((4)) 6

^aApplicants must be eligible to purchase a youth moose permit application. Youth hunters must be accompanied by an adult during the hunt.

^bApplicants must possess a Disabled Hunter Permit.

~~((2004))~~ 2005 Mountain Sheep (Bighorn) Permit Hunts

Who May Apply: Anyone may apply; EXCEPT those who harvested a bighorn sheep previously in Washington state. An individual may only harvest one bighorn sheep during their lifetime. (Except waived for raffle and auction hunts.)

Bag Limit: One bighorn ram.

PROPOSED

Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	((2004)) <u>2005</u> Permits
<u>Vulcan Mountain</u>	<u>Sept. 15-Oct. 10</u>	<u>Sheep Unit 2</u>	<u>Any Legal Weapon</u>	<u>1</u>
Umtanum/Selah Butte A	Sept. 15-Oct. 3	Sheep Unit 4 and 5	Any Legal Weapon	4
Umtanum/Selah Butte B	Nov. 8-30	Sheep Unit 4 and 5	Any Legal Weapon	3
Cleman Mountain A	Sept. 15-Oct. 3	Sheep Unit 7	Any Legal Weapon	4
Cleman Mountain B	Nov. 8-30	Sheep Unit 7	Any Legal Weapon	3
Mt. Hull	Sept. 15-Oct. 10	Sheep Unit 10	Any Legal Weapon	1
Lincoln Cliffs	Sept. 15-Oct. 10	Sheep Unit 12	Any Legal Weapon	1
Quilomene A	Sept. 15-Oct. 3	Sheep Unit 13	Any Legal Weapon	3
Quilomene B	Nov. 8-30	Sheep Unit 13	Any Legal Weapon	2
Swakane	Sept. 15-Oct. 10	Sheep Unit 14	Any Legal Weapon	1
Tieton	Sept. 15-Oct. 10	Sheep Unit 15	Any Legal Weapon	2
<u>Manson</u>	<u>Oct. 20-Nov. 15</u>	<u>Sheep Unit 16</u>	<u>Any Legal Weapon</u>	<u>2</u>

Mountain (Bighorn) Sheep Units:

Sheep Unit 2 Vulcan Mountain: Permit Area: Ferry County north of the Kettle River near Curlew.

Sheep Unit 4 Selah Butte: Permit Area: That part of Yakima and Kittitas counties between Ellensburg and Yakima east of the Yakima River and north of Selah Creek, west of Interstate 82 and south of Interstate 90.

Sheep Unit 5 Umtanum: Permit Area: Those portions of Yakima and Kittitas counties west of the Yakima River, north of Wenas Creek, and east of USFS Road 1701 to Manastash Lake and its drainage; south and east along the South Fork Manastash Creek to Manastash Creek and the Yakima River.

Sheep Unit 7 Cleman Mountain: Permit Area: That part of Yakima County south of Wenas Creek and east of USFS Road 1701, north of Highway 410 and Highway 12 and west of the Yakima River.

Sheep Unit 10 Mt. Hull: Permit Area: That part of Okanogan County within the following described boundary: Beginning at Oroville; then south along U.S. Highway 97 to the Swanson's Mill Road (old Mt. Hull Road) near Lake Andrews; then east to the Dry Gulch Road; then north to the

Oroville-Toroda Creek Road (Molson Grade Road); then west to Oroville and the point of beginning.

Sheep Unit 12 Lincoln Cliffs: Permit Area: That part of Lincoln County north of Highway 2.

Sheep Unit 13 Quilomene: Permit Area: GMU 329.

Sheep Unit 14 Swakane: Permit Area: GMU 250.

Sheep Unit 15 Tieton: Permit Area: GMU 360.

Sheep Unit 16 Manson: Permit Area: GMU 243.

~~((2004))~~ 2005 Mountain Goat Permit Hunts

Who May Apply: Anyone may apply; except those who harvested a mountain goat in Washington state after 1998. An individual may only harvest one mountain goat during their lifetime, except for those who harvested a goat prior to 1999. (Except waived for raffle and auction hunts.)

Bag Limit: One (1) adult goat of either sex with horns four (4) inches or longer. WDFW urges hunters to refrain from shooting nannies with kids. Permit hunters may start hunting Sept. 1 with archery equipment.

Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	((2003)) <u>2005</u> Permits
Chelan North	Sept. 15-Oct. 31	Goat Unit 2-1	Any Legal Weapon	1
Methow	Sept. 15-Oct. 31	Goat Unit 2-2	Any Legal Weapon	2
Naches Pass/Corral Pass	Sept. 15-Oct. 31	Goat Unit 3-6, 4-38	Any Legal Weapon	2
Bumping River	Sept. 15-Oct. 31	Goat Unit 3-7	Any Legal Weapon	2
Blazed Ridge	Sept. 15-Oct. 31	Goat Unit 3-10	Any Legal Weapon	2
Kachess Ridge	Sept. 15-Oct. 31	Goat Unit 3-11	Any Legal Weapon	0
Jack Mountain	Sept. 15-Oct. 31	Goat Unit 4-9	Any Legal Weapon	0

Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	((2003)) 2005 Permits
Tatoosh	Sept. 15-Oct. 31	Goat Unit 5-2	Any Legal Weapon	((3)) 1
Smith Creek	Sept. 15-Oct. 31	Goat Unit 5-3	Any Legal Weapon	1
Goat Rocks/Tieton River	Sept. 15-Oct. 31	Goat Units 3-9, 5-4	Any Legal Weapon	6

Mountain Goat Units:

Goat Unit 2-1 Chelan N. (Chelan County): Permit Area: Beginning at the mouth of Fish Creek on Lake Chelan (Moore Point); then northeast up Fish Creek and USFS trail 1259 to the Sawtooth crest near Deephole Spring; then southeast along the Sawtooth crest, which separates Chelan and Okanogan County, to Horsethief Basin and the headwaters of Safety Harbor Creek; then south along Safety Harbor Creek to Lake Chelan, then northwest along the north shore of Lake Chelan to the mouth of Fish Creek at Moore Point and the point of beginning.

Goat Unit 2-2 Methow Area: Permit Area: Okanogan County within the following described boundary: Beginning at the Town of Twisp, westerly along the Twisp River Road (County Road 4440) to Roads End; west up the Twisp Pass Trail 432 to Twisp Pass and the Okanogan County line; northerly along the Okanogan County line through Washington Pass to Harts Pass; southeast down Harts Pass (Road 5400) to Lost River; then along the Lost River-Mazama Road to Mazama; then southwest to State Highway 20; then southeasterly along State Highway 20 to Twisp and the point of beginning.

Goat Unit 3-6 Naches Pass: Permit Area: Yakima and Kittitas counties within the following described boundary: Beginning at Chinook Pass; then north along the Pacific Crest Trail to Naches Pass; then east to USFS Road 19 and continuing to State Highway 410; then west along State Highway 410 to Chinook Pass and point of beginning.

Goat Unit 3-7 Bumping River: Permit Area: GMU 356; EXCEPT Timberwolf Mountain, which is closed.

Goat Unit 3-9 Tieton River: Permit Area: Yakima County within the following described boundary: Beginning at White Pass and Pacific Crest Trail; then south to the Yakama Indian Reservation Boundary; then east to USFS Jeep Trail 1137; then west to USFS Road 1070-578 Spur; then west to Road 1000; then north to USFS Road 12; then north to State Highway 12; then west on State Highway 12 to point of beginning.

Goat Unit 3-10 Blazed Ridge: Permit Area: Kittitas and Yakima counties within the following described boundary: Beginning at the mouth of Cabin Creek on the Yakima River; then west along Cabin Creek to the headwaters near Snowshoe Butte; then south along the Cascade Crest separating the Green and Yakima river drainage to Pyramid Peak; then southeast along the North Fork, Little Naches, and Naches River to the Yakima River; then north along the Yakima River to the mouth of Cabin Creek and point of beginning.

Goat Unit 3-11 Kachess Ridge: Permit Area: Kittitas County within the following described boundary: Beginning at the mouth of the Kachess River on the Yakima River; then

north along the Kachess River and Kachess Lake to USFS Road 4600; then east on USFS Road 4600 to the Cle Elum River; then south along the Cle Elum River and Lake Cle Elum to the Yakima River; then northwest along the Yakima River to the mouth of the Kachess River and point of beginning.

Goat Unit 4-9 Jack Mountain: Permit Area: Whatcom County within the following described boundary: Beginning at the confluence of Ruby Creek and Crater Creek; then north up Crater Creek to the ridge line between Jerry Lakes and a pinnacle of Jack Mountain (7,292 ft. elevation); continue due north to Devil's Creek; then west down Devil's Creek to Ross Lake; then south along the east shoreline of Ross Lake to Ruby Arm; then easterly up Ruby Arm and Ruby Creek to the confluence of Crater Creek and the point of beginning.

Goat Unit 4-38 Corral Pass: Permit Area: Pierce County within the following described boundary: Beginning where Goat Creek intersects the Corral Pass Road; then southeast up Goat Creek to the Cascade Crest; then north along the Crest to USFS Trail 1188; then northwest along said trail to USFS Trail 1176; then north along said trail to Corral Pass; then west along Corral Pass Road to its intersection with Goat Creek and the point of beginning.

Goat Unit 5-2 Tatoosh: Permit Area: Lewis County within the following described boundary: Beginning at the junction of the southern Mount Rainier National Park Boundary and State Highway 123; then south along State Highway 123 to U.S. Highway 12; then southwest along said highway to Skate Creek Road (USFS Road 52); then northwest along said road to the junction of Morse Creek Road (old road to Longmire Campground); then north along said road to the Mount Rainier National Park Boundary; then east along the southern park boundary to the point of beginning.

Goat Unit 5-3 Smith Creek: Permit area: Lewis County within the following described boundary: Beginning at the Town of Randle; then east along U.S. Highway 12 to USFS Road 21; then southeast along USFS Road 21 to USFS Road 22; then northeast and northwest along USFS Road 22 to USFS Road 23; then east and northwest on USFS Road 23 to USFS Road 25; then north along USFS Road 25 to Randle and point of beginning.

Goat Unit 5-4 Goat Rocks: Permit Area: Lewis County south of the White Pass Highway (U.S. Highway 12) and east of the Johnson Creek Road (USFS Road 1302).

PROPOSED

AMENDATORY SECTION (Amending Order 04-98, filed 5/12/04, effective 6/12/04)

WAC 232-28-282 Big game and wild turkey auction, raffle, and special incentive permits.

BIG GAME AUCTION PERMITS

The director will select a conservation organization(s) to conduct annual auction(s). Selection of the conservation organizations will be based on criteria adopted by the Washington department of fish and wildlife. Big game and wild turkey auctions shall be conducted consistent with WAC 232-28-292.

SPECIES - ONE DEER PERMIT

Hunting season dates: September 1 - December 31, 2004
 Hunt Area: Statewide EXCEPT all Private Lands Wildlife Management Areas (PLWMAs), GMU 485, and those GMUs closed to deer hunting by the fish and wildlife commission.
 Weapon: Any legal weapon.
 Bag limit: One additional any buck deer

SPECIES - ONE WESTSIDE DEER PERMIT

Hunting season dates: 2005 and thereafter, September 1 - December 31
 Hunt Area: Western Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs), GMU 485, and those GMUs closed to deer hunting by the fish and wildlife commission.
 Weapon: Any legal weapon.
 Bag limit: One additional any buck deer

SPECIES - ONE EASTSIDE DEER PERMIT

Hunting season dates: 2005 and thereafter, September 1 - December 31
 Hunt Area: Eastern Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs) and those GMUs closed to deer hunting by the fish and wildlife commission.
 Weapon: Any legal weapon.
 Bag limit: One additional any buck deer

SPECIES - ONE WESTSIDE ELK PERMIT

Hunting season dates: September 1 - December 31, 2005
 Hunt Area: Western Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs), those GMUs closed to elk hunting, and those GMUs not opened to branch antlered bull elk hunting by the fish and wildlife commission.
 Weapon: Any legal weapon.
 Bag limit: One additional any bull elk

Hunting season dates: September 1 - December 31, 2006 and thereafter

Hunt Area: Western Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs), GMU 485, those GMUs closed to elk hunting, and those GMUs not opened to branch antlered bull elk hunting by the fish and wildlife commission.

Weapon: Any legal weapon.

Bag limit: One additional any bull elk

SPECIES - ONE EASTSIDE ELK PERMIT

Hunting season dates: September 1 - December 31
 Hunt Area: Eastern Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs), GMU 157, those GMUs closed to elk hunting, and those GMUs not opened to branch antlered bull elk hunting by the fish and wildlife commission.

Weapon: Any legal weapon.

Bag limit: One additional any bull elk

SPECIES - ONE BIGHORN SHEEP PERMIT

Hunting season dates: September 1 - October 31, 2005
 Hunt Area: Sheep Unit 4 (Selah Butte), Sheep Unit 5 (Umtanum), Sheep Unit 7 (Cleman Mountain), Sheep Unit 12 (Lincoln Cliffs), or Sheep Unit 13 (Quilomene).

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One bighorn ram

Hunting season dates: September 1 - October 31, 2006 and thereafter

Hunt Area: Sheep Unit 4 (Selah Butte), Sheep Unit 5 (Umtanum), Sheep Unit 7 (Cleman Mountain), or Sheep Unit 13 (Quilomene).

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One bighorn ram

SPECIES - ONE MOOSE PERMIT

Hunting season dates: October 1 - November 30
 Hunt Area: Any open moose unit.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One moose of either sex

SPECIES - ONE MOUNTAIN GOAT PERMIT

Hunting season dates: September 15 - October 31
 Hunt Area: Goat Unit 3-6 (Naches Pass), Goat Unit 3-9 (Tieton River), Goat Unit 3-10 (Blazed Ridge), or Goat Unit 5-4 (Goat Rocks).

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One mountain goat of either sex

RAFFLE PERMITS

Raffle permits will be issued to individuals selected through a Washington department of fish and wildlife drawing or the director may select a conservation organization(s) to conduct annual raffles. Selection of a conservation organization will be based on criteria adopted by the Washington department of fish and wildlife. Big game and wild turkey raffles shall be conducted consistent with WAC 232-28-290.

RAFFLE PERMIT HUNT(S)**DEER RAFFLE PERMIT HUNT****Bag limit:** One additional any buck deer**Open area:** Statewide EXCEPT all Private Lands Wildlife Management Areas (PLWMAs), GMU 485, and those GMUs closed to deer hunting by the fish and wildlife commission.**Open season:** September 1 - December 31, 2004.**Weapon:** Any legal weapon.**Number of permits:** 1**Raffle ticket cost:** \$5.00 including a 50-cent vendor fee.**WESTSIDE DEER RAFFLE PERMIT HUNT****Bag limit:** One additional any buck deer**Open area:** Western Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs), GMU 485, and those GMUs closed to deer hunting by the fish and wildlife commission.**Open season:** 2005 and thereafter, September 1 - December 31**Weapon:** Any legal weapon.**Number of permits:** 1**Raffle ticket cost:** \$5.00 including a 50-cent vendor fee.**EASTSIDE DEER RAFFLE PERMIT HUNT****Bag limit:** One additional any buck deer**Open area:** Eastern Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs) and those GMUs closed to deer hunting by the fish and wildlife commission.**Open season:** 2005 and thereafter, September 1 - December 31**Weapon:** Any legal weapon.**Number of permits:** 1**Raffle ticket cost:** \$5.00 including a 50-cent vendor fee.**WESTSIDE ELK RAFFLE PERMIT HUNT****Bag limit:** One additional any bull elk**Open area:** Western Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs), those GMUs closed to elk hunting, and those GMUs not open to branch antlered bull elk hunting by the fish and wildlife commission.**Open season:** September 1 - December 31, 2005.**Weapon:** Any legal weapon.**Number of permits:** 1**Raffle ticket cost:** \$5.00 including a 50-cent vendor fee.**Bag limit:** One additional any bull elk**Open area:** Western Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs), GMU 485, those GMUs closed to elk hunting, and those GMUs not open to branch antlered bull elk hunting by the fish and wildlife commission.**Open season:** September 1 - December 31, 2006 and thereafter.**Weapon:** Any legal weapon.**Number of permits:** 1**Raffle ticket cost:** \$5.00 including a 50-cent vendor fee.**EASTSIDE ELK RAFFLE PERMIT HUNT****Bag limit:** One additional any bull elk**Open area:** Eastern Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs), GMU 157, those GMUs closed to elk hunting, and those GMUs not opened to branch antlered bull elk hunting by the fish and wildlife commission.**Open season:** September 1 - December 31.**Weapon:** Any legal weapon.**Number of permits:** 1**Raffle ticket cost:** \$5.00 including a 50-cent vendor fee.**BIGHORN SHEEP RAFFLE PERMIT HUNT****Bag limit:** One bighorn ram**Open area:** Sheep Unit 4 (Selah Butte), Sheep Unit 5 (Umtanum), Sheep Unit 7 (Cleman Mountain), Sheep Unit 12 (Lincoln Cliffs), or Sheep Unit 13 (Quilomene).**Open season:** September 1 - October 31, 2005.**Weapon:** Hunter may use any legal weapon.**Number of permits:** 1**Raffle ticket cost:** \$10.00 including a 50-cent vendor fee.**Bag limit:** One bighorn ram**Open area:** Sheep Unit 4 (Selah Butte), Sheep Unit 5 (Umtanum), Sheep Unit 7 (Cleman Mountain) or Sheep Unit 13 (Quilomene).**Open season:** September 1 - October 31, 2006 and thereafter.**Weapon:** Hunter may use any legal weapon.**Number of permits:** 1**Raffle ticket cost:** \$10.00 including a 50-cent vendor fee.**MOOSE RAFFLE PERMIT HUNT****Bag limit:** One moose of either sex**Open area:** Any open moose unit.**Open season:** October 1 - November 30.**Weapon:** Hunter may use any legal weapon.**Number of permits:** 1**Raffle ticket cost:** \$5.00 including a 50-cent vendor fee.**MOUNTAIN GOAT RAFFLE PERMIT HUNT****Bag limit:** One mountain goat of either sex**Open area:** Goat Unit 3-6 (Naches Pass), Goat Unit 3-9 (Tieton River), Goat Unit 3-10 (Blazed Ridge), or Goat Unit 5-4 (Goat Rocks).**Open season:** September 15 - October 31.**Weapon:** Hunter may use any legal weapon.**Number of permits:** 1**Raffle tickets cost:** \$5.00 including a 50-cent vendor fee.**TURKEY RAFFLE PERMIT HUNTS****Bag limit:** Three (3) additional wild turkeys, but not to exceed more than one turkey in Western Washington or two turkeys in Eastern Washington.**Open area:** Statewide.**Open season:** April 1 - May 31.**Weapon:** Archery or shotgun only.**Number of permits:** 2**Raffle ticket cost:** \$5.00 including a 50-cent vendor fee.

DIRECTOR AUTHORIZED BIG GAME AUCTION OR RAFFLE PERMITS

The director shall determine which method of permit opportunity, auction or raffle, taking into consideration impacts to the wildlife resource, opportunity to the hunting community, other resource management issues, and expected revenue. The director may select a conservation organization(s) to conduct annual auction(s) or raffle(s). Selection of the conservation organization will be based on criteria adopted by the Washington department of fish and wildlife. Big game auctions and raffles shall be conducted consistent with WAC 232-28-292.

ROCKY MOUNTAIN BIGHORN SHEEP AUCTION OR RAFFLE PERMIT

Hunting season dates: 2005 and thereafter, September 1 - October 31

Hunt Area: GMUs 166, 169, 181, 186.

Weapon: Hunter may use any legal weapon.

Bag limit: One bighorn ram

SPECIAL INCENTIVE PERMITS

Hunters will be entered into a drawing for special deer and elk incentive permits for prompt reporting of hunting activity in compliance with WAC 232-28-299.

(a) There will be two (2) any elk special incentive permits for Western Washington.

Open area: Western Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs), GMUs 418, 485, 522, and those GMUs closed to elk hunting or closed to branch antlered bull elk hunting by the fish and wildlife commission.

Open season: September 1 - December 31.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One additional elk.

There will be two (2) any elk special incentive permits for Eastern Washington.

Open area: Eastern Washington EXCEPT all Private Lands Wildlife Management Areas (PLWMAs), GMU 157 and those GMUs closed to elk hunting or closed to branch antlered bull elk hunting by the fish and wildlife commission.

Open season: September 1 - December 31.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment during muzzleloader seasons.

Bag limit: One additional elk.

(b) There will be five (5) statewide any deer special incentive permits, for use in any area open to general or permit hunting seasons EXCEPT all Private Lands Wildlife Management Areas (PLWMAs), GMUs 157, 418, 485, 522, and those GMUs closed to deer hunting by the fish and wildlife commission.

Open season: September 1 - December 31.

Weapon: Any legal weapon, EXCEPT must use archery equipment during archery seasons and muzzleloader equipment

during muzzleloader seasons and any legal weapon at other times if there are no firearm restrictions.

Bag limit: One additional any deer.

Auction, raffle, and special incentive hunt permittee rules

(1) Permittee shall contact the appropriate regional office of the department of fish and wildlife when entering the designated hunt area or entering the region to hunt outside the general season.

(2) The permittee may be accompanied by others; however, only the permittee is allowed to carry a legal weapon or harvest an animal.

(3) Any attempt by members of the permittee's party to herd or drive wildlife is prohibited.

(4) If requested by the department, the permittee is required to direct department officials to the site of the kill.

(5) The permit is valid during the hunting season dates for the year issued.

(6) The permittee will present the head and carcass of the bighorn sheep killed to any department office within 72 hours of date of kill.

(7) The permittee must abide by all local, state, and federal regulations including firearm restriction areas and area closures.

(8) Hunters awarded the special incentive permit will be required to send the appropriate license fee to the department of fish and wildlife headquarters in Olympia. The department will issue the license and transport tag and send it to the special incentive permit winner.

AMENDATORY SECTION (Amending Order 04-284, filed 10/14/04, effective 11/14/04)**WAC 232-28-341 2003-04, 2004-05, 2005-06 Small game seasons.****HOUND HUNTING DURING DEER AND ELK HUNTING SEASONS**

It is unlawful to hunt any wildlife at night or wild animals with dogs (hounds) during the months of September, October, or November in any area open to a center-fire rifle deer or elk season. The use of hounds to hunt black bear, cougar (EXCEPT by public safety cougar removal permit (WAC 232-12-243) or a commission authorized hound permit (WAC 232-28-285)), and bobcat is prohibited year around.

BOBCAT

Bag and Possession Limits: No Limit

OPEN SEASON: Statewide

Sept. 2, 2003 - Mar. 15, 2004; Sept. 7, 2004 - Mar. 15, 2005; Sept. 6, 2005 - Mar. 15, 2006.

RACCOON

Bag and Possession Limits: No Limit

OPEN SEASON: Statewide, except CLOSED on Long Island within Willapa National Wildlife Refuge.

Sept. 2, 2003 - Mar. 15, 2004; Sept. 7, 2004 - Mar. 15, 2005; Sept. 6, 2005 - Mar. 15, 2006.

FOX

Bag and Possession Limits: No Limit

OPEN SEASON: Statewide, except CLOSED within the exterior boundaries of the Mount Baker-Snoqualmie, Okanogan, Wenatchee, and Gifford Pinchot National Forests and GMUs 407 and 410.

Sept. 2, 2003 - Mar. 15, 2004; Sept. 7, 2004 - Mar. 15, 2005; Sept. 6, 2005 - Mar. 15, 2006.

COYOTE

Bag and Possession Limits: No Limit

OPEN SEASON: Statewide, year around except CLOSED from September 15 to November 30 in the Pasayten Wilderness, GMUs 426 and 450, and those portions of GMUs 218, 245, and 448 within the external boundaries of the Mount Baker-Snoqualmie, Okanogan, and Wenatchee National Forests. However, coyote may only be killed and/or pursued with hounds during the following period: Sept. 2, 2003 - Mar. 15, 2004; Sept. 7, 2004 - Mar. 15, 2005; Sept. 6, 2005 - Mar. 15, 2006; except coyote may be hunted year around with hounds in Grant, Adams, Benton, and Franklin counties.

FOREST GROUSE (BLUE, RUFFED, AND SPRUCE)

Bag and Possession Limits: Three (3) grouse per day, with a total of nine (9) grouse in possession at any time; straight or mixed bag.

Statewide: Sept. 1 - Dec. 31, 2003; Sept. 1 - Dec. 31, 2004; Sept. 1 - Dec. 31, 2005.

PTARMIGAN, SAGE, AND SHARP-TAILED GROUSE

Season closed statewide.

EASTERN WASHINGTON**RING-NECKED PHEASANT**

Bag and Possession Limits: Three (3) cock pheasants per day, with a total of fifteen (15) cock pheasants in possession at any time.

Youth Season: Sept. 20 and 21, 2003; Sept. 18 and 19, 2004; Sept. 17 and 18, 2005. Open only to youth hunters accompanied by an adult at least 18 years old.

Regular Season: Oct. 18 - Dec. 31, 2003; Oct. 23 - Dec. 31, 2004; (~~Oct. 22 - Dec. 31, 2005~~) Oct. 22, 2005 - Jan. 16, 2006.

CHUKAR

Bag and Possession Limits: Six (6) chukar per day, with a total of eighteen (18) chukar in possession at any time.

Youth Season: Sept. 20 and 21, 2003; Sept. 18 and 19, 2004; Sept. 17 and 18, 2005. Open only to youth hunters accompanied by an adult at least 18 years old.

Regular Season: Oct. 4, 2003 - Jan. 19, 2004; Oct. 2, 2004 - Jan. 17, 2005; Oct. 1, 2005 - Jan. 16, 2006

GRAY (HUNGARIAN) PARTRIDGE

Bag and Possession Limits: Six (6) gray partridges per day, with a total of eighteen (18) gray partridges in possession at any time.

Youth Season: Sept. 20 and 21, 2003; Sept. 18 and 19, 2004; Sept. 17 and 18, 2005. Open only to youth hunters accompanied by an adult at least 18 years old.

Regular Season: Oct. 4, 2003 - Jan. 19, 2004; Oct. 2, 2004 - Jan. 17, 2005; Oct. 1, 2005 - Jan. 16, 2006.

MOUNTAIN QUAIL

Season closed throughout Eastern Washington.

CALIFORNIA (VALLEY) QUAIL AND NORTHERN BOBWHITE

Bag and Possession Limits: Ten (10) quail per day, with a total of thirty (30) quail in possession at any time, straight or mixed bag.

Youth Season: Sept. 20 and 21, 2003; Sept. 18 and 19, 2004; Sept. 17 and 18, 2005. Open only to youth hunters accompanied by an adult at least 18 years old.

Regular Season: Oct. 4, 2003 - Jan. 19, 2004; Oct. 2, 2004 - Jan. 17, 2005; Oct. 1, 2005 - Jan. 16, 2006.

Yakama Indian Reservation: The 2003-04, 2004-05, 2005-06 Upland bird seasons within the Yakama Indian Reservation shall be the same as the season established by the Yakama Indian Nation.

Colville Indian Reservation: The 2003-04, 2004-05, 2005-06 upland bird seasons within the Colville Indian Reservation shall be the same as the season established by the Colville Indian Tribe.

WESTERN WASHINGTON**RING-NECKED PHEASANT**

Bag and Possession Limits: Two (2) pheasants of either sex per day, with a total of fifteen (15) pheasants in possession at any time.

Youth Season: Sept. 20 and 21, 2003; Sept. 18 and 19, 2004; Sept. 17 and 18, 2005. Open only to youth hunters accompanied by an adult at least 18 years old.

Hunters 65 years of age or older: Sept. 22-26, 2003; Sept. 20-24, 2004; Sept. 19-23, 2005

Regular Season: Sept. 27 - Nov. 30, 2003; Sept. 25 - Nov. 30, 2004; Sept. 24 - Nov. 30, 2005. 8 a.m. to 4 p.m.; except Dungeness Recreation Area Site (Clallam County) starting Oct. 4, 2003; Oct. 2, 2004; Oct. 1, 2005.

Extended Season: Dec. 1 - Dec. 15, 2003; Dec. 1 - Dec. 15, 2004; Dec. 1 - 15, 2005. 8 a.m. to 4 p.m. only on the following release sites: Belfair, Fort Lewis, Kosmos, Lincoln Creek, Scatter Creek, and Skookumchuck. Pheasants will not be released during the extended season.

A Western Washington Pheasant Permit is required to hunt pheasant in Western Washington, in addition to a current small game hunting license. Pheasant kills must be recorded.

PROPOSED

Upon taking a pheasant, the holder of a Western Washington Pheasant Permit must immediately enter on the corresponding space the date and location of kill.

There are three options available:

- (1) Full Season Option: Allows the harvest of eight (8) pheasants.
- (2) Youth Option: Allows the harvest of eight (8) pheasants by youth hunters.
- (3) 3-Day Option: Allows the harvest of four (4) pheasants harvested over three consecutive days.

Every person possessing a Western Washington Pheasant Permit must by December 31, return the permit to the department of fish and wildlife. The number of permits purchased per year is not limited.

A hunter shall select one valid option at the time they purchase their Western Washington Pheasant Permit. It is unlawful to purchase an additional permit until the pheasants allowed on the current permit are taken.

Special Restriction: Western Washington pheasant hunters must choose to hunt on either odd-numbered or even-numbered weekend days from 8:00 - 10:00 a.m. at all units of Lake Terrell, Tennant Lake, Snoqualmie, Skagit, Skookumchuck, and Scatter Creek Wildlife Areas; all hunting sites on Whidbey Island, and at the Dungeness Recreation Area, and must indicate their choice on the Western Washington Pheasant Permit by choosing "odd" or "even." Hunters who select the three day option, hunters 65 years of age or older, and youth hunters may hunt during either weekend day morning. Youth hunters must be accompanied by an adult at least 18 years old who must have an appropriately marked pheasant permit if hunting.

MOUNTAIN QUAIL

Bag and Possession Limits: Two (2) mountain quail per day, with a total of four (4) mountain quail in possession at any time.

Season: Oct. 4 - Nov. 30, 2003; Oct. 2 - Nov. 30, 2004; Oct. 1 - Nov. 30, 2005.

CALIFORNIA (VALLEY) QUAIL AND NORTHERN BOBWHITE

Bag and Possession Limits: Ten (10) California (valley) quail or northern bobwhite per day, with a total of thirty (30) California (valley) quail or northern bobwhite in possession at any time, straight or mixed bag.

Season: Oct. 4 - Nov. 30, 2003; Oct. 2 - Nov. 30, 2004; Oct. 1 - Nov. 30, 2005.

WILD TURKEY

Youth Season:

Gobblers and turkeys with visible beards only.

Statewide: April 10-11, 2004; April 9-10, 2005; April 8-9, 2006 ((in the following GMUs only: 101, 113, 117, 130, 133, 139, 145, 154, 166, 175, 186, 204, 215, 218, 242, 245, 249, 251, 269, 328, 329, 346, 352, 360, 368, 382, 506, 554, 556, 568, 574, 588, 633, 651, 660, 666)).

Spring Season:

Gobblers and turkeys with visible beards only.

Statewide: April 15 - May 15, 2004; April 15 - May 15, 2005; April 15 - May 15, 2006.

Fall Season:

Either sex.

Open to all hunters with a valid turkey tag: GMUs 105-124. Sept. 25 - Oct. 1, 2004; Sept. 24 - Sept. 30, 2005.

Permit Only: GMUs 101, 133, 145-186, 382, 568-588. Sept. 27 - Oct. 3, 2003; Sept. 25 - Oct. 1, 2004; Sept. 24 - Sept. 30, 2005.

Permit Area	Number of Permits
GMU 101	250
GMU 124	100
GMU 133	150
GMUs 145-186	50
GMUs 382, 568-588	75

Hunter Education Instructor Incentive Permits

- = Special turkey permits will be allocated through a random drawing to those hunter education instructors that qualify.
- = Qualifying hunter education instructors must be certified and have been in active status for a minimum of three consecutive years, inclusive of the year prior to the permit drawing.
- = Instructors who are drawn, accept a permit, and are able to participate in the hunt, will not be eligible for these incentive permits for a period of ten years thereafter.

Area	Dates	Restrictions	GMUs	Permits
Statewide	April 1-May 31	Gobblers and turkeys with visible beards only	All GMUs statewide	2

OFFICIAL HUNTING HOURS/BAG LIMITS FOR WILD TURKEY:

Bag and Possession Limit: Only two (2) turkeys may be killed in Eastern Washington per year, except only one (1) may be killed in Chelan, Kittitas, or Yakima counties; and one (1) per year in Western Washington, except two (2) may be killed in Klickitat County. The season limit is three (3) birds per year.

Fall Season Bag and Possession Limit: One (1) turkey during the fall hunting season.

Hunting Hours: One-half hour before sunrise to sunset during spring and fall seasons.

PROPOSED

SPECIAL REGULATIONS FOR WILD TURKEY:

1. Turkey season is open for shotgun and bow-and-arrow hunting only.
2. A turkey tag is required for hunting turkey.
3. It is unlawful to use dogs to hunt turkeys.
4. It is unlawful to bait game birds.

BIRD DOG TRAINING SEASON

Wild upland game birds may be pursued during the dog-training season, but may not be killed except during established hunting seasons. A small game license is required to train dogs on wild game birds. A small game license and a Western Washington Pheasant Permit is required to train dogs on pheasants in Western Washington. Captive raised game birds may be released and killed during dog training if proof of lawful acquisition (invoices) are in possession and the birds are appropriately marked (WAC 232-12-271) (WAC 232-12-044).

Aug. 1, 2003 - Mar. 31, 2004; Aug. 1, 2004 - Mar. 31, 2005; Aug. 1, 2005 - Mar. 31, 2006. Only youth and seniors may train dogs during their respective seasons on designated Western Washington pheasant release sites.

Bird dog training may be conducted year around on areas posted for bird dog training on portions of: Region One - Espanola (T24N, R40E, E 1/2 of section 16); Region Three - South L.T. Murray Wildlife Area; Region Four - Skagit Wildlife Area, Lake Terrell Wildlife Area, and Snoqualmie Wildlife Area; Region Five - Shillapoo/Vancouver Lake Wildlife Area; Region Six - Scatter Creek Wildlife Area, Fort Lewis Military Base.

HIP REQUIREMENTS:

All hunters age 16 and over of migratory game birds (duck, goose, coot, snipe, mourning dove) are required to complete a Harvest Information Program (HIP) survey at a license dealer, and possess a Washington Migratory Bird validation as evidence of compliance with this requirement when hunting migratory game birds. Youth hunters are required to complete a HIP survey, and possess a free Washington Youth Migratory Bird validation as evidence of compliance with this requirement when hunting migratory game birds.

CANADA GOOSE SEPTEMBER SEASON

Bag and Possession Limits: Western Washington, except Cowlitz and Wahkiakum counties and that part of Clark County north of the Washougal River: Five (5) Canada geese per day with a total of ten (10) in possession at any time. Remainder of the state: Three (3) Canada geese per day with a total of six (6) in possession at any time.

Western Washington: Sept. 6-11, 2003; Sept. 11-15, 2004; Sept. 10-15, 2005. EXCEPT Pacific and Grays Harbor counties: Sept. 1-15, 2003, 2004, and 2005.

Eastern Washington: Sept. 6-7, 2003; Sept. 11-12, 2004; Sept. 10-11, 2005.

BAND-TAILED PIGEON

Sept. 15-23, 2003, 2004, 2005.

Daily Bag Limit: 2 band-tailed pigeons.

Possession Limit: 4 band-tailed pigeons.

WRITTEN AUTHORIZATION REQUIRED TO HUNT BAND-TAILED PIGEONS.

All persons hunting band-tailed pigeons in this season are required to obtain a written authorization and harvest report from the Washington department of fish and wildlife. Application forms must be delivered to a department office no later than August 25 or postmarked on or before August 25 in order for applicants to be mailed an authorization before the season starts. Immediately after taking a band-tailed pigeon into possession, hunters must record in ink the information required on the harvest report. By September 30, hunters must return the harvest report to the Washington department of fish and wildlife, or report harvest information on the department's internet reporting system. Hunters failing to comply with reporting requirements will be ineligible to participate in the following band-tailed pigeon season.

MOURNING DOVE

Bag and Possession Limits: Ten (10) mourning doves per day with a total of twenty (20) mourning doves in possession at any time.

Statewide: Sept. 1-15, 2003, 2004, and 2005.

COTTONTAIL AND SNOWSHOE HARE (OR WASHINGTON HARE)

Bag and Possession Limits: Five (5) cottontails or snowshoe hares per day, with a total of fifteen (15) in possession at any time, straight or mixed bag.

Statewide: Sept. 1, 2003 - Mar. 15, 2004; Sept. 1, 2004 - Mar. 15, 2005; Sept. 1, 2005 - Mar. 15, 2006.

JACKRABBIT

Closed season statewide.

CROWS

Bag and Possession Limits: No Limit

Statewide: Oct. 1, 2003 - Jan. 31, 2004; Oct. 1, 2004 - Jan. 31, 2005; Oct. 1, 2005 - Jan. 31, 2006.

FALCONRY SEASONS**UPLAND GAME BIRD AND FOREST GROUSE - FALCONRY**

Daily Bag Limit: Two (2) pheasants (either sex), six (6) partridge, five (5) California (valley) quail or northern bobwhite, two (2) mountain quail (in Western Washington only), and three (3) forest grouse (blue, ruffed, spruce) per day.

Possession limit is twice the daily bag limit.

Statewide: Aug. 1, 2003 - Mar. 15, 2004; Aug. 1, 2004 - Mar. 15, 2005; Aug. 1, 2005 - Mar. 15, 2006.

MOURNING DOVE - FALCONRY

Daily Bag Limit: Three (3) mourning doves per day straight bag or mixed bag with snipe, coots, ducks, and geese during established seasons.

PROPOSED

Possession limit is twice the daily limit.

Statewide: Sept. 1-15 and Oct. 1 - Dec. 31, 2003; Sept. 1-15 and Oct. 1 - Dec. 31, 2004; Sept. 1-15 and Oct. 1 - Dec. 31, 2005.

COTTONTAIL AND SNOWSHOE HARE - FALCONRY

Daily Bag Limit: Five (5) cottontails or snowshoe hares per day, straight or mixed bag.

Possession limit is twice the daily bag limit.

Statewide: Aug. 1, 2003 - Mar. 15, 2004; Aug. 1, 2004 - Mar. 15, 2005; Aug. 1, 2005 - Mar. 15, 2006.

AMENDATORY SECTION (Amending Order 04-327, filed 1/3/05, effective 2/3/05)

WAC 232-28-333 Game management units (GMUs) boundary descriptions—Region three.

GMU 328-NANEUM (Kittitas and Chelan counties):

Beginning US Hwy 97 and US Forest Service Rd 9716 at Blewitt Pass; E on US Forest Service Rd 9716 to US Forest Service Rd 9712 (Liberty-Beehive Rd); E on US Forest Service Rd 9712 (Liberty-Beehive Rd) to the Naneum Ridge (Chelan-Kittitas county line) at the west boundary of Section 22, T21N, R19E; SE along the Naneum Ridge (Chelan-Kittitas county line), past Mission Peak, to Naneum Ridge Rd (WA Dept. of Fish and Wildlife Rd 9) at Wenatchee Mountain; SE on Naneum Ridge Rd (WA Dept. of Fish and Wildlife Rd 9) to Colockum Pass Rd (WA Dept. of Fish and Wildlife Rd 10); S on Colockum Pass Rd (WA Dept. of Fish and Wildlife Rd 10) to the Highline Canal (North Branch Canal); NW along the Highline Canal (North Branch Canal) to Lower Green Canyon Rd; S on Lower Green Canyon Rd to US Hwy 97; N on US Hwy 97 to Blewett Pass and the point of beginning.

GMU 329-QUILOMENE (Kittitas and Chelan counties):

Beginning on the Columbia River at the mouth of Tarpiscan Creek; E from Tarpiscan Creek to the Douglas-Kittitas county line on the Columbia River; S along the Columbia River (Douglas-Kittitas county line) to a point north of Cape Horn; S from the Columbia River (Douglas-Kittitas county line) to Cape Horn; S up Cape Horn to its rim; SE along the top of Cape Horn and the rim of the West Bar Cliffs (cliffs overlooking West Bar) to WA Dept. of Fish and Wildlife Rd 14.14; E along WA Dept. of Fish and Wildlife Rd 14.14 to WA Dept. of Fish and Wildlife Rd 14.17; S along WA Dept. of Fish and Wildlife Rd 14.17 to WA Dept. of Fish and Wildlife Rd 14 rear gate; S on WA Dept. of Fish and Wildlife Rd 14 to Tekison Creek; SE along Tekison Creek its mouth on the Columbia River; E from Tekison Creek to the Grant-Kittitas county line on the Columbia River; S along Columbia River (Grant-Kittitas county line) to I-90 bridge at the town of Vantage; W along I-90 to Highline Canal (North Branch Canal); N on Highline Canal (North Branch Canal) to Colockum Rd (WA Dept. of Fish and Wildlife Rd 10); N on Colockum Rd to North Fork Tarpiscan Rd (WA Dept. of Fish and Wildlife Rd 10.10); E on North Fork Tarpiscan Rd to Tarpiscan Rd (WA Dept. of Fish and Wildlife Rd 14); S on Tarpiscan Rd (WA Dept. of Fish and Wildlife Rd 14) approxi-

mately 100 feet to Tarpiscan Creek; E down Tarpiscan Creek to its mouth on the Columbia River and the point of beginning.

GMU 330-West Bar (Kittitas County):

Beginning on the Columbia River at Cape Horn; S up Cape Horn to its rim; SE along the rim of Cape Horn and West Bar Cliffs (the cliffs overlooking West Bar) to WA Dept. of Fish and Wildlife Rd 14.14; E along Rd 14.14 to WA Dept. of Fish and Wildlife Rd 14.17; S along WA Dept. of Fish and Wildlife Rd 14.17 to WA Dept. of Fish and Wildlife Rd 14 near the gate; S on WA Dept. of Fish and Wildlife Rd. 14 to Tekison Creek; SE down Tekison Creek to its mouth on the Columbia River; E from Tekison Creek to the Kittitas-Grant county line on the Columbia River; N and W along the Columbia River (Kittitas-Grant then Kittitas-Douglas county lines) to a point north of Cape Horn; S from the aforesaid point in the Columbia River to Cape Horn and the point of beginning.

GMU 334-ELLENSBURG (Kittitas County):

Beginning on US Hwy 97 and Lower Green Canyon Rd; N on Lower Green Canyon Rd to Highline Canal; N, E and S along Highline Canal to I-90 and the Yakima Training Center boundary; S and W along the Yakima Training Center boundary to I-82; N on I-82 to Thrall Rd; W on Thrall Rd to Wilson Creek; S down Wilson Creek to Yakima River; N up Yakima River to Umptanum Rd; S up Umptanum Rd to the South Branch Extension Canal; W on South Branch Extension Canal to Bradshaw Rd; W on Bradshaw Rd to the elk fence; N along the elk fence to Taneum Creek; NE down Taneum Creek to the Yakima River; NE down the Yakima River to Thorp Hwy; NW along the Thorp Hwy to SR 10; SE on SR 10 to US Hwy 97 junction; N on US Hwy 97 to Lower Green Canyon Rd and point of beginning.

GMU 335-TEANAWAY (Kittitas County):

Beginning at I-90 and US Forest Service Trail 2000 (Pacific Crest Trail) at Snoqualmie Pass; N on US Forest Service Trail 2000 (Pacific Crest Trail) to the Alpine Lakes Wilderness boundary; E on the Alpine Lakes Wilderness boundary to the Chelan-Kittitas county line; E on US Forest Service Trail 1226 to US Hwy 97 at Blewett Pass; S on US Hwy 97 to SR 10; N and W on SR 10 to Thorp Hwy; SE on Thorp Hwy to Yakima River; SW up the Yakima River to Taneum Creek; SW up Taneum Creek to I-90; W on I-90 to US Forest Service Trail 2000 (Pacific Crest Trail) at Snoqualmie Pass and the point of beginning.

GMU 336-TANEUM (Kittitas County):

Beginning at US Forest Service Trail 2000 (Pacific Crest Trail) and I-90 at Snoqualmie Pass; E on I-90 to Taneum Creek; W up Taneum Creek to the south fork of Taneum Creek; W up the south fork of Taneum Creek to US Forest Service Trail 1367; W on US Forest Service Trail 1367 to US Forest Service Trail 1363; S on US Forest Trail 1363 (Peaches Ridge Trail) to US Forest Service Trail 1388; W on US Forest Service Trail 1388 to US Forest Service Trail 2000 (Pacific Crest Trail) to Blowout Mountain; N on US Forest Service Trail 2000 (Pacific Crest Trail) to I-90 at Snoqualmie Pass and the point of beginning.

GMU 340-MANASTASH (Kittitas County):

Beginning at I-82 and SR 821; N on SR 821 to SR 823 (Harrison Rd); W on SR 823 (Harrison Rd) to Yakima River; N up Yakima River to Umtanum Creek; W up Umtanum Creek to Ellensburg-Wenas Rd; W and S along Ellensburg-Wenas Rd to North Fork Wenas Rd (Audubon Rd, W5000); NW along North Fork Wenas Rd to Barber Springs Rd; W on Barber Springs Rd to US Forest Service Trail 4W694; NW on US Forest Service Trail 4W694 to US Forest Service Trail 4W307; NW on US Forest Service Trail 4W307 to US Forest Service Trail 1388; NW on US Forest Service Trail 1388 to US Forest Service Trail 4W306; NW on US Forest Service Trail 4W306 to US Forest Service Trail 1388 at Quartz Mountain; NW along US Forest Service Rd 1388 to US Forest Service Trail 1363 (Peaches Ridge Trail); N and E along US Forest Service Trail 1363 (Peaches Ridge Trail) to US Forest Service Trail 1367; SE along US Forest Service 1367 to South Fork Taneum Creek; E down the South Fork Taneum Creek to Taneum Creek; E down Taneum Creek to the elk fence; SE along the elk fence to Bradshaw Rd; E on Bradshaw Rd to South Branch Extension Canal; SE along the South Branch Extension Canal to Umtanum Rd; N on Umtanum Rd to Yakima River; S down the Yakima River to Wilson Creek; NE up Wilson Creek to Thrall Rd; E on Thrall Rd to I-82; SE and SW on I-82 to SR 821 and the point of beginning.

GMU 342-UMTANUM (Kittitas and Yakima counties):

Beginning at US Forest Service Rd 1701 and Barber Springs Rd (WA Dept. of Natural Resources Rd W5000) at T17N, R15E, NE 1/4 of Section 12; SE on Barber Springs Rd to the North Fork Wenas Rd (Audubon Rd); SE on the North Fork Wenas Rd to Wenas-Ellensburg Rd; NE on Wenas-Ellensburg Rd to Umtanum Creek; E down the Umtanum Creek to the Yakima River; S down the Yakima River to I-82; SE on I-82 to US Hwy 12 at the city of Yakima; NW on US Hwy 12 to SR 410; NW on SR 410 to US Forest Service Rd 1701; N on US Forest Service Rd 1701 to Barber Spring Rd-US Forest Service Trail 4W694 intersection and the point of beginning.

GMU 346-LITTLE NACHES (Yakima and Kittitas counties):

Beginning at US Forest Service Rd 1388 and US Forest Service Trail 2000 (Pacific Crest Trail) at Blowout Mountain; SE on US Forest Service Rd 1388 to US Forest Service Trail 4W306; SE on US Forest Service Trail 4W306 to US Forest Service Trail 1388; SE on US Forest Service Trail 1388 to US Forest Service Trail 4W307; SE on US Forest Service Trail 4W307 to US Forest Service Trail 4W694; E on US Forest Service Trail 4W694 to US Forest Service Rd 1701 (T17N, R15E, NW 1/4 of Section 12); S on US Forest Service Rd 1701 to SR 410; NW and SW on SR 410 to US Forest Service Trail 2000 (Pacific Crest Trail) near Chinook Pass; N on US Forest Service Trail 2000 (Pacific Crest Trail) to US Forest Service Rd 1388 at Blowout Mountain and the point of beginning.

GMU 352-NILE (Yakima County):

Beginning on the Bumping Lake Rd and SR 410; E and S on SR 410 to the Lower Nile Loop Rd; W and N on the Lower Nile Loop Rd to US Forest Service Rd 1500; W on US Forest

Service Rd 1500 to US Forest Service Rd 1502 (McDaniel Lake Rd); W on the US Forest Service Rd 1502 (McDaniel Lake Rd) to Rattlesnake Creek; N down Rattlesnake Creek to the North Fork of Rattlesnake Creek; W up the North Fork of Rattlesnake Creek to US Forest Service Trail 973 (Richmond Mine Rd); N on US Forest Service Trail 973 (Richmond Mine Trail) to US Forest Service Rd 1800 (Bumping Lake Rd); N on the US Forest Service Rd 1800 (Bumping Lake Rd) to SR 410 and the point of beginning.

GMU 356-BUMPING (Yakima County):

Beginning on US Forest Service Trail 2000 (Pacific Crest Trail) and SR 410 at Chinook Pass; NE on SR 410 to US Forest Service Rd 1800 (Bumping Lake Rd); SW on the US Forest Service Rd 1800 (Bumping Lake Rd) to US Forest Service Trail 973 (Richmond Mine Rd); SE on US Forest Service Trail 973 (Richmond Mine Rd) to the north fork of Rattlesnake Creek; SE down the north fork of Rattlesnake Creek to US Forest Service Rd 1502 (McDaniel Lake Rd); SE on US Forest Service Rd 1502 (McDaniel Lake Rd) to US Forest Service Rd 1500; S on US Forest Service Rd 1500 to US Hwy 12; W on US Hwy 12 to US Forest Service Trail 2000 (Pacific Crest Trail) at White Pass; N on the US Forest Service Trail 2000 (Pacific Crest Trail) to SR 410 at Chinook Pass and the point of beginning. (Lands within the boundary of Mt. Rainier National Park along the Pacific Crest Trail are not open to hunting.)

GMU 360-BETHEL (Yakima County):

Beginning on SR 410 and the Lower Nile Loop Rd; SE on SR 410 to US Hwy 12; SW on US Hwy 12 to US Forest Service Rd 1500; N and E on US Forest Service Rd 1500 to Nile Loop Rd; SE on Nile Loop Rd to SR 410, southeast of the town of Nile, and the point of beginning.

GMU 364-RIMROCK (Yakima County):

Beginning on US Forest Service Trail 2000 (Pacific Crest Trail) and US Hwy 12 at White Pass; E on US Hwy 12 to US Forest Service 1302 (Jump Off Rd) at Windy Point; SW on US Forest Service 1302 (Jump Off Rd) to US Forest Service Trail 1127, southeast of the Jump Off Lookout; SW on US Forest Service Trail 1127 to US Forest Service Rd 613; SW on US Forest Service Rd 613 to US Forest Service Rd 1020; SW on US Forest Service Rd 1020 to US Forest Service Rd 615; SW on US Forest Service Rd 615 to US Forest Service Trail 1136; SW on US Forest Service Trail 1136 to its southernmost point; W from US Forest Service Trail 1136 to Spenser Point; NW on the Yakama Indian reservation boundary from Spenser Point to the US Forest Service Trail 2000 (Pacific Crest Trail); N on the US Forest Service Trail 2000 (Pacific Crest Trail) to US Hwy 12 at White Pass and the point of beginning.

GMU 368-COWICHE (Yakima County):

Beginning on US Hwy 12 to US Forest Service Rd 1302 (Jump Off Rd) at Windy Point; NE and SE on US Hwy 12 to I-82; NW on I-82 to the Yakima River; S down the Yakima River to Ahtanum Creek; W up Ahtanum Creek to the south fork of Ahtanum Creek; SW up the south fork of Ahtanum Creek to its junction with Reservation Creek; SW up Reservation Creek to the high point on the ridge above its headwaters; NW to Spenser Point (as represented on the Mt. Adams

DNR 100K map); SE from Spenser Point to US Forest Service Trail 1136; NE on US Forest Service Trail 1136 to US Forest Service Trail 615; NE on US Forest Service Trail 615 to US Forest Service Rd 1020; NE on US Forest Service Rd 1020 to US Forest Service Rd 613; NE on US Forest Service Rd 613 to US Forest Service Trail 1127; NE on US Forest Service Trail 1127 to US Forest Service Rd 1302 (Jump Off Rd), SE of the Jump Off Lookout Station; NE on US Forest Service Rd 1302 (Jump Off Rd) to US Hwy 12 and the point of beginning.

GMU 371-ALKALI (Kittitas and Yakima counties):

Beginning at the Vantage Bridge where I-90 crosses the Columbia River; S down the Columbia River (Kittitas-Grant and Grant-Yakima county line) to the Priest Rapids Dam; NW on the southern shore of the Columbia River (Priest Rapids Lake) to the Yakima Training Center boundary; S and W along the Yakima Training Center boundary to the main gate on Firing Center Rd; W along Firing Center Rd to I-82; N along I-82 to Yakima Training Center boundary at Vanderbuilt Gap; N and E along the Yakima Training Center boundary to I-90; E on I-90 to the Vantage Bridge on Columbia River and the point of beginning.

(~~GMU 372-KIONA (Benton and Yakima counties):~~)

~~Beginning at southern corner of Yakima Training Center border on the Columbia River, northwest of the Priest Rapids Dam; SE on the southern shore of the Columbia River (Priest Rapids Lake) to the Priest Rapids Dam; E along the Columbia River (Yakima Grant, Grant-Benton county lines) to the Vernita Bridge on SR 24; E and S down the Benton County side of the Columbia River, following the ordinary high water mark of the shoreline, to the mouth of the Yakima River; NE from the mouth of the Yakima River to the Franklin-Benton county line in the Columbia River; SE down the Columbia River (Franklin-Benton and Benton-Walla Walla county lines) to the Washington-Oregon state line; W on the Columbia River (Washington-Oregon state line) from the southern junction of the Benton-Walla Walla county lines to Alder Creek (including all islands in the Columbia River north of the Oregon state line and between Alder Creek and the junction of the Benton-Walla Walla county lines); N on Alder Creek to SR 14; E on SR 14 to Alderdale Rd; N on the Alderdale Rd to Ridge Rd; W and S on Ridge Rd to Donaho Rd; W on Donaho Rd to Mabton-Bickleton Hwy (Glade Rd); N on Mabton-Bickleton Rd to the power transmission lines; SW on the power transmission lines to the power line access road in Section 3, T6N, R20E; N on power line access road to Yakama reservation Road 272 at the Yakama Indian reservation boundary; NE on the Yakama Indian reservation boundary to the Mabton-Sunnyside Rd; N on the Mabton-Sunnyside Rd to the Yakima River; NW up the Yakima River to SR 823 (Harrison Rd) south of the town of Pomona; E along SR 823 (Harrison Rd) to SR 821; SE on SR 821 to Firing Center Rd at I-82; E on Firing Center Rd to the main gate of the Yakima Training Center; S and E along the Yakima Training Center boundary to southern corner of the Yakima Training Center boundary on the Columbia River and the point of beginning. (The Hanford Nuclear Reservation is closed to all unauthorized public entry.)~~

GMU 372 RATTLESNAKE HILLS (Benton and Yakima counties):

Beginning at southern corner of Yakima Training Center border on the Columbia River, northwest of the Priest Rapids Dam; SE on the southern shore of the Columbia River (Priest Rapids Lake) to the Priest Rapids Dam; E along the Columbia River (Yakima-Grant, Grant-Benton county lines) to the Vernita Bridge on SR 24; E and S down the Benton County side of the Columbia River, following the ordinary high water mark of the shoreline, to the mouth of the Yakima River; NW up the Yakima River to SR 823 (Harrison Rd) south of the town of Pomona; E along SR 823 (Harrison Rd) to SR 821; SE on SR 821 to Firing Center Rd at I-82; E on Firing Center Rd to the main gate of the Yakima Training Center; S and E along the Yakima Training Center boundary to southern corner of the Yakima Training Center boundary on the Columbia River and the point of beginning.

GMU 373-HORSEHEAVEN (Benton and Yakima counties):

Beginning at the mouth of the Yakima River and Columbia River; SE down the Columbia River (Franklin-Benton and Benton-Walla Walla county lines) to the Washington-Oregon state line; W on the Columbia River (Washington-Oregon state line) from the southern junction of the Benton-Walla Walla county lines to Alder Creek (including all islands in the Columbia River north of the Oregon state line and between Alder Creek and the junction of the Benton-Walla Walla county lines); N on Alder Creek to SR 14; E on SR 14 to Alderdale Rd; N on the Alderdale Rd to Ridge Rd; W and S on Ridge Rd to Donaho Rd; W on Donaho Rd to Mabton-Bickleton Hwy (Glade Rd); N on Mabton-Bickleton Rd to the power transmission lines; SW on the power transmission lines to the power line access road in Section 3, T6N, R20E; N on power line access road to Yakama reservation Road 272 at the Yakama Indian reservation boundary; NE on the Yakama Indian reservation boundary to the Mabton-Sunnyside Rd; N on the Mabton-Sunnyside Rd to the Yakima River; E along the Yakima River the point of beginning.

GMU 381-ESQUATZEL (Franklin, Grant and Adams counties):

Beginning at the Vernita Bridge on SR 24 and the west shore of the Columbia River Grant-Benton county line; N and E on SR 24 to Muse Rd; E on Muse Rd to Mail Rd; E on Mail Rd to Scootney Rd; N on Scootney Rd to SR 17; N on SR 17 to SR 26; E on SR 26 to Old SR 26; E on Old SR 26 to the Palouse River (Whitman-Franklin county line); S down the Palouse River to Snake River (Franklin-Walla Walla county line); W and SW down the Snake River to the Columbia River (Franklin-Benton-Walla Walla county line junction); NW up the Columbia River (Franklin-Benton county line) to a point northeast of the mouth of the Yakima River where it joins the Columbia River; SW to the mouth of the Yakima River; N and W up the Benton county side of the Columbia River, following the ordinary high water mark of the shoreline, to the mouth of the Vernita Bridge on SR 24 and the point of beginning. (Certain portions of the Hanford Reach National Monument are closed to public entry. The Hanford Nuclear Reservation and the Saddle Mountain National Wildlife Refuge are closed to unauthorized public entry.)

GMU 382-EAST KLIICKITAT (Klickitat County):

Beginning at the US Hwy 97 Bridge on the Columbia River at the town of Maryhill; N on US Hwy 97 to the Yakama Indian reservation at Satus Pass; E along the Yakama Indian reservation boundary to Yakama Reservation Rd 272 and the power line access road; S and E on the power line access road to the electrical transmission lines; N and E on the electrical transmission lines to the Mabton-Bickleton Hwy (Glade Rd); S on the Mabton-Bickleton Hwy to Donaho Rd; E on Donaho Rd to Ridge Rd; E and N on Ridge Rd to Alderdale Rd; SE and S on Alderdale Rd to SR 14; W on SR 14 to Alder Creek; S down Alder Creek to the Columbia River; W down the Columbia River to the US Hwy 97 Bridge at the town of Maryhill and the point of beginning including all islands in the Columbia River both north of the Washington-Oregon state line and between Alder Creek and the US Hwy 97 Bridge at Maryhill.

AMENDATORY SECTION (Amending Order 04-98, filed 5/12/04, effective 6/12/04)

WAC 232-28-335 Game management units (GMUs) boundary descriptions—Region five.**GMU 501-LINCOLN (Lewis, Thurston, Pacific, and Grays Harbor counties):**

Beginning at the intersection of I-5 and SR 6; west on SR 6 to Stevens Rd; NW on Stevens Rd to Elk Creek Rd at the town of Doty; W on Elk Creek Rd to Weyerhaeuser 7000 line; W and N on Weyerhaeuser 7000 line to Weyerhaeuser 7400 line; N on Weyerhaeuser 7400 line to Weyerhaeuser 7050 line; NE on Weyerhaeuser 7050 line to Weyerhaeuser 7000 line; NW and N on Weyerhaeuser 7000 line to the Weyerhaeuser 7800 line; N on Weyerhaeuser 7800 line to Weyerhaeuser 7800 F line; NE on Weyerhaeuser 7800 F line to Weyerhaeuser 720 line; E on Weyerhaeuser 720 line to Weyerhaeuser 723 line; NW on Weyerhaeuser 723 line to the Weyerhaeuser C line; NE on Weyerhaeuser C line to Garrard Creek Rd; NE on Garrard Creek Rd to South Bank Rd; E on South Bank Rd to North State St; N on North State St to US Hwy 12 at the town of Oakville; E on US Hwy 12 to I-5; S on I-5 to SR 6 and point of beginning.

GMU 503-RANDLE (Lewis County):

Beginning at the intersection of US Hwy 12 and the Rainier Timber 100 Mainline (Kosmos Rd, Old Champion Haul Rd); E on US Hwy 12 to SR 131; S on SR 131 to US Forest Service Rd 25; S on the US Forest Service Rd 25 to the Cispus River; W on the Cispus River to Rainier Timber 271 line; S on the Rainier Timber 271 line to the Rainier Timber 300 line; W on the Rainier Timber 300 line to the Rainier Timber 100 line; N on the Rainier Timber 100 line (Kosmos Rd) to US Hwy 12 and the point of beginning.

GMU 504-STELLA (Cowlitz County):

Beginning at the mouth of the Cowlitz River on the Columbia River; W down the Columbia River to the mouth of Germany Creek (including all islands in the Columbia River which are both north of the Washington-Oregon state line and between the Cowlitz River and Germany Creek); N up Germany Creek to SR 4; E on SR 4 to Germany Creek Rd; N on Germany Creek Rd to International Paper 1000 line; N on Inter-

national Paper 1000 line to International Paper 1050 line; E on International Paper 1050 line to International Paper 2200 line; E and S on International Paper 2200 to Woodside Dr; NE on Woodside Dr to Delameter Rd; E on Delameter Rd to the three power lines; N along the three power lines to Weyerhaeuser 9312 line; E on Weyerhaeuser 9312 line to Growlers Gulch Rd; E on Growlers Gulch Rd to Public Highway 10 Rd; E along the Public Highway 10 Rd to the A Street bridge over the Cowlitz River at the town of Castle Rock; S down the Cowlitz River to the Columbia River and point of beginning.

GMU 505-MOSSYROCK (Lewis County):

Beginning on I-5 and the Cowlitz River; NE up the Cowlitz River to the Mayfield Dam; NE along the south shore of Mayfield Lake to the US Hwy 12 bridge; NE on US Hwy 12 to Winston Creek Rd; SE on Winston Creek Rd to Longbell Rd; E on Longbell Rd to Perkins Rd; NE on Perkins Rd to Green Mountain Rd; E on Green Mountain Rd to the outlet of Swofford Pond; E along the Swofford Pond outlet to Riffe Lake; E along the south shore of Riffe Lake to the Cowlitz River; up the Cowlitz River to the Rainier Timber 100 Mainline; N on the Rainier Timber 100 Mainline to US Hwy 12; W on US Hwy 12 to SR 7 at the town of Morton; N on SR 7 to SR 508; W on Highway 508 to Centralia-Alpha Rd; W and N on Centralia-Alpha Rd to Salzer Valley Rd; W on Salzer Valley Rd to Summa St at the town of Centralia; W on Summa St to Kresky Rd; N on Kresky Rd to Tower St; N on Tower St to SR 507; W on SR 507 (Cherry St, Alder St, and Mellen St) to I-5; S on I-5 to the Cowlitz River and point of beginning.

GMU 506-WILLAPA HILLS (Wahkiakum, Pacific and Lewis counties):

Beginning at SR 6 and 3rd St South at the town of Pe Ell; S on 3rd St South to Muller Rd; S on Muller Rd to Weyerhaeuser 1000 line; S on Weyerhaeuser 1000 line to Weyerhaeuser 1800 line; S on Weyerhaeuser 1800 line to Weyerhaeuser 500 line; SE on Weyerhaeuser 500 line to SR 407 (Elochoman Valley Rd) at Camp 2; S on SR 407 (Elochoman Valley Rd) to the Elochoman River; down the Elochoman River to Foster Rd; N on Foster Rd to Risk Rd; W and N along Risk Rd to SR 4; W on SR 4 to Skamokawa Creek; SW down Skamokawa Creek to the Columbia River; W along Columbia River to the mouth of the Deep River (including all islands in the Columbia River which are both north of the Washington state line and between Skamokawa Creek and Deep River); N along the Deep River to SR 4; NW on SR 4 to the Salmon Creek Rd; NE on Salmon Creek Rd to Weyerhaeuser 5000 line; N on Weyerhaeuser 5000 line to Weyerhaeuser 5800 line; NE on Weyerhaeuser 5800 line to power transmission line; N on the power transmission line to SR 6; E on SR 6 to the town of Pe Ell and the point of beginning.

GMU 510-STORMKING (Lewis County):

Beginning on US Hwy 12 at the Silver Creek bridge; N up Silver Creek to Silverbrook Rd; E on Silverbrook Rd to US Forest Service Rd 47; N on US Forest Service Rd 47 to US Forest Service Rd 85; W and N on US Forest Service Rd 85 to US Forest Service Rd 52; N on US Forest Service Rd 52 to the Nisqually River; W down the Nisqually River to SR 7; S on Hwy 7 to US Hwy 12 at the town of Morton; E on US Hwy 12 to the Silver Creek bridge and point of beginning.

PROPOSED

GMU 513-SOUTH RAINIER (Lewis County):

Beginning on US Hwy 12 at the Silver Creek bridge; N up Silver Creek to Silverbrook Rd; E on Silverdale Rd to US Forest Service Rd 47; N on US Forest Service Rd 47 to US Forest Service Rd 85; W and N on US Forest Service Rd 85 to US Forest Service Rd 52; W and N on US Forest Service Rd 52 to the Nisqually River; E up the Nisqually River to the southern boundary of Mount Rainier National Park; E along the south park boundary to the Pacific Crest Trail (US Forest Service Trail 2000); S along the Pacific Crest Trail (US Forest Service Trail 2000) to US Hwy 12; W on US Hwy 12 to the Silver Creek bridge and point of beginning.

GMU 516-PACKWOOD (Lewis and Skamania counties):

Beginning at US Hwy 12 and Pacific Crest Trail at White Pass; S on Pacific Crest Trail (US Forest Service Trail 2000) to US Forest Service Trail 98 at Sheep Lake; W on US Forest Service Trail 98 to US Forest Service Rd 2160 at Walupt Lake; W on US Forest Service Rd 2160 to US Forest Service Rd 21; S and W on US Forest Service Rd 21 to US Forest Service Rd 23; S on US Forest Service Rd 23 to US Forest Service Trail 263; S and W on US Forest Service Trail 263 to US Forest Service Trail 261; S on US Forest Service Trail 261 to US Forest Service Trail 1; W on US Forest Service Trail 1 to US Forest Service Rd 99; W on US Forest Service Rd 99 to US Forest Service Rd 26; N on US Forest Service Rd 26 to US Forest Service Rd 2612; W on US Forest Service Rd 2612 to US Forest Service Trail 217; N and W on US Forest Service Trail 217 to Weyerhaeuser 2600 line; Weyerhaeuser 2600 line to Weyerhaeuser 2658 line; N on Weyerhaeuser 2658 line to Rainier Timber (Campbell Group) 430 line; N on Rainier Timber 430 line to the Rainier Timber Mainline 400 line; N and E on Rainier Timber Mainline 400 line to Rainier Timber 300 line; E on Rainier Timber 300 line to Rainier Timber 271 line; N on Rainier Timber 271 line to the Cispus River; E on the Cispus River to US Forest Service Rd 25; N on US Forest Service Rd 25 to SR 131; N on SR 131 to US Hwy 12; E on US Hwy 12 to the Pacific Crest Trail (US Forest Service Trail 2000) at White Pass and beginning.

GMU 520-WINSTON (Cowlitz, Lewis and Skamania counties):

Beginning at the bridge at intersection of I-5 and the Cowlitz River; S down the Cowlitz River to the Toutle River; E up the Toutle River to the South Fork Toutle River; SE up South Fork Toutle River to Johnson Creek; NE up Johnson Creek to Weyerhaeuser 4400 line; N along Weyerhaeuser 4400 line to Weyerhaeuser 2421 line; N along Weyerhaeuser 2421 line to Weyerhaeuser 2400 line; NW along Weyerhaeuser 2400 line to Alder Creek; NW down Alder Creek to North Fork Toutle River; W down the North Fork Toutle River to the Green River; E up the Green River to US Forest Service Rd 2612; E on US Forest Service Rd 2612 to US Forest Service Trail 217; N and W on US Forest Service Trail 217 to Weyerhaeuser 2600 line; W on Weyerhaeuser 2600 line to Weyerhaeuser 2658 line; N on Weyerhaeuser 2658 line to Rainier Timber (Campbell Group) 430 line; N on Rainier Timber 430 line to Rainier Timber 400 Mainline; N and E on Rainier Timber 400 Mainline to Rainier Timber 100 Mainline; N on Rainier Timber 100 Mainline to Cowlitz River; W down the Cowlitz River to Riffe Lake; W along the south shore to the Swofford

Pond outlet; W along the Swofford Pond outlet to Green Mountain Rd; W on Green Mountain Rd to Perkins Rd; SW on Perkins Rd to Longbell Rd; W on Longbell Rd to Winston Creek Rd; NW on Winston Creek Rd to US Hwy 12; SW on US Hwy 12 to the Mayfield Lake bridge at Mayfield Lake; SW down the south shore of Mayfield Lake to the Cowlitz River at Mayfield Dam; SW down the Cowlitz River to I-5 bridge crossing the Cowlitz River and point of beginning.

GMU 522-LOO-WIT (Cowlitz and Skamania counties):

Beginning on the North Fork Toutle River at the mouth of Hoffstadt Creek; SE up the North Fork Toutle River to Deer Creek; SE up Deer Creek to Weyerhaeuser 3020 line; NW along Weyerhaeuser 3020 line to Weyerhaeuser 3000 line; E along Weyerhaeuser 3000 line to US Forest Service Trail 216G; SE along US Forest Service Trail 216G to the intersection of US Forest Service Trail 238 and US Forest Service Trail 216; S on US Forest Service Trail 238 to South Fork of the Toutle River; E along South Fork Toutle River to its headwaters and Mount St. Helens crater's edge; E along the Mount St. Helens crater's southern edge to the headwaters of Ape Canyon Creek; NE down Ape Canyon Creek to US Forest Service Trail 225 (Smith Creek Trail); N and NW on US Forest Service Trail 225 (Smith Creek Trail) to US Forest Service Rd 99; NE along US Forest Service Rd 99 to US Forest Service Rd 26; N on US Forest Service Rd 26 to US Forest Service Trail 1; W on US Forest Service Trail 1 to US Forest Service Trail 214; NW on US Forest Service Trail 214 to US Forest Service Trail 211; W on US Forest Service Trail 211 to Coldwater Creek; W down Coldwater Creek to Coldwater Lake; SW along the northwest shore of Coldwater Lake to the outlet of Coldwater Lake; SW down the outlet stream from Coldwater Lake to SR 504 bridge at mile post 45; W on SR 504 to Hoffstadt Creek Bridge on Hoffstadt Creek; S and W down Hoffstadt Creek to the North Fork Toutle River and point of beginning.

GMU 524-MARGARET (Cowlitz, Skamania and Lewis counties):

Beginning on the North Fork Toutle River at the mouth of the Green River; SE up the North Fork Toutle River to the mouth of Hoffstadt Creek; N and E up Hoffstadt Creek to the SR 504 bridge over Hoffstadt Creek; E on SR 504 to the bridge over the outlet to Coldwater Lake at mile post 45; NE up the outlet stream of Coldwater Lake to Coldwater Lake; NE along the northwest shoreline of Coldwater Lake to Coldwater Creek inlet; E up Coldwater Creek to US Forest Service Trail 211; NE on US Forest Service Trail 211 to US Forest Service Trail 214; SE on US Forest Service Trail 214 to US Forest Service Trail 1; E on US Forest Service Trail 1 to US Forest Service Rd 26; N on the US Forest Service Rd 26 (Ryan Lake Rd) to US Forest Service Rd 2612; W on US Forest Service Rd 2612 to the Green River; W down the Green River to its mouth on the North Fork of the Toutle River and point of beginning.

GMU 530-RYDERWOOD (Cowlitz, Lewis and Wahkiakum counties):

Beginning at Stevens Rd and SR 6, south of the town of Doty; E on SR 6 to I-5 at the town of Chehalis; S on I-5 to the Cowlitz River; S along the Cowlitz River to Public Hwy 10 on the A Street bridge at the town of Castle Rock; W on the Public Hwy 10 to Growler's Gulch Rd; W on Growler's Gulch Rd to

Weyerhaeuser 9312 line; W on Weyerhaeuser 9312 line to three power lines; S on the three power lines to Delameter Rd; SW on Delameter Rd to Woodside Dr; SW on Woodside Dr to International Paper Rd 2200; N and W on International Paper Rd 2200 to International Paper Rd 1050; W on International Paper Rd 1050 to International Paper Rd 1000; S on International Paper Rd 1000 to the Germany Creek Rd; S on the Germany Creek Rd to SR 4; W on SR 4 to Germany Creek; S along Germany Creek to its mouth at the Columbia River; W along the Columbia River to Skamokawa Creek (including all islands in the Columbia River which are both north of the Washington state line and between Skamokawa Creek and Germany Creek); NE up Skamokawa Creek to SR 4; E on SR 4 to Risk Rd; SE on Risk Rd to Foster Rd; S on Foster Rd to the Elochoman River; SE up the Elochoman River to SR 407 (Elochoman Valley Rd); NE on SR 407 (Elochoman Valley Rd) to Weyerhaeuser 500 line at Camp 2; NW on Weyerhaeuser 500 line to Weyerhaeuser 1800 line; N on Weyerhaeuser 1800 line to Weyerhaeuser 1000 line; N on Weyerhaeuser 1000 line to Muller Rd; N on Muller Rd to 3rd St South in the town of Pe Ell; N on 3rd St South to SR 6 at the town of Pe Ell; N on SR 6 to Stevens Rd, south of the town of Doty, and the point of beginning.

GMU 550-COWEEMAN (Cowlitz County):

Beginning at the mouth of the Toutle River on the Cowlitz River; E along the Toutle River to the South Fork Toutle River; up the South Fork Toutle River to Weyerhaeuser 4100 line; E on Weyerhaeuser 4100 line to Weyerhaeuser 4950 line; S and E on Weyerhaeuser 4950 line to Weyerhaeuser 235 line; SE on Weyerhaeuser 235 line to Weyerhaeuser 200 line; W on Weyerhaeuser 200 line to Weyerhaeuser 240 line; SE on Weyerhaeuser 240 line to Weyerhaeuser 243 line; E on Weyerhaeuser 243 line to Weyerhaeuser 135A line; S on Weyerhaeuser 135A line to Weyerhaeuser 135 line; E on Weyerhaeuser 135 line to Weyerhaeuser 134 line; SW on Weyerhaeuser 134 line to Weyerhaeuser 133 line; SW on Weyerhaeuser 133 line to Weyerhaeuser 130 line; SW on Weyerhaeuser 130 line to Weyerhaeuser 1680 line; W on Weyerhaeuser 1680 line to Weyerhaeuser 1600 line; SE on Weyerhaeuser 1600 line to Weyerhaeuser 1400 line; W on Weyerhaeuser 1400 line to Weyerhaeuser 1420 line which is the Kalama/Coweeman Summit; SE on Weyerhaeuser 1420 line to Weyerhaeuser 1426 line; W on Weyerhaeuser 1426 line to Weyerhaeuser 1428 line; SW on Weyerhaeuser 1428 line to Weyerhaeuser 1429 line which turns into Weyerhaeuser 6400 line; SW down Weyerhaeuser 6400 line to Weyerhaeuser 6000 line; E on Weyerhaeuser 6000 line to Weyerhaeuser 6450 line; SE for approximately one mile on Weyerhaeuser 6450 line (crossing the Kalama River) to Weyerhaeuser 6452 line; SE on Weyerhaeuser 6452 line to Dubois Rd; SE on Dubois Rd to SR 503; W on SR 503 to Cape Horn Creek; SE down Cape Horn Creek to Merwin Reservoir; SW along the north shore of Merwin Reservoir to the Lewis River; SW down the Lewis River to the power transmission lines in Section 4, T5N, R2E; NW along the power transmission lines to Northwest Natural Gas Pipeline located east of the town of Kalama, approximately 1/2 mile east of China Gardens Rd; N up the Natural Gas Pipeline right of way to Ostrander Creek; W down Ostrander Creek to

the Cowlitz River; N on the Cowlitz River to the Toutle River and point of beginning.

GMU 554-YALE (Cowlitz and Clark counties):

Beginning on SR 503 at its crossing of Cape Horn Creek; E on SR 503 to Weyerhaeuser 6600 line (Rock Creek Rd); NE on Weyerhaeuser 6600 line (Rock Creek Rd) to Weyerhaeuser 6690 Rd; N and E on Weyerhaeuser 6690 line to Weyerhaeuser 6696 line; N on Weyerhaeuser 6696 line to West Fork Speelyai Creek; SE down West Fork Speelyai Creek to the main stem of the Speelyai Creek; SW and SE down Speelyai Creek to SR 503; NE on SR 503 to Dog Creek; S down Dog Creek to Yale Reservoir; S and W along western shore of Reservoir to Yale Dam and the North Fork Lewis River; W along the northern shore of the North Fork Lewis River to State Route 503 bridge crossing; S and W along SR 503 to N.E. 221st Ave; N about 1/4 mile on N.E. 221st Ave to N.E. Cedar Creek Rd; W along N.E. Cedar Creek Rd to N.E. Pup Creek Rd; N on N.E. Pup Creek Rd to N.E. Buncome Hollow Rd; N about 1/4 mile on N.E. Buncome Hollow Rd to electrical transmission line; S and W on the electrical transmission line to the north shore of the North Fork Lewis River; NE along the north shore of the North Fork Lewis River to Merwin Reservoir at the Merwin Dam; NE along the north shore of Merwin Reservoir to Cape Horn Creek; NW up Cape Horn Creek to SR 503 and the point of beginning.

GMU 556-TOUTLE (Cowlitz County):

Beginning on the intersection of SR 503 (Lewis River Rd) and US Forest Service Rd 81 (Merrill Lake Rd); N on US Forest Service Rd 81 to Weyerhaeuser 7200 line; NW on Weyerhaeuser 7200 line to Weyerhaeuser 7400 line; N on Weyerhaeuser 7400 line to Weyerhaeuser 5500 line; E and N on Weyerhaeuser 5500 line to Weyerhaeuser 5670 line; N and E on Weyerhaeuser 5670 line to Weyerhaeuser 5660 line; N on Weyerhaeuser 5660 line about a 1/4 mile to the South Fork Toutle River; E on the South Fork Toutle River to US Forest Service Trail 238; N on US Forest Service Trail 238 to the intersection of US Forest Service Trail 216 and US Forest Service Trail 216G; NW on US Forest Service Trail 216G to Weyerhaeuser 3000 line; W on Weyerhaeuser 3000 line to Weyerhaeuser 3020 line; SE on Weyerhaeuser 3020 line to Deer Creek; NW down Deer Creek to the North Fork Toutle River; down the North Fork Toutle River to Alder Creek; up Alder Creek to Weyerhaeuser 2400 line; S on Weyerhaeuser 2400 line to Weyerhaeuser 2421 line; S on Weyerhaeuser 2421 line to Weyerhaeuser 4400 line; S and W along Weyerhaeuser 4400 line to Johnson Creek; S along Johnson Creek to the South Fork Toutle River; SE up the South Fork Toutle River to Weyerhaeuser 4100 line; E on Weyerhaeuser 4100 line to the Weyerhaeuser 4950 line; S and E on Weyerhaeuser 4950 line to Weyerhaeuser 235 line; SE on Weyerhaeuser 235 line to Weyerhaeuser 200 line; W on Weyerhaeuser 200 line to Weyerhaeuser 240 line; SE on Weyerhaeuser 240 line to Weyerhaeuser ((234)) 243 line; E on Weyerhaeuser ((234)) 243 line to Weyerhaeuser 135A line; S on Weyerhaeuser 135A line to Weyerhaeuser 135 line; E on Weyerhaeuser 135 line to Weyerhaeuser 134 line; SW on Weyerhaeuser 134 line to Weyerhaeuser 133 line; SW on Weyerhaeuser 133 line to Weyerhaeuser 130 line; SW on Weyerhaeuser 130 line to Weyerhaeuser 1680 line; W on Weyerhaeuser 1680 line to

Weyerhaeuser 1600 line; SE on Weyerhaeuser 1600 line to Weyerhaeuser 1400 line; W on Weyerhaeuser 1400 line to Weyerhaeuser 1420 line which is the Kalama/Coweeman Summit; SE on Weyerhaeuser 1420 line to Weyerhaeuser 1426 line; W on Weyerhaeuser 1426 line to Weyerhaeuser 1428 line; SW on Weyerhaeuser 1428 line to Weyerhaeuser 1429 line; SW on Weyerhaeuser 1429 line to Weyerhaeuser 6400 line; SW on Weyerhaeuser 6400 line to Weyerhaeuser 6000 line; E on Weyerhaeuser 6000 line to Weyerhaeuser 6450 line; SE for approximately one mile on Weyerhaeuser 6450 line (crossing the Kalama River) to Weyerhaeuser 6452 line; SE on Weyerhaeuser 6452 line to Dubois Rd; SE on Dubois Rd to SR 503; E on SR 503 to Weyerhaeuser 6600 line (Rock Creek Rd); NE on Weyerhaeuser 6600 line (Rock Creek Rd) to Weyerhaeuser 6690 Rd; N and E on Weyerhaeuser 6690 line to Weyerhaeuser 6696 line; N on Weyerhaeuser 6696 line to West Fork Speelyai Creek; SE down West Fork Speelyai Creek to the main stem of Speelyai Creek; SW and SE down Speelyai Creek to SR 503; NE on SR 503 to US Forest Service Rd 81 and point of beginning.

GMU 558-MARBLE (Cowlitz and Skamania counties):

Beginning on SR 503 (Lewis River Rd) and the US Forest Service Rd 81 intersection; N on US Forest Service Rd 81 to Weyerhaeuser 7200 line; NE on Weyerhaeuser 7200 line to Weyerhaeuser 7400 line; NW on Weyerhaeuser 7400 line to Weyerhaeuser 5500 line; E and N on Weyerhaeuser 5500 line to Weyerhaeuser 5670 line; N and E on Weyerhaeuser 5670 line to Weyerhaeuser 5660 line; N on Weyerhaeuser 5660 line about 1/4 mile to the South Fork Toutle River; E along South Fork Toutle River to its headwaters and Mount St. Helens crater's edge; E along the Mount St. Helens crater's southern edge to the headwaters of Ape Canyon Creek; NE down Ape Canyon Creek to the US Forest Service Trail 225 (Smith Creek Trail); N and NW on US Forest Service Trail 225 (Smith Creek Trail) to US Forest Service Rd 99; NE on US Forest Service Rd 99 to US Forest Service Trail 1; S and E on US Forest Service Trail 1 to US Forest Service Rd 25; S on US Forest Service Rd 25 to the Muddy River; S down the Muddy River to the North Fork Lewis River; W down the North Fork Lewis River to the Swift Reservoir; W along the north shore of the Swift Reservoir to Swift Dam and the Lewis River; W down the Lewis River to Yale Reservoir; W along the north shore of the Yale Reservoir to the mouth of Dog Creek; N up Dog Creek to SR 503; SW on SR 503 to US Forest Service Rd 81 and point of beginning.

GMU 560-LEWIS RIVER (Skamania, Klickitat, Yakima and Lewis counties):

Beginning on SR 141 and Mount Adams Recreational Area Rd at the town of Trout Lake; N on the Mount Adams Recreational Area Rd to US Forest Service Rd 80 (Mount Adams Recreational Area Rd); N on US Forest Service Rd 80 (Mount Adams Recreational Area Rd) to US Forest Service Rd 82 (Mount Adams Recreational Area Rd); N on US Forest Service Road 82 to Yakama Indian Reservation boundary (Section 16, T7N, R11E); N along the Yakama Indian reservation boundary (Cascade Mountain Range Crest) to US Forest Service Trail 2000 (Pacific Crest Trail) in Section 3, T11N, R11E; S on US Forest Service Trail 2000 (Pacific Crest Trail) to US Forest Service Trail 98 at Sheep Lake; W

on US Forest Service Trail 98 to US Forest Service Rd 2160 at Walupt Lake; W on US Forest Service Rd 2160 to US Forest Service Rd 21; S and W on US Forest Service Rd 21 to US Forest Service Rd 23; S on US Forest Service Rd 23 to US Forest Service Trail 263; S and W on US Forest Service Trail 263 to US Forest Service Trail 261; S on US Forest Service Trail 261 to US Forest Service Trail 1; W on US Forest Service Trail 1 to US Forest Service Rd 25; S on US Forest Service Rd 25 to the Muddy River; S down the Muddy River to the North Fork Lewis River; W down the North Fork Lewis River to US Forest Service Rd 90 bridge (Eagle Cliff); E on US Forest Service Rd 90 to US Forest Service Rd 51 (Curly Creek Rd); SE on US Forest Service Rd 51 (Curly Creek Rd) to US Forest Service Rd 30; NE on US Forest Service Rd 30 to US Forest Service Rd 24; SE on US Forest Service Rd 24 to SR 141; NE on SR 141 to Mount Adams Recreational Area Rd, at the town of Trout Lake and point of beginning.

GMU 564-BATTLE GROUND (Clark, Skamania, and Cowlitz counties):

Beginning at the mouth of Ostrander Creek on the Cowlitz River; E up Ostrander Creek approximately 1 1/2 miles to the second Northwest Natural Gas Pipeline right of way crossing Ostrander Creek, east of the railroad crossing; S along the Northwest Natural Gas Pipeline right of way to the power transmission lines right of way located east of the town of Kalama, approximately 1/2 mile east of China Garden Rd; SE along the power transmission lines right of way across the north fork of the Lewis River in the northeast corner of Section 4, T5N, R2E to N.E. Buncome Hollow Rd; S on N.E. Buncome Hollow Rd to N.E. Pup Creek Rd; S on N.E. Pup Creek Rd to N.E. Cedar Creek Rd; E on N.E. Cedar Creek Rd to 221st Ave; S along 221st Ave about 1/4 mile to SR 503; SE along SR 503 to N.E. Amboy Rd; S on N.E. Amboy Rd to N.E. Yacolt Rd; E on Yacolt Rd to Railroad Ave; SE on Railroad Ave to Lucia Falls Rd; W on Lucia Falls Rd to Hantwick Rd; SE on Hantwick Rd to Basket Flats Rd; W on Basket Flats Rd to N.E. 197th Ave; S on N.E. 197th Ave to N.E. 279th St; W on N.E. 279th St to N.E. 182nd Ave; S on N.E. 182nd Ave to N.E. 259th St; E on N.E. 259th St to N.E. 220th Ave; S on N.E. 220th Ave to N.E. Cresap Rd; SE on N.E. Cresap Rd to N.E. 222nd Ave; S on N.E. 222nd Ave to N.E. Allworth Rd; E on N.E. Allworth Rd to NE 232nd Ave; S on N.E. 232nd Ave to N.E. 237th St; E on N.E. 237th St to N.E. 240th Ave; S on N.E. 240th Ave to N.E. Berry Rd; NE on N.E. Berry Rd to the DNR L-1410 Rd; SE on L-1410 Rd to the DNR L-1400 Rd; W on L-1400 Rd to N.E. Rawson Rd; W on N.E. Rawson Rd to N.E. Powell Rd; SW on N.E. Powell Rd to N.E. 212th Ave; S on N.E. 212th Ave to N.E. 109th St; E on N.E. 109th St to N.E. 222nd Ave; S on N.E. 222nd Ave to N.E. 83rd St; W on N.E. 83rd St to N.E. 217th Ave; S on N.E. 217th Ave to N.E. 68th St; E on N.E. 68th St to N.E. 232nd Ave; S on N.E. 232nd Ave to SR 500; SE on SR 500 to N.E. 53rd St; E on N.E. 53rd St to N.E. 292nd Ave; S on N.E. 292nd Ave to N.E. Ireland Rd; E on N.E. Ireland Rd to N.E. Stauffer Rd; SW on N.E. Stauffer Rd to N.E. 292nd Ave; S on N.E. 292nd Ave to N.E. Reilly Rd; SW on N.E. Reilly Rd to N.E. Blair Rd; SE on N.E. Blair Rd to N.E. Zeek Rd; E on N.E. Zeek Rd to N.E. 10th St; E on N.E. 10th St to N.E. 312th Ave; S on N.E. 312th Ave to N.E. 9th St; E on N.E. 9th St to N.E. 322nd Ave; N on N.E. 322nd Ave to N.E.

Ammeter Rd; NE on N.E. Ammeter Rd approximately 1/8th mile to the power transmission lines; E along the northern margin of the power transmission lines to N.E. Hughes Rd; N on N.E. Hughes Rd to N.E. 392nd Ave; N on N.E. 392nd Ave to N.E. 28th St; E on N.E. 28th St to N.E. Miller Rd; NE on N.E. Miller Rd to N.E. 39th St; E on N.E. 39th St to Skye Rd; SE on Skye Rd to Washougal River Rd; S on Washougal River Rd to SR 140; SE on SR 140 to Cape Horn Rd; S on Cape Horn Rd to Columbia River; W down the Columbia River to the Cowlitz River (including all islands in the Columbia River which are both on the Washington side of the state line and between Cape Horn Rd and the Cowlitz River); N along Cowlitz River to Ostrander Creek and point of beginning.

GMU 568-WASHOUGAL (Clark and Skamania counties):

Beginning on the Lewis River at SR 503; E on Lewis River (Cowlitz-Clark County line) to Canyon Creek; SE along Canyon Creek to N.E. Healy Rd; E on N.E. Healy Rd to US Forest Service Rd 54; E on US Forest Service Rd 54 to US Forest Service Rd 37; NW on US Forest Service Rd 37 to US Forest Service Rd 53; S on US Forest Service Rd 53 to US Forest Service Rd 4205 (Gumboat Rd); S on US Forest Service Rd 4205 to US Forest Service Rd 42 (Green Fork Rd); SW on US Forest Service Rd 42 to US Forest Service Rd 41 at Sunset Falls; E on US Forest Service Rd 41 to US Forest Service Rd 406 at Little Lookout Mountain; SE on US Forest Service Rd 406 to the boundary of the Gifford Pinchot National Forest; due E on the national forest boundary to Rock Creek; SE along Rock Creek to the Columbia River at the town of Stevenson; W down the Columbia River to the Cape Horn Rd (including all islands in the Columbia River which are both on the Washington side of the state line and between Cape Horn Rd and Rock Creek); N on Cape Horn Rd to SR 140; W on SR 140 to Washougal River Rd; E on Washougal River Rd to Skye Rd; NW on Skye Rd to N.E. 39th St; W on N.E. 39th St to N.E. Miller Rd; SW on N.E. Miller Rd to N.E. 28th St; W on N.E. 28th St to N.E. 392nd Ave; S on N.E. 392nd Ave to N.E. Hughes Rd; S on N.E. Hughes Rd approximately 1/8th mile to the power transmission lines; W along the northern margin of the power transmission lines to N.E. Ammeter Rd; SW on N.E. Ammeter Rd to N.E. 322nd Ave; S on N.E. 322nd Ave to N.E. 9th St; W on N.E. 9th St to N.E. 312th Ave; N on N.E. 312th Ave to N.E. 10th St; W on N.E. 10th St to N.E. Zeek Rd; W on N.E. Zeek Rd to N.E. Blair Rd; NW on N.E. Blair Rd to N.E. Reilly Rd; NE on N.E. Reilly Rd to N.E. 292nd Ave; NE on N.E. 292nd Ave to N.E. Stauffer Rd; NE on N.E. Stauffer Rd to N.E. Ireland Rd; W on N.E. Ireland Rd to N.E. 292nd Ave; N on N.E. 292nd Ave to N.E. 53rd St; W on N.E. 53rd St to SR 500; NW on SR 500 to N.E. 232nd Ave; N on N.E. 232nd Ave to N.E. 68th St; W on N.E. 68th St to N.E. 217th Ave; N on N.E. 217th Ave to N.E. 83rd St; E on N.E. 83rd St to N.E. 222nd Ave; N on N.E. 222nd Ave to NE 109th St; W on N.E. 109th St to N.E. 212th Ave; N on N.E. 212th Ave to N.E. Powell Rd; NE on N.E. Powell Rd to N.E. Rawson Rd; E on Rawson Rd to DNR L-1400 Rd; E on DNR L-1400 Rd to DNR L-1410 Rd; NW on DNR L-1410 Rd to N.E. Berry Rd; SW on N.E. Berry Rd to N.E. 240th Ave; N on N.E. 240th Ave to N.E. 237th St; W on N.E. 237th St to N.E. 232nd Ave; N on N.E. 232nd Ave to

N.E. Allworth Rd; W on N.E. Allworth Rd to N.E. 222nd Ave; N on N.E. 222nd Ave to N.E. Cresap Rd; NW on N.E. Cresap Rd to N.E. 220th Ave; N on N.E. 220th Ave to N.E. 259th St; W on N.E. 259th St to N.E. 182nd Ave; N on N.E. 182nd Ave to N.E. 279th St; E on N.E. 279th St to N.E. 197th Ave; N on N.E. 197th Ave to N.E. Basket Flats Rd; E on N.E. Basket Flats Rd to N.E. Hantwick Rd; NW on N.E. Hantwick Rd to Lucia Falls Rd; E on Lucia Falls Rd to Railroad Ave; NW on Railroad Ave to N.E. Yacolt Rd; W on N.E. Yacolt Rd to N.E. Amboy Rd; N on N.E. Amboy Rd to N.E. 221st Ave; N on 221st Ave to SR 503; NE along SR 503 to the Lewis River and point of beginning.

GMU 572-SIOUXON (Skamania and Clark counties):

Beginning at the Yale Dam at Yale Lake; N then E along the shore of Yale Lake to the Lewis River; NE along the Lewis River to Swift Reservoir; E along the north shore Swift Reservoir to US Forest Service Rd 90 at the Eagle Cliff bridge; E on US Forest Service Rd 90 to US Forest Service Rd 51 (Curly Creek Rd); SE on US Forest Service Rd 51 to US Forest Service Rd 30 (Wind River Rd); N on US Forest Service Rd 30 to US Forest Service Rd 24 (Twin Butte Rd); S on US Forest Service Rd 24 to US Forest Service Rd 60 (Carson Guler Rd); SW on US Forest Service Rd 60 to US Forest Service Rd 65; SW on US Forest Service Rd 65 to the Wind River Rd; NW on the Wind River Rd to Hemlock Rd at the town of Stabler; W on Hemlock Rd to US Forest Service Rd 41 (Sunset-Hemlock Rd); W on the US Forest Service Rd 41 to US Forest Service Road 42 (Green Fork Rd) at Sunset Falls; NE on US Forest Service Rd 42 to US Forest Service Rd 4205 (Gumboat Rd); N on US Forest Service Rd 4205 to US Forest Service Rd 53; NW on US Forest Service Rd 53 to US Forest Service Rd 54 (N.E. Healy Rd); W on US Forest Service Rd 54 to Canyon Creek; N down Canyon Creek to the Lewis River; NE up the Lewis River to the Yale Dam and the point of beginning.

GMU 574-WIND RIVER (Skamania and Klickitat counties):

Beginning at SR 141 and US Forest Rd 86, SW of the town of Trout Lake; S on US Forest Service Rd 86 to US Forest Service Rd 1840; S on US Forest Service Rd 1840 to US Forest Service Rd 18 (Oklahoma Rd); S on US Forest Service Rd 18 to Willard Rd, at the town of Willard; E on Willard Rd to the Little White Salmon River; S down the Little White Salmon River to the Columbia River; W down the Columbia River to the mouth of Rock Creek (including all islands in the Columbia River that are both north of the Washington state line and between the Little White Salmon River and Rock Creek); NW along Rock Creek through the town of Stevenson to the southern boundary of the Gifford Pinchot National Forest; W along the southern boundary of the Gifford Pinchot National Forest to US Forest Service Rd 4100-406; NW on US Forest Service Rd 4100-406 to the US Forest Service Rd 41 (Sunset-Mowich Rd) at Little Lookout Mountain; E on US Forest Service Rd 41 to Hemlock Rd; E on Hemlock Rd to Wind River Rd at the town of Stabler; SE on Wind River Rd to Old State Rd; E on Old State Rd to US Forest Service Rd 65 (Panther Creek Rd); N on US Forest Service Rd 65 to US Forest Service Road 60 (Carson-Guler); NE on US Forest Service 60 to US Forest Service 24 (also called Carson-Guler); E on US

Forest Service Rd 24 to SR 141; NE, E and SE on SR 141 to US Forest Service Rd 86, SW of the town of Trout Lake, and the point of beginning.

GMU 578-WEST KLICKITAT (Klickitat, Yakima, and Skamania counties):

Beginning at the mouth of the Little White Salmon River on the Columbia River; N up the Little White Salmon River to Willard Road bridge, E of Willard; W on Willard Rd to US Forest Service Rd 18 (Oklahoma Rd); N on US Forest Service Rd 18 to US Forest Service 1840; N on US Forest Service Rd 1840 to US Forest Service Rd 86; N on US Forest Service Road 86 to SR 141; NE on SR 141 to Mount Adams Recreation Area Road, at the town of Trout Lake; N on the Mount Adams Recreational Area Rd to US Forest Service Rd 80 (Mount Adams Recreational Area Rd); N on US Forest Service Rd 80 (Mount Adams Recreational Area Rd) to US Forest Service Rd 82 (Mount Adams Recreational Area Rd); N on US Forest Service Road 82 to Yakama Indian Reservation boundary (Section 16, T7N, R11E); S along the Yakama Indian Reservation boundary to the Reservation's SW corner at King Mountain (Section 27, T7N, R11E); E along the Yakama Indian Reservation boundary to the end of King Mountain Rd, about 1 mile; N along the Yakama Indian Reservation boundary to its corner in Section 2, T7N, R11E; E along the Yakama Indian Reservation boundary to the NE corner of Section 4, T7N, R12E; SE along the Yakama Indian Reservation boundary to Summit Creek Rd; SW on Summit Creek Rd to Glenwood-Goldendale Hwy; NW on Glenwood-Goldendale Hwy to Lakeside Rd; S on Lakeside Rd to Fisher Hill Rd (P-2000); S on Fisher Hill Rd to the Fisher Hill bridge crossing the Klickitat River; S and SW down the Klickitat River to the Columbia River; W down the Columbia River to the mouth of the Little White Salmon River and the point of beginning (including all islands in the Columbia River which are both north of the Washington state line and between the Klickitat River and the Little White Salmon River).

GMU 588-GRAYBACK (Klickitat County):

Beginning at the US Hwy 97 bridge crossing the Columbia River; W down the Columbia River to the mouth of the Klickitat River at the town of Lyle (including all islands in the Columbia River which are both north of the Washington state line and between the US Hwy 97 bridge and the Klickitat River); N up the Klickitat River to the Fisher Hill Rd (P-2000) at the Fisher Hill bridge; N along Fisher Hill Rd to Lakeside Rd; S on Lakeside Rd to Glenwood-Goldendale Hwy; E and SE on Glenwood-Goldendale Hwy to Summit Creek Rd; NE on Summit Creek Rd to the Yakama Indian Reservation; E along the southern boundary of the Yakama Indian Reservation to US Hwy 97 (Satus Pass Hwy); S on US Hwy 97 to US Hwy 97 bridge crossing the Columbia River and point of beginning.

AMENDATORY SECTION (Amending Order 04-98, filed 5/12/04, effective 6/12/04)

WAC 232-28-337 Deer and elk area descriptions.

ELK AREAS

Elk Area No. 1010 (Columbia County): GMU 162 excluding National Forest land and the Rainwater Wildlife Area.

Elk Area No. 1011 (Columbia County): That part of GMU 162 east of the North Touchet Road, excluding National Forest land.

Elk Area No. 1012 (Columbia County): That part of GMU 162 west of the North Touchet Road, excluding National Forest land and the Rainwater Wildlife Area.

Elk Area No. 1013 (Asotin County): GMU 172, excluding National Forest lands.

Elk Area No. 1014 (Columbia-Garfield counties): That part of GMU 166 Tucannon west of the Tucannon River and USFS Trail No. 3110 (Jelly Spr.-Diamond Pk. Trail).

Elk Area No. 2032 Malaga (Kittitas and Chelan counties): Beginning at the mouth of Davies Canyon on the Columbia River; west along Davies Canyon to the cliffs above (north of) the North Fork Tarpiscan Creek; west and north along the cliffs to the Bonneville Power Line; southwest along the power line to the North Fork Tarpiscan Road in Section 9, Township 20N, Range 21E; north and west along North Fork Tarpiscan Road to Colockum Pass Road (Section 9, Township 20N, Range 21E); south and west on Colockum Pass Road to section line between Sections 8 & 9; north along the section line between Sections 8 and 9 as well as Sections 4 & 5 (T20N, R21E) & Sections 32 & 33 (T21N, R21E) to Moses Carr Road; west and north on Moses Carr Road to Jump Off Road; south and west on Jump Off Road to Shaller Road; north and west on Shaller Road to Upper Basin Loop Road; north and west on Upper Basin Loop Road to Wheeler Ridge Road; north on Wheeler Ridge Road to the Basin Loop Road (pavement) in Section 10 (T21N, R20E); north on Basin Loop Road to Wenatchee Heights Road; west on Wenatchee Heights Road to Squilchuck Road; south on Squilchuck Road to Beehive Road (USFS Rd 9712); northwest on Beehive Road to USFS Rd 7100 near Beehive Reservoir; north and west on USFS Rd 7100 to Peavine Canyon Road (USFS Rd 7101); north and east on Peavine Canyon Road to Number Two Canyon Road; north on Number Two Canyon Road to Crawford Street in Wenatchee; east on Crawford Street to the Columbia River; south and east along the Columbia River to Davies Canyon and point of beginning. (Naneum Green Dot, Washington Gazetteer, Wenatchee National Forest)

Elk Area No. 2033 Peshastin (Chelan County): Beginning at Crawford Street and the Columbia River in Wenatchee; west on Crawford Street and Number Two Canyon Road to USFS 7101 Road (Peavine Canyon); west on USFS 7101 Road to Mission Creek Road; north on Mission Creek Road to USFS 7104 Road (Sand Creek Road); west on USFS 7104 Road (Sand Creek Road) to Camas Creek; west up Camas Creek to where Camas Creek crosses USFS 7200 Road, T22N, R18E, Section 4; north along USFS 7200 Road to U.S.

Highway 97; north on U.S. Highway 97 to USFS 7300 Road (Mountain Home Road); north on the USFS 7300 Road to the Wenatchee River at Leavenworth; down the Wenatchee River and Columbia River to the point of beginning.

Elk Area No. 2051 Tronsen (Chelan County): All of GMU 251 except that portion described as follows: Beginning at the junction of Naneum Ridge Road (WDFW Rd 9) and Ingersol Road (WDFW Rd 1); north and east on Ingersol Road to Colockum Road (WDFW Rd 10); east on Colockum Road and Colockum Creek to the intersection of Colockum Creek and the Columbia River; south on the Columbia River to mouth of Tarpiscan Creek; west up Tarpiscan Creek and Tarpiscan Road (WDFW Rd 14) and North Fork Road (WDFW Rd 10.10) to the intersection of North Fork Road and Colockum Road; southwest on Colockum Road to Naneum Ridge Road; west on Naneum Ridge Road to Ingersol Road and the point of beginning.

~~(**Elk Area No. 3010 Nile (Yakima County):** That part of GMUs 352 and 360 south of Upper Nile Loop Road Bridge and north of Lower Nile Loop Road Bridge (near The Woodshed Restaurant) and north and east of the Nile elk fence.)~~

Elk Area No. 3028 Cooke Creek (Kittitas County): Beginning at the junction of the Naneum Ridge and Swift Creek Road in T20N, R20E, Section 16, east on the Naneum Ridge Road to the Colockum Road; south on the Colockum and Brewton roads to the power lines in T20N, R21E, Section 29; south and west on the power lines to the Coleman Creek Road; north on the Coleman Creek Road to the Swift Creek Road and point of beginning, excluding Arthur Coffin Game Reserve.

Elk Area No. 3068 Klickitat Meadows (Yakima County): That part of GMU 368 beginning at Reservation Creek and South Fork Ahtanum Creek; west along Reservation Creek to the high point on the ridge above its headwaters; northwest to Spenser Point (as represented on the Mt. Adams DNR 100K map); northeast from Spenser Point to USFS Trail 1136; north along USFS Trail 1136 to USFS Road 615 to Darland Mt.; southeast along crest of main divide between Diamond Fork and Middle Fork Ahtanum Creek drainage to headwaters of South Fork Ahtanum Creek; east along South Fork Ahtanum Creek to Reservation Creek and point of beginning.

Elk Area No. 3721 Corral Canyon (Benton and Yakima counties): That part of GMU 372 beginning at the Yakima River Bridge on SR 241 just north of Mabton; north along SR 241 to the Rattlesnake Ridge Road (mile post #19); east on Rattlesnake Ridge Road to the US Department Of Energy's Arid Lands Ecology Reserve (ALE) boundary; south along the FEALE southern boundary to southwest corner of the WDFW Rattlesnake Slope Wildlife Area; east along the wildlife area's southern boundary to SR 225 and the Yakima River; south and west (upstream) along the Yakima River to point of beginning.

Elk Area No. 3722 Blackrock (Benton and Yakima counties): That part of GMU 372 beginning at southern corner of the Yakima Training Center border on Columbia River, northwest of Priest Rapids Dam; southeast on southern shore of Columbia River (Priest Rapids Lake) to Priest Rapids

Dam; east along Columbia River (Yakima-Grant, Grant-Benton Co. lines) to Vernita Bridge on SR 24; east and south down Benton County side of Columbia River, following ordinary high water mark of shoreline, to mouth of Yakima River; west along Yakima River (upstream) to southeast corner of the WDFW Rattlesnake Slope Wildlife Area; west along the southern boundary of the Rattlesnake Wildlife Area to the southern boundary of the Arid Lands Ecology Reserve (ALE); west along the ALE southern boundary to SR 241; south on SR 241 to the Yakima River Bridge; west along Yakima River to SR 823 (Harrison Road) south of town of Pomona; east along SR 823 (Harrison Road) to SR 821; southeast on SR 821 to Firing Center Road at I-82; east on Firing Center Road to main gate of Yakima Training Center; south and east along Yakima Training Center boundary to southern corner of Yakima Training Center boundary on Columbia River and point of beginning.

Elk Area No. 3911 Fairview (Kittitas County): Beginning at the intersection of the BPA Power Lines in T20N, R14E, Section 36 and I-90; east along the power lines through Cle Elum to the Teanaway Road; north on the Teanaway Road to Ballard Hill Road; east on Ballard Hill Rd and Swauk Prairie Road to Hwy 970; north on Hwy 970 to Hwy 97; south on Hwy 97 to the power lines in T20N, R17E, Section 34; east on the power lines to Naneum Creek; south on Naneum Creek approximately 1/2 mile to power lines in T19N, R19E, Section 20; east ((and south)) along ((the)) BPA power lines to Colockum Pass Road in T19N, R20E, Section 16; south on Colockum Pass Road to BPA power lines in T18N, R20E, Section 6; east and south along power lines to Parke Creek Road; north on Parke Creek Road to Whiskey Jim Road; east on Whiskey Jim Road to Beacon Ridge Road; south on Beacon Ridge Road to the Vantage Highway; east along the Vantage Highway to I-90; west along I-90 to the Yakima Training Center boundary; south and west along the Yakima Training Center boundary to I-82; north on I-82 to Thrall Road; west on Thrall Road to Wilson Creek; south on Wilson Creek to Yakima River; north on Yakima River to gas pipeline crossing in T17N, R18E, Section 25; south and west on the gas pipeline to Umtanum Creek; west on Umtanum Creek to the Durr Road; north on the Durr Road to Umptaneum Road; north on Umptaneum Road to South Branch Canal; west on South Branch Canal to Bradshaw Road; west on Bradshaw Road to the elk fence; north and west along the elk fence to power line crossing in T19N, R16E, Section 10; west along the power line (south branch) to the Cabin Creek Road; east and north on Cabin Creek Road to Easton and I-90; east on I-90 to point of beginning.

Elk Area No. 3912 Old Naches (Yakima County): Starting at the elk fence and Roza Canal along the south boundary T14N, R19E, Section 8; following the elk fence to the sheep feeding site in T15N, R16E, Section 30; south on the feeding site Access Road to the Old Naches Highway; west and south on the Old Naches Highway to State Route 12 and the Naches River; down the Naches River to the Tieton River; up the Tieton River approximately 2 miles to the elk fence in T14N, R16E, Section 3; due south from the start of the elk fence to the top of the cliff; southwest along the cliff/rimrock to the irrigation canal in T14N, R16E, Section 9; southwest along

the irrigation canal to the elk fence in T14N, R16E, Section 8; the elk fence to ((the power lines in T13N, R16E, Section 34; south along the power lines approximately 3/4 of a mile to the irrigation ditch; west along the irrigation ditch to)) the township line between T12N, R15E and T12N, R16E; south along the township line to the South Fork Ahtanum Creek; South Fork Ahtanum Creek to Ahtanum Creek to Yakima River; up the Yakima River to Roza Canal and point of beginning.

Elk Area No. 3944 Clemen (Yakima County): That portion of GMU 342 beginning at the junction of Highway 410 and USFS Road 1701 (Big Bald Mountain Road); north to USFS Road 1712; east on USFS Road 1712 (Clemen Ridge Road) to the elk fence gate (T15N; R17E; Section 23 NE 1/4) at the top of Austin Spur Road; south and west along the elk fence to Highway 410 to the point of beginning.

Elk Area No. 4041 Grandy Creek (Skagit County): Begin at the intersection of CP 190 Road and CP 132 Road (Section 28, T36N, R5E); east along the CP 132 Road to the CP 130 Road; east and south along CP 130 Road to CP 110 Road, west, south and east along CP 110 Road to Childs Creek; south down Childs Creek to State Route 20; east on State Route 20 to Grandy Creek; south down Grandy Creek to the Skagit River; south on a line to South Skagit Hwy; west on South Skagit Hwy to State Route 9; north on State Route 9 to State Route 20; east on State Route 20 to Helmick Road; north on Helmick Road to CP 190 Road to CP 132 Road and the point of beginning. (WA Atlas & Gazetteer & Mt. Baker-Snoqualmie National Forest Map)

Elk Area No. 4941 Skagit River (Skagit County): Beginning at the intersection of State Route 9 and State Route 20; east on State Route 20 to Grandy Creek; south down Grandy Creek to the Skagit River; south on a line to South Skagit Highway; west on South Skagit Highway to State Route 9; north on State Route 9 to point of beginning.

Elk Area No. 5029 Toledo (Lewis and Cowlitz counties): Beginning at the Cowlitz River and State Highway 505 junction; east along the Cowlitz River to the Weyerhaeuser 1800 Road; south along Weyerhaeuser 1800 Road to Cedar Creek Road; east along Cedar Creek Road to Due Road; south on Due Road to Weyerhaeuser 1823 Road; south along Weyerhaeuser 1823 Road to the Weyerhaeuser 1945 Road; south along the Weyerhaeuser 1945 Road to the Weyerhaeuser 1900 Road; south along the Weyerhaeuser 1900 Road to the North Fork Toutle River; west along the North Fork Toutle River to the Toutle River; west on the Toutle River to the Cowlitz River; North along the Cowlitz River to the junction of State Highway 505 and the point of beginning.

Elk Area No. 5050 Curtis (Lewis County): Beginning at the Boistfort Road, State Highway 6 intersection; west to the Mauerman Road; west and southwest on the Mauerman Road to the Pe Ell/McDonald Road; south and east on the Pe Ell/McDonald Road to the Lost Valley Road; south and southeast on the Lost Valley Road to the Boistfort Road; east and north along the Boistfort Road to State Highway 6 and point of beginning.

Elk Area No. 5051 Green Mountain (Cowlitz County): Beginning at the junction of the Cowlitz River and the Toutle

River; east along the Toutle River to the North Fork Toutle River; east along the North Fork Toutle River to the Weyerhaeuser 1900 Road; south along the Weyerhaeuser 1900 Road to the Weyerhaeuser 1910 Road; south along the Weyerhaeuser 1910 Road to the Weyerhaeuser 2410 Road; south along the Weyerhaeuser 2410 Road to the Weyerhaeuser 4553 Road; south along the Weyerhaeuser 4553 Road to the Weyerhaeuser 4500 Road; south along the Weyerhaeuser 4500 Road to the Weyerhaeuser 4400 Road; south along the Weyerhaeuser 4400 Road to the Weyerhaeuser 4100 Road; east along the Weyerhaeuser 4100 Road to the Weyerhaeuser 4700 Road; south along the Weyerhaeuser 4700 Road to the Weyerhaeuser 4720 Road; west along the Weyerhaeuser 4720 Road to the Weyerhaeuser 4730 Road; west along the Weyerhaeuser 4730 Road to the Weyerhaeuser 4732 Road; west along the Weyerhaeuser 4732 Road to the Weyerhaeuser 4790 Road; west along the Weyerhaeuser 4790 Road to the Weyerhaeuser 1390 Road; south along the Weyerhaeuser 1390 Road to the Weyerhaeuser 1600 Road; west along the Weyerhaeuser 1600 Road to the Weyerhaeuser Logging Railroad Tracks at Headquarters; west along the Weyerhaeuser Logging Railroad Track to Ostrander Creek; west along Ostrander Creek to the Cowlitz River; north along the Cowlitz River to the Toutle River and point of beginning.

Elk Area No. 5052 Mossyrock (Lewis County): Beginning at the intersection of Winston Creek Road and State Highway 12; east on State Highway 12 to the Cowlitz River; east on the Cowlitz River to Riffe Lake; southeast along the south shore of Riffe Lake to Swofford Pond outlet creek; south on Swofford Pond outlet creek to Green Mountain Road; west on Green Mountain Road to Perkins Road; west on Perkins Road to Longbell Road; south on Longbell Road to Winston Creek Road; north on Winston Creek Road to State Highway 12 and the point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

Elk Area No. 5053 Randle (Lewis County): Beginning at the town of Randle and the intersection of U.S. Highway 12 and State Route 131 (Forest Service 23 and 25 roads); south on State Route 131 to Forest Service 25 Road; south on Forest Service 25 Road to the Cispus River; west along the Cispus River to the Champion 300 line bridge; south and west on the Champion 300 line to the Champion Haul Road; north along the Champion Haul Road to Kosmos Road; north on Kosmos Road to U.S. Highway 12; east on U.S. Highway 12 to Randle and point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

Elk Area No. 5054 Boistfort (Lewis County): Beginning at the town of Vader; west along State Highway 506 to the Wildwood Road; north along the Wildwood Road to the Abernathy 500 line gate (Section 20, T11N, R3W, Willamette Meridian); northwest along the 500, 540, and 560 lines to the Weyerhaeuser 813 line; northwest along the 813, 812, 5000J, 5000 and 4000 lines to the Pe Ell/McDonald Road (Section 15, T12N, R4W); west along the Pe Ell/McDonald Road to the Lost Valley Road; northeast along the Lost Valley Road to the Boistfort Road; north along the Boistfort Road to the King Road; east along the King Road to

the town of Winlock and State Highway 603; south along Highway 505 to Interstate 5; south along Interstate 5 to State Hwy 506; west along State Hwy 506 to the town of Vader and the point of beginning.

Elk Area No. 5055 East Valley (Wahkiakum County): Within one mile on either side of the line beginning at Wilson Creek Park on East Valley Road; west on East Valley Road to the junction with Middle Valley Road (4.5 miles); north along Middle Valley Road to the junction of Oat Field Road (2.5 miles).

Elk Area No. 5056 Grays River Valley (Wahkiakum County): On or within 1/4 mile of agricultural land in the Grays River Valley within the following sections: T10N, R7W, Sections 8, 9, 17, 18 and T10N, R8W, Sections 13, 23, 24, 26.

Elk Area No. 5057 Carlton (Lewis County): That part of 513 (South Rainier) lying east of Highway 123 and north of Highway 12.

Elk Area No. 5058 West Goat Rocks (Lewis County): Goat Rocks Wilderness west of the Pacific Crest Trail.

Elk Area No. 5059 Mt. Adams Wilderness (Skamania and Yakima counties): The Mt. Adams Wilderness.

Elk Area No. 5060 Merwin (Cowlitz County): Begin at the State Route 503 and the Longview Fibre Road WS-8000 junction; north and west on the Longview Fibre Road WS-8000 to Day Place Road; west on Day Place Road to Dubois Road; south on Dubois Road to State Route 503; east on State Route 503 to the State Route 503 and the Longview Fibre Road WS-8000 junction and point of beginning.

Elk Area No. 5090 JBH (Wahkiakum County): The main-land portion of the Julia Butler Hansen National Wildlife Refuge, as administered by the U.S. Fish and Wildlife Service as described: Beginning at the junction of State Route 4 and Steamboat Island Slough Road, northwest on Steamboat Island Slough Road to Brooks Slough Road, east on Brooks Slough Road to State Route 4, south on State Route 4 to Steamboat Slough Road and point of beginning.

Elk Area No. 5099 Mudflow (Cowlitz County): That part of GMU 522 (Loo-wit) that is within the boundary of the St. Helens Wildlife Area.

Elk Area No. 6010 Mallis (Pacific County): That part of GMUs 506, 672, and 673 within one mile either side of State Road 6 between the east end of Elk Prairie Road and the Mallis Landing Road.

Elk Area No. 6011 Centralia Mine (Lewis County): That portion of GMU 667 within Centralia Mine property boundary.

Elk Area No. 6012 Tri Valley (Grays Harbor and Mason counties): All lands within one mile of Brady-Matlock Road from State Highway 12 north to the junction with Schaefer State Park Road (east Satsop Road) and all lands within one mile of Wynoochee Valley Road from State Highway 12 north to the junction with Cougar Smith Road, and all lands within one mile of Wishkah Valley Road from north Aber-

deen city limit to the junction with Wishkah-East Hoquiam Road.

Elk Area No. 6054 Puyallup River (Pierce County): That part of GMU 654 south of the Puyallup River.

Elk Area No. 6061 Twin Satsop Farms (Mason County): That portion of GMU 651 starting at the junction of the Deckerville Road and the Brady-Matlock Road; southwest to the junction with the West Boundary Road; north on West Boundary Road to the Deckerville Road; east on the Deckerville Road to the junction of Brady-Matlock Road and point of beginning. In addition, the area within a circle with a radius of two miles centered on the junction of State Route 108 and the Eich Road.

Elk Area No. 6062 South Bank (Grays Harbor County): That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; southeast on the South Bank Road to Delezene Road; south on the Delezene Road to a point one mile from the South Bank Road; southeast along a line one mile southwest of the South Bank Road to the Oakville-Brooklyn Road; east on the Oakville-Brooklyn Road to Oakville and Highway 12; northwest on Highway 12 to Wakefield Road to Elma and the point of beginning.

Elk Area No. 6063 (Grays Harbor and Jefferson counties): Private lands within Elk Area 6064 east of Highway 101.

Elk Area No. 6064 Quinault Valley (Grays Harbor and Jefferson counties): That portion of GMU 638 (Quinault) within the Quinault River watershed.

Elk Area No. 6066 Chehalis Valley (Grays Harbor County): That portion of GMU 660 (Minot Peak) beginning at Highway 12 and Highway 107 junction near Montesano; east and south on Highway 12 to Oakville; south on Oakville-Brooklyn Road to a point one mile west of South Bank Road; northwest along a line one mile southwest of South Bank Road to Delezene Road; north along Delezene Road to South Bank Road; northwest along South Bank Road to Wakefield Road; north on Wakefield Road to Chehalis River; west on Chehalis River to Highway 107 bridge; north on Highway 107 to Highway 12 and the point of beginning.

Elk Area No. 6067 North Minot (Grays Harbor County): The portion of GMU 660 (Minot Peak) beginning at the junction on State Route 107 and the Melbourne A-line, on the Melbourne A-line to the Vesta F-line; south on Vesta F-line to Vesta H-line (Vesta Creek Road); south on Vesta Creek Road to the North River Road; south and east on North River Road to the Brooklyn Road; east on Brooklyn Road to the Garrard Creek Road; east and north on Garrard Creek Road to the South Bank Road; east on South Bank Road to South State Street (Oakville); north on South State Street to U.S. 12; northwest and west on U.S. 12 to State Route 107; south and southwest on SR 107 to the Melbourne A-line and the point of beginning.

PROPOSED

Elk Area No. 6068 Willapa (Grays Harbor County): That part of GMU 658 south of SR 105 between the intersection of SR 105 and Hammond Road and the SR 105 bridge over Smith Creek; and within one mile north of SR 105 west from Hammond Road and east of the SR 105 bridge over Smith Creek.

Elk Area No. 6069 Hanaford (Lewis and Thurston counties): Beginning at the intersection of Salzer Valley Road and Centralia-Alpha Road; east and north on Salzer Valley Road to west on Little Hanaford Road to north on Teitzel Road to west on Big Hanaford Road to north on Highway 507 to east on Skookumchuck Road to the first bridge over Skookumchuck River; east along the Skookumchuck River to Skookumchuck Road bridge; east on Skookumchuck Road to steel tower Bonneville power line; southwest along the power line to east and south on the Big Hanaford Road to Easton Weyerhaeuser Road ((E160)) E150 to south and west on Weyerhaeuser Road E247 to south on Weyerhaeuser Road E240 to south on North Fork Road to west on Alpha-Centralia Road to the point of origin.

Elk Area No. 6071 Dungeness (Clallam County): That part of GMU 621 north and west of Jimmy Come Lately Creek and the Gray Wolf River and that part of GMU 624 west of Jimmy Come Lately Creek and east of the Dungeness River.

DEER AREAS

Deer Area No. 1010 (Columbia County): GMU 162 excluding National Forest land and the Rainwater Wildlife Area.

Deer Area No. 1020 Prescott (Columbia and Garfield counties): That portion of GMU 149 between Hwy 261 and Hwy 127.

Deer Area No. 1030 Flat Creek (Stevens County): That portion of GMU 105, beginning at the junction of Northport-Flat Creek Rd (Co. 4005) and Bull Hill Rd; north on Bull Hill Rd to USFS Rd 240; north on USFS Rd 240 to USFS Rd 230 (Belshazzar Mtn Rd); east and north on USFS Rd 230 to East Boundary of Colville National Forest at Section 24; north on Forest Boundary to Sheep Creek Rd (USFS 15, Co. 4220); west on Sheep Creek Rd to USFS Rd 170 at Kiel Springs; south on USFS Rd 170 to Lael-Flat Creek Rd (USFS 1520); south on Lael-Flat Creek Rd (USFS 1520, Co. 4181) to Northport-Flat Creek Rd; north on Northport-Flat Creek Rd to Bull Hill Rd junction and point of beginning.

Deer Area No. 1040 Summit Lake (Stevens County): That portion of GMU 105, beginning at the intersection of Sand Creek Rd (Co. 4017) and the Kettle River at the Rock Cut Bridge; north and east on Sand Cr Rd to Lael-Flat Cr Rd (Co. 4181, USFS Churchill Mine Rd, 1520); east on Lael-Flat Cr Rd (Churchill Mine Rd) to intersection with USFS Rd 15 near Fisher Cr; north and east on USFS Rd 15 to USFS Rd 180; north and west on USFS Rd 180 and continue west on Box Canyon-Deep Creek Rd (USFS Rd 030, Co. 4212) to the intersection of Box Canyon-Deep Creek Rd and the Kettle River; south on the Kettle River to the intersection of Sand

Creek Rd and the Kettle River at the Rock Cut Bridge and the point of beginning.

Deer Area No. 2010 Benge (Adams County): That part of GMU 284 beginning at the town of Benge, west on Benge-Washtucna Road to Cow Creek; north along Cow Creek to McCall Road; east on McCall Road to Gering Road; east on Gering Road to Lakin Road; east on Lakin Road to Revere Road; south on Revere Road to Rock Creek; south along Rock Creek to the Palouse River; south and west along the Palouse River to SR 26; west on SR 26 to Beckley Road; north on Beckley Road to Negro Road; north on Negro Road to Beckley Road; north on Beckley Road to Benge-Winona Road; west on Benge-Winona Road to Benge and the point of beginning.

Deer Area No. 2011 Lakeview (Grant County): That part of GMU 272 beginning at the junction of SR 28 and First Avenue in Ephrata; west on First Avenue to Sagebrush Flats Road; west on Sagebrush Flats Road to Davis Canyon Road; north on Davis Canyon Road to E Road NW; north on E Road NW to the Grant-Douglas county line; east along the county line to the point where the county line turns north; from this point continue due east to SR 17; south on SR 17 to SR 28 at Soap Lake; south on SR 28 to the junction with First Avenue in Ephrata and the point of beginning.

Deer Area No. 3071 Whitcomb (Benton County): That part of GMU 372 made up by the Whitcomb Unit of the Umatilla National Wildlife Refuge.

Deer Area No. 3072 Paterson (Benton County): That part of GMU 372 made up by the Paterson Unit of the Umatilla National Wildlife Refuge.

Deer Area No. 3081 (Franklin County): That part of GMU 381 that is west of Highways 395 and 17.

Deer Area No. 4926 Guemes (Skagit County): That part of GMU 407 (North Sound) on Guemes Island.

Deer Area No. 5051 Fisher Island (Cowlitz County): The islands in the Columbia River known as Fisher Island and Hump Island in Game Management Unit 504.

AMENDATORY SECTION (Amending Order 03-80, filed 4/25/03, effective 5/26/03)

WAC 232-28-266 2003-2004, 2004-2005, 2005-2006 Landowner damage hunts.

LANDOWNER DAMAGE HUNTS

A landowner with deer/elk damage will enter into a Cooperative Agreement with WDFW and establish a boundary for deer/elk hunt, season dates within the framework and number of animals to be removed. Landowner agrees not to claim damage payments and will allow access to hunters during the general hunting seasons. Landowner selects hunters. A landowner damage access permit provided by the landowner will authorize the hunter to use an unused general deer/elk tag to hunt and kill a legal animal during the prescribed damage hunt season.

PROPOSED

Deer:

Tag Required: Deer hunter must have a current valid, unaltered, unnotched deer tag on his/her person.

Hunting Method: Any legal weapon.

Season Framework:

2003-2004	2004-2005	2005-2006
August 1- March 31	August 1- March 31	August 1- March 31

Location: Statewide

Legal Deer: Antlerless Only

Kill Quota: 600 Statewide

Elk:

Tag Required: Elk hunter must have a current valid, unaltered, unnotched elk tag on his/her person.

Hunting Method: Any legal weapon

Season Framework:

2003-2004	2004-2005	2005-2006
August 1- March 31	August 1- March 31	August 1- March 31

Location: Statewide

Legal Elk: Antlerless Only

Kill Quota: 200 Statewide

Location: Elk Area 3722

Kill Quota: 30 any elk; 10 spike bull or antlerless; 60 antlerless only

Location: Elk Area 3721

Kill Quota: 5 any elk; 20 antlerless only

~~((Special Notes: A landowner with deer/elk damage will enter into a Cooperative Agreement with WDFW and establish a boundary for deer/elk hunt, season dates within the framework and number of animals to be removed. Landowner agrees not to claim damage payments and will allow access to hunters during the general hunting seasons. Landowner selects hunters. A landowner damage access permit provided by the landowner will authorize the hunter to use an unused general deer/elk tag to hunt and kill a legal animal during the prescribed damage hunt season.))~~

AMENDATORY SECTION (Amending Order 04-327, filed 1/3/05, effective 2/3/05)

WAC 232-28-248 Special closures and firearm restriction areas.

RESTRICTED AND PROHIBITED HUNTING AREAS.

These areas are closed by Fish and Wildlife Commission action. Other areas may be closed to hunting by local, state or federal regulations.

IT IS ILLEGAL TO HUNT EXCEPT WHERE PROVIDED IN THE FOLLOWING AREAS:

1. Little Pend Oreille National Wildlife Refuge: The southern part of the Little Pend Oreille National Wildlife Refuge in Stevens County is closed to hunting and discharge of firearms except during the periods of April 15-May 15 and October 1-December 31. This closure is south of a boundary beginning at the west project boundary in Section 3, Township 34 N, R 40 EWM, then easterly along Road 1.0 (Bear Creek Road) to the intersection with Road 2.0 (Blacktail Mountain Road) in Section 2, then easterly along Road 2.0 to the easterly boundary in Section 8, Township 34 N, R 42 EWM.
The Little Pend Oreille National Wildlife Refuge north of the preceding boundary is open to all legally established hunting seasons from April 15 to May 15 and September through December.
2. Parker Lake: All lands south of Ruby Creek Road (USFS Road 2489), north of Tacoma Creek Road (USFS Road 2389) and west of Bonneville Power Administration power lines are designated as "CLOSED AREA" to the hunting of wild animals and wild birds year round. Both the Little Pend Oreille (1) and Parker Lake (2) closures were established to provide a protected area for the Air Force Military Survival Training Program.
3. Columbia River and all the islands in the river, and the Benton County shoreline below the high water mark, and any peninsula originating on the Benton County shoreline, between Vernita Bridge (Highway 24) downstream to the old Hanford townsite powerline crossing (wooden towers) in Section 24, T 13 N, R 27 E, is designated as a "CLOSED AREA" to the hunting of wild animals and wild birds.
4. Green River (GMU 485): Except for special permit hunters, who may also take a black bear and/or cougar with the appropriate license/tag options, all lands within GMU 485 are designated as a "CLOSED AREA" to the hunting of big game by Department of Fish and Wildlife regulated hunters throughout the year. During the general westside elk season and general and late deer seasons, all lands within GMU 485 are also designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds). The City of Tacoma enforces trespass within GMU 485 on lands owned or controlled by the City during all times of the year.
5. McNeil Island: McNeil Island (part of GMU 652) is closed to the hunting of all wild animals (including wild birds) year around.
6. Loo-wit (GMU 522): Closed to hunting and trapping within GMU 522 (Loo-wit), except for the hunting of elk by special permit holders during established seasons and designated areas.
7. The Voice of America Dungeness Recreation Area County Park in Clallam County is closed to all hunting except Wednesdays, weekends, and holidays, from the first weekend in October to the end of January.

PROPOSED

BIG GAME CLOSURES

1. Clark, Cowlitz, Pacific, and Wahkiakum counties are closed to Columbian Whitetail Deer hunting.
2. Cathlamet: Beginning in the town of Skamokawa; then east along SR 4 to the Risk Road; then south and east along the Risk Road to Foster Road; then south along the Foster Road to the Elochoman River; then upstream along the Elochoman River to the Elochoman Valley Road (old SR 407); then west along the Elochoman Valley Road to SR 4; then east along SR 4 to SR 409; then south along SR 409 to the Cathlamet Channel of the Columbia River; then east along the north shore of the Cathlamet Channel to Cape Horn; then south in the Columbia River to the state line; then west along the state line to a point directly south of the mouth of Skamokawa Creek; then north on Skamokawa Creek to SR 4 and the point of beginning. This area is closed to all deer and elk hunting, to protect the Columbian White-tail Deer.
3. Willapa National Wildlife Refuge: Except for Long Island, Willapa National Wildlife Refuge is closed to all big game hunting.
4. Walla Walla Mill Creek Watershed (GMU 157): All lands in the Mill Creek Watershed are designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds) except for the hunting of elk by the holders of GMU-157 special elk permits during the established open season. This area is closed to motorized vehicles. Entry is allowed only by Forest Service permit for the duration of the hunt. Any entry into the Mill Creek Watershed at other times is prohibited.
5. Westport: Closed to hunting of all big game animals on that part of Westport Peninsula lying north of State Highway 105 from the west end of the Elk River Bridge and the Schafer Island Road to the ocean beach.

COUNTY

Chelan

Clallam

Clark

Cowlitz

Grays Harbor

AREA

That portion of GMU 251 (Mission) beginning at the intersection of the Duncan Road and Highway 2; south on Duncan Road to Mountain Home Road; south along Mountain Home Road to the Icicle Irrigation Ditch; south and west along the Icicle Irrigation Ditch to the Snow Lake Trail; west and north along the Snow Lake Trail and across the Icicle River to Icicle River Road; east and north along Icicle River Road to the Wenatchee River; northwest along the Wenatchee River to Highway 2; north and east on Highway 2 to Duncan Road and the point of beginning.

That portion of GMU 624 (Coyle) located within Clallam County.

GMU 564 (Battleground)

That portion of GMU 554 in Clark County.

GMU 554 (Yale)

GMU 504 (Stella)

That portion of GMU 564 (Battleground) in Cowlitz County.

That portion of GMU 658 (North River) beginning at Bay City; then west along Highway 105 to Twin Harbors State Park; then south along Highway 105 to Grayland Grocery; then east on Cranberry Road to Turkey Road; then east and north on Turkey Road to Bayview Logging Road; then north and east along Bayview Logging Road to Mallard Slough; then east and south along the Bayview Road to Andrews Creek; then north along main channel of Andrews Creek to Grays Harbor; then north and west along the main navigation channel to Bay City and point of beginning.

The Chehalis Valley restriction applies only during elk seasons:

That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Highway 107 junction near Montesano; east and south on Highway 12 to Oakville; south on the Oakville-Brooklyn Road to a point onemile west of South Bank Road; northwest along a line one mile southwest of the South Bank Road to Delzene Road; north along Delzene Road to South Bank Road; northwest along South Bank Road to Wakefield Road; north on Wakefield Road to the

FIREARM RESTRICTION AREAS

The firearm restriction areas listed below have been established by the Fish and Wildlife Commission. Centerfire and rimfire rifles are not legal for hunting in any of these areas.

In firearm restriction areas, hunters may hunt only during the season allowed by their tag. Archery tag holders may hunt during archery seasons with archery equipment. Muzzleloaders may hunt during muzzleloader seasons with muzzleloader equipment (~~(except in the GMU 652 restriction area outlined for King County)~~). Modern firearm tag holders may hunt during modern firearm seasons with bows and arrows, muzzleloaders or revolver-type handguns meeting the equipment restrictions or legal shotguns firing slugs or buckshot.

Additional firearm restrictions may be listed under the area description.

PROPOSED

COUNTY	AREA
	Chehalis River; west along the Chehalis River to Highway 107 bridge; north on Highway 107 to Highway 12 to the point of beginning.
Island	That portion of GMU 410 (Island) located on Camano and Whidbey islands.
Jefferson	Indian and Marrowstone islands.
King	The area west of Highway 203 (Monroe-Fall City, Fall City-Preston Road) to Interstate 90 (I-90), I-90 to Highway 18, Highway 18 to Interstate 5 (I-5), I-5 to the Pierce-King County line; Vashon and Maury islands. <u>The following area is restricted to archery only:</u> The following portion of GMU 652 (Puyallup): Beginning at the intersection of State Highway 410 and the southeast Mud Mountain Dam Road near the King/Pierce County line north of Buckley; then east along the southeast Mud Mountain Road to 284th Avenue Southeast; then north along 284th Avenue Southeast to State Highway 410; then west along Highway 410 to the point of the beginning. (This restriction includes high power rifles and muzzleloaders.)))
Kitsap	East of State Highway 16 originating at the Tacoma Narrows Bridge to Gorst, and east of Highway 3 to Newbury Hill Road, north of Newbury Hill Road and the Bremerton-Seabeck Highway to Big Beef Creek Bridge; all of Bainbridge Island, and Bangor Military Reservation.
Kittitas	GMU 334 (Ellensburg) Closed to high power rifles during deer and elk seasons.
Mason	GMU 633 (Mason Lake) south of Hammersley Inlet; and all of Harstene Island.
Pacific	GMU 684 (Long Beach) west of Sand Ridge Road. The portion of GMU 658 (North River) south and west of State Highway 105 and Airport Road between Raymond and North River Bridge. GMU 681 between U.S. Highway 101, Chinook Valley Road and the Columbia River from Astoria-Megler bridge to the Wallacut River.
Pierce	GMU 652 (Anderson and Ketron islands) limited to archery, shotgun, and muzzle-loader. McNeil Island closed to hunting. See GMU 652 restriction area outlined for King County.

COUNTY	AREA
	GMU 627 (Kitsap) south of Highway 302 on the Longbranch Peninsula is a firearm restriction area.
Snohomish	West of Highway 9.
Skagit	Guemes Island and March Point north of State Highway 20.
Skamania	That portion of GMU 564 (Battle Ground) in Skamania County.
Thurston	GMU 666 (Deschutes) north of U.S. Highway 101 and Interstate 5 between Oyster Bay and the mouth of the Nisqually River.
Whatcom	Area west of I-5 and north of Bellingham city limits including Lummi Island and Point Roberts.

WSR 05-06-112
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed March 2, 2005, 11:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-23-095.

Title of Rule and Other Identifying Information: Chapter 16-623 WAC, Commission Merchant Act—Licensing fees, proof of payment, cargo manifests and registration of acreage commitments, this proposal amends chapter 16-623 WAC by (1) increasing the license fees for commission merchants, dealers, brokers, cash buyers, and agents; (2) clarifying selected portions of chapter 20.01 RCW related to licensing requirements; and (3) rewriting the entire chapter to increase its clarity and readability.

Hearing Location(s): Washington State Department of Agriculture, 21 North 1st Avenue, Conference Room 238, Yakima, WA 98902, on April 6, 2005, at 1:00 p.m.

Date of Intended Adoption: April 20, 2005.

Submit Written Comments to: Henri Gonzales, P.O. Box 42560, Olympia, WA 98504-2560, e-mail hgonzales@agr.wa.gov, fax (360) 902-2094, by April 6, 2005.

Assistance for Persons with Disabilities: Contact Henri Gonzales by March 30, 2005, TTY (360) 902-1996.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal amends chapter 16-623 WAC by (1) increasing the license fees for commission merchants, dealers, brokers, cash buyers, and agents in excess of the fiscal growth factor. (During the 2003 legislative session, the Washington state legislature authorized the Washington State Department of Agriculture to increase fees in excess of the OFM fiscal growth factor in order to ensure that fees charged for services covered the full cost of operating department programs (see chapter 25, Laws of 2003 1st sp.s. (ESSB 5404)); (2) clarifying selected portions of chapter 20.01 RCW related to licensing require-

ments; and (3) rewriting the entire chapter to increase its clarity and readability.

Reasons Supporting Proposal: The commission merchant program enforces the Commission Merchants Act, licenses commission merchants, dealers, brokers, cash buyers, and investigates complaints. The program's revenue is almost solely derived from license fees, which have not been changed since 1995. This increase in licensing fees would enable the program to cover the costs associated with operating the program.

Statutory Authority for Adoption: Chapter 25, Laws of 2003 1st sp.s. (ESSB 5404), chapters 20.01 and 34.05 RCW.

Statute Being Implemented: Chapter 20.01 RCW.

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

Name of Proponent: Washington State Department of Agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jerry Buendel, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1856.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires an agency to prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department mailed an economic impact survey to each of the six hundred and twenty commission merchants, dealers, brokers, cash buyers, and agents licensed by the department. One hundred and sixty-one licensees responded (26%) to the survey. The total cost of compliance reported by these respondents was \$10,455.00.

RCW 19.85.040(1) requires that an agency determine whether the proposed rule will have a disproportionate impact on small businesses by comparing the cost of compliance for small business with the cost of compliance for the 10% of businesses that are the largest businesses required to comply. The statute suggests that an agency's cost analysis be based upon one or more of the following methods:

- (a) Cost per employee;
- (b) Cost per hour of labor; or
- (c) Cost per one hundred dollars of sales.

Due to the nature of the industry, the department has used the "one hundred dollars of sales" method and has found that the average cost imposed on small businesses is zero and the average cost imposed on the 10% of the largest businesses in the industry that are required to comply is also zero. Therefore, the department has concluded that the proposed increase in licensing fees does not impose a "more than minor" cost on the regulated community and there is no disproportionate impact on small business. Consequently, a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

March 2, 2005

Mary A. Martin Toohey
Assistant Director

AMENDATORY SECTION (Amending WSR 00-22-071, filed 10/30/00, effective 11/30/00)

WAC 16-623-001 What is the purpose(†) of this chapter? The ~~((department of agriculture has written))~~ purpose of this chapter is to implement ~~((of))~~ and clarify selected portions of chapter 20.01 RCW. This ~~((administrative rule))~~ chapter addresses four topics.

(1) Licensing fees and requirements for commission merchants, dealers, brokers, cash buyers or agents.

(2) Recordkeeping and proof of payment requirements for licensees.

(3) Cargo manifests ~~((of cargo))~~ and shipping documents that accompany hay and straw during transportation.

(4) Rules governing the registration of processor acreage commitments made ~~((by processors))~~ to producers of annual crops.

NEW SECTION

WAC 16-623-005 What definitions are important to this chapter? In addition to the definitions listed in RCW 20.01.010, the following definitions are important to understanding this chapter:

"Department" means the Washington state department of agriculture.

"Director" means the director of the Washington state department of agriculture or their designee.

AMENDATORY SECTION (Amending WSR 00-22-071, filed 10/30/00, effective 11/30/00)

WAC 16-623-010 ~~((License fees, expirations, renewals and late renewal penalties.))~~ What requirements apply to licenses for commission merchants, dealers, brokers, cash buyers and agents? (1) The following table summarizes the license fee ~~((to act as a))~~ requirements for commission merchants, dealers, brokers, cash buyers, or agents ~~((is))~~:

((LICENSE CLASS	FEE
Commission merchant	\$357
Dealer	\$357
Limited dealer	\$198
Broker	\$249
Cash buyer	\$ 79
Agent	\$ 28
Additional licenses (see subsection (2) of this section)	\$ 25))

PROPOSED

PROPOSED

<u>License Class</u>	<u>License Fee</u>	<u>Annual Expiration Date</u>	<u>Annual Renewal Date</u>	<u>Penalty Amount for Not Renewing Before January 1</u>
<u>Commission merchant</u>	<u>\$450.00</u>	<u>December 31</u>	<u>Before January 1</u>	<u>A late renewal penalty of twenty-five percent of the total fees</u>
<u>Dealer</u>	<u>\$450.00</u>	<u>December 31</u>	<u>Before January 1</u>	<u>A late renewal penalty of twenty-five percent of the total fees</u>
<u>Limited dealer</u>	<u>\$250.00</u>	<u>December 31</u>	<u>Before January 1</u>	<u>A late renewal penalty of twenty-five percent of the total fees</u>
<u>Broker</u>	<u>\$300.00</u>	<u>December 31</u>	<u>Before January 1</u>	<u>A late renewal penalty of twenty-five percent of the total fees</u>
<u>Cash buyer</u>	<u>\$100.00</u>	<u>December 31</u>	<u>Before January 1</u>	<u>A late renewal penalty of twenty-five percent of the total fees</u>
<u>Agent</u>	<u>\$50.00</u>	<u>December 31</u>	<u>Before January 1</u>	<u>A late renewal penalty of twenty-five percent of the total fees</u>
<u>Additional license per class</u>	<u>\$25.00</u>	<u>December 31</u>	<u>Before January 1</u>	<u>A late renewal penalty of twenty-five percent of the total fees</u>

(2) A licensee can be licensed in more than one class for an additional fee of twenty-five dollars per class. The principal license must be in the class requiring the greatest fee and all requirements must be met for each class in which a license is being requested.

(3) All ~~licenses expire December 31st of each year~~ fees and penalties must be paid before the department issues a license.

(4) ~~License renewals must be renewed before January 1st of each year.~~ Applications for licenses are considered incomplete unless an effective bond or other acceptable form of security is also filed with the director.

(5) ~~Licenses not renewed by January 1st will be assessed a penalty of twenty-five percent of the total fees. Fees and penalties must be paid before the licenses will be issued.~~ Licenses may be obtained by contacting the department's commission merchants program at 360-902-1854 or e-mail at: commerch@agr.wa.gov. Application forms, bond forms, and forms for securities in lieu of a surety bond are available on the department's website at: <http://www.agr.wa.gov/Inspection/CommissionMerchants/default.htm>.

NEW SECTION

WAC 16-623-015 What securities are acceptable in lieu of a surety bond? An applicant or licensee may file an assignment of savings or irrevocable letter of credit with the director in lieu of a surety bond. These instruments are subject to the same requirements and provisions as bonds stated in RCW 20.01.210, 20.01.211, and 20.01.212.

AMENDATORY SECTION (Amending WSR 00-22-071, filed 10/30/00, effective 11/30/00)

WAC 16-623-020 What are the recordkeeping ~~(and proof of payment)~~ requirements for commission merchants, dealers and cash buyers? ~~((+))~~ Every commission merchant, dealer, and cash buyer ~~((taking))~~ who takes possession of or ~~((purchasing))~~ purchases agricultural products must ~~((make and))~~ keep ~~((for three years))~~ accurate records ~~((showing the following:~~

- ~~(a) The name and address of the consignor.~~
- ~~(b) The date received.~~
- ~~(c) The quality and quantity delivered by the consignor and where applicable the doekage, tare, grade, size, net weight or quantity.~~
- ~~(d) An itemized statement of the charges to be paid by the consignor, dealer or cash buyer to be paid by the consignor in connection with the sale.~~
- ~~(e) These records must be made available to the director and the consignor or their authorized representatives.~~

(2) In addition to subsection (1) of this section, the commission merchant's records must include:

- (a) An accounting of all sales, including dates, terms of sales, quality and quantity of agricultural products sold and proof of payments received on behalf of the consignor.
- (b) The terms of payment to the producer.
- (c) The names and addresses of all purchasers if the commission merchant has any financial interest in the business of the purchaser or if the purchaser has any financial interest in the business of the commission merchant. The business interest may be direct or indirect such as holders of the other's corporate stock, as a copartner or as a lender or borrower of

money. The interest must be noted in the records following the name of the purchaser.

(d) A lot number or identifying mark for each consignment which will appear on all sales tags and other records showing the price for which the agricultural products actually sold.

(e) If there is a pooling arrangement, the consignor must have agreed in writing to the pooling arrangement before the commission merchant may handle the agricultural product.

(f) In cases where a pooling arrangement is in place, the requirements of subsections (1)(e) and (d) and (2)(b) and (d) of this section apply.

(g) Keep and make available to the director or consignor or their representative claims filed by the commission merchant against any person for overcharges or damages resulting from the injury or deterioration of agricultural products.

(3) In addition to subsection (1) of this section, dealers and cash buyers must include:

(a) Terms of the sale.

(b) Name and address of the purchaser. The name and address of the purchaser may be deleted from the record furnished to the consignor.

(4) Commission merchants will furnish consignors with proof of payment. Proof of payment will be a listing of payments received by the commission merchant on behalf of any consignor whether through an individual accounting or pool arrangement). The recordkeeping requirements for:

(1) Commission merchants are specified in RCW 20.01.370;

(2) Dealers and cash buyers are specified in RCW 20.01.380; and

(3) Brokers are specified in RCW 20.01.400.

AMENDATORY SECTION (Amending WSR 00-22-071, filed 10/30/00, effective 11/30/00)

WAC 16-623-030 Is a cargo manifest ((of cargo for)) required for transporting hay and straw((—Forms and exceptions.))? (1) All commission merchants, dealers, their employees or licensed agents ((transporting hay or straw on equipment owned or under their control)) must have a copy of the cargo manifest ((of cargo)) with each load when transporting hay or straw on equipment owned or under their control.

(2) ((The manifest must be on a form prescribed by the director. The form is available from the department. Exceptions to the manifest form are outlined in subsections (3) and (4) of this section. The form, as a minimum, will state the following:

(a) Purchaser's name and address.

(b) Hauler's name and address.

(c) Business or person the products were received from and their address.

(d) The commodity, unit count, unit price, total price, total weight, tare weight and weight of the commodity.

(e) Terms of the settlement.

(f) Date.

(3) Any common carrier transporting hay or straw for a commission merchant or dealer may use shipping documents

required by the Washington public utilities and transportation commission, or interstate commerce commission.

(4) Any common carriers, commission merchants, dealers, their employees or licensed agents transporting hay or straw may use other shipping documents that have been reviewed and authorized by the department of agriculture. The alternate shipping documents must be authorized by the department prior to their use.)) Any common carrier transporting hay or straw for a commission merchant or dealer may use shipping documents required by either the Washington public utilities and transportation commission or interstate commerce commission instead of the department form described in subsection (5) of this section.

(3) Any common carriers, commission merchants, dealers, their employees or licensed agents transporting hay or straw may use shipping documents other than the department form described in subsection (5) of this section if they have been reviewed and authorized by the department before their use.

(4) Unless the exceptions in subsections (2) and (3) of this section apply, the manifest must be on a form prescribed by the director which is available from the department.

(5) At a minimum, the form requires the following information:

(a) Purchaser's name and address;

(b) Hauler's name and address;

(c) Business or person the products were received from and their address;

(d) The commodity, unit count, unit price, total price, total weight, tare weight and weight of the commodity;

(e) Terms of the settlement;

(f) Date;

(g) Signature of the licensee or their agent; and

(h) Signature of the consignor or their authorized representative.

AMENDATORY SECTION (Amending WSR 00-22-071, filed 10/30/00, effective 11/30/00)

WAC 16-623-040 How must a processor's plant capacity ((reporting.)) be reported? ((When reporting plant capacity as provided for under)) (1) According to RCW 20.01.510, a processor must report the daily total capacity in tons, cases or other legal and customary measure for:

(a) Each crop ((for)); and

(b) All plants that process any Washington agricultural product.

(2) For each processing plant reported, the report must include the:

(a) Name((:));

(b) Site address((:));

(c) Business address; and

(d) Name of the person(s) who may receive legal service ((for each processing plant reported)).

AMENDATORY SECTION (Amending WSR 00-22-071, filed 10/30/00, effective 11/30/00)

WAC 16-623-050 What notification requirements apply to grower-processor ((notification of)) commitments ((by processor(s)).)? (1) ((Any)) (a) Within ten days

after a commitment with a processor is made, a grower ~~((may))~~ must notify the director that ~~((he has))~~ they have an oral commitment ~~((with a processor))~~ for a specified amount of product ~~((within ten days after the commitment was made))~~.

(b) The grower's notification ((will)) to the director must be in writing and sent by certified mail to the Washington State Department of Agriculture, c/o the Commission Merchants Program, P.O. Box 42591, Olympia, Washington 98504-2591.

~~((When the director receives the notification, he shall notify the processor within five days))~~ Once the grower's notification is received, the director has five days to notify the processor by certified mail.

(3) Regardless of whether or not the processor confirms the director's notice, the processor ((will)) must simultaneously notify the director and ((the)) grower, by certified mail, within ten days ((by certified mail)) of receipt of the director's notice ((whether or not he confirms the notice)).

(4) The processor may accept all, none, or any portion of the acreage and/or tonnage stated in the notice.

(5) Once the oral commitment is confirmed for all or for a portion of the acreage and/or tonnage, the processor is committed to receive the acreage or tonnage specified.

(6) If the contract is ((that)) the processor's standard contract and the terms of the contract, price or other conditions later offered to the grower are unacceptable to the grower, then the agreement is not binding upon the processor.

AMENDATORY SECTION (Amending WSR 00-22-071, filed 10/30/00, effective 11/30/00)

WAC 16-623-060 ((Basis for establishing)) How are contract volumes((s)) established? ((In)) For contracts ((for the purchase of)) purchasing the production of a specific number of acres, the:

(1) Amount contracted for will be based on the crop yield for the comparable area for the most recent five-year average((-The)); and

(2) Crop yield will be determined by using data from the USDA's National Agricultural Statistics Service.

WSR 05-06-117

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 04-11—Filed March 2, 2005, 11:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-17-134.

Title of Rule and Other Identifying Information: The rule will establish chapter 173-546 WAC, a water resource management program for the Entiat River watershed (WRIA 46). The rule will govern water allocation, adopt instream flows, make a determination regarding water availability in the basin, and reserve water for future out-of-stream uses meeting certain criteria.

Hearing Location(s): Entiat Grange Hall, 14108 Kinzel Street, Entiat, WA, on April 14, 2005, at 7:00 p.m.

Date of Intended Adoption: August 3, 2005.

Submit Written Comments to: Thom Lufkin, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6631, e-mail Entiat@ecy.wa.gov, fax (360) 407-6574, by April 29, 2005.

Assistance for Persons with Disabilities: Contact Judy Beitel by April 7, 2005, TTY (800) 833-6388 or (360) 407-6878.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule will establish a water resource management program for the Entiat River watershed (WRIA 46). The rule will govern water allocation, adopt instream flows, make a determination regarding water availability in the basin, and reserve water for future out-of-stream uses meeting certain criteria.

Reasons Supporting Proposal: This rule was developed in coordination with the recommendations of the Entiat WRIA planning unit (EWPU). The EWPU is comprised of two environmental organizations (Audubon and the NW Ecosystem Alliance), the Yakama Nation, several federal agencies (e.g., the Natural Resources Conservation Service and United States Forest Service), the City of Entiat, Entiat Irrigation District, Chelan County, several local business interests (Longview Fiber, local partnership ditch companies), landowners, and other interested parties in the watershed. This rule is needed to fulfill the statutory requirements of chapters 90.54 and 90.82 RCW.

Statutory Authority for Adoption: Chapters 43.27A, 90.54, 90.22, and 90.82 RCW.

Statute Being Implemented: Chapters 90.54, 90.22, and 90.82 RCW.

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

Name of Proponent: Department of Ecology, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: John Monahan, Central Regional Office, 15 West Yakima Avenue, Suite 200, Yakima, WA 98902, (509) 457-7112; Enforcement: ECY CRO Water Resources Program, Central Regional Office, 15 West Yakima Avenue, Suite 200, Yakima, WA 98902, (509) 457-7112.

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

Small Business Economic Impact Statement

The Washington State Department of Ecology's (ecology) water resources program is proposing to adopt a water resources management program for the Entiat River basin to:

- Retain perennial rivers, streams, and lakes in the Lower and Upper Entiat River basin with instream flows and levels necessary to protect and preserve instream values, and instream flows;
- Provide water to satisfy domestic, stockwatering, outdoor irrigation, commercial agriculture and commercial and light industrial uses via the establishment of a reservation of uninterrupted water supply;
- Provide for a maximum allocation of surface-waters of the Entiat River watershed during periods of high flow; and,

- Set forth ecology's policies to guide the protection, utilization and management of Entiat River basin surface water and interrelated groundwater resources for use in future water allocation decisions.

The Entiat River basin is designated as water resource inventory area 46 (WRIA 46) in chapter 173-500 WAC. The proposed rule is chapter 173-546 WAC. Ecology is developing and issuing this small business economic impact statement (SBEIS) as part of its rule adoption process and pursuant to chapter 19.85 RCW. Ecology intends to use the information developed in the SBEIS to ensure that the proposed rule is consistent with legislative policy.

DESCRIPTION AND PURPOSE OF THE SBEIS: The objective of this SBEIS is to identify and evaluate the various requirements and costs that the proposed rule might impose on business. In particular, the SBEIS examines whether the costs on businesses that might be imposed by the proposed rule impose a disproportionate impact on the state's small businesses. The specific purpose and required contents of the SBEIS is described in RCW 19.85.040.¹

1. DISCUSSION OF COMPLIANCE COSTS FOR WRIA 46 BUSINESSES.

INTRODUCTION: The evaluation of the impacts of the proposed rule is based on analysis and comparison of water right management before and after the effective date of the rule. Current water right administration is based on an extensive and complex legal and administrative framework. The framework includes administrative procedures for applications for both new water rights and changes to existing water rights, and the use of water by permit-exempt wells (RCW 90.44.050). Implementation of chapters 90.22, 90.54, and 90.82 RCW are also part of this legal baseline. In proposing a reservation of water, the proposed rule creates new conditions that must be considered when making future water right decisions. A brief description of compliance requirements is provided below. A detailed description of water management under the existing and proposed rules can be found in Appendix B.

A significant component in describing the impacts of the proposed rule involves describing the baseline from which the change caused by the rule is measured. In the case of the Entiat River, there is no existing in-stream flow rule in place. However, the Watershed Planning Act, requires that ecology complete an instream flow rule when planning units propose flows and meet the requirements of RCW 90.82.080. It also indicates that the rule is not considered "a significant legislative rule." The planning unit has met these requirements and so the baseline considered in this document assumes an instream flow rule is adopted (as required by law) similar to the proposed rule but without the proposed reservation.

However, it is possible that an instream flow rule would not be adopted even if the proposed rule was not adopted (e.g. if legal action precluded basic instream flow rule making). In this case, the existing water management scenario would continue into the future. In an effort to better inform the rule making, ecology has elected to consider the possibility that the existing management scenario would continue as an alternative baseline. This analysis can be found in Appendix C.

WATER RIGHT ADMINISTRATION UNDER THE RULE: The proposed rule (chapter 173-546 WAC) will create a

water right for instream resources, protected from impairment by those junior in priority date to the instream flows. The rule will also create a reservation of water for out-of-stream uses senior to the instream flows and clarifies other requirements that might affect future uses. Expected impacts to water management include the following:²

Surface Water: The decision process for surface water rights will be similar after the proposed rule as before. Under the baseline, ecology would grant water rights that would be required to curtail use when the senior minimum instream flows are not being attained.

Under the proposed rule, all new surface water rights that utilize the reservation will receive an uninterrupted supply of water. New surface water rights that do not use the reservation as their source, would be "junior" to the instream flow levels and would be required to curtail withdrawing water when minimum flows are not met in the surface water source. This is not likely to represent a significant change under the proposed rule since under both scenarios new out-of-stream uses would be subject to similar instream flow provisions, with the exception of the availability of senior water from the reserve provided in the proposed rule. Additionally, under both the baseline and the proposed rule, applications for new consumptive surface water rights could potentially be approved if it is "clear that overriding considerations of the public interest will be served."

Groundwater: The decision process if the proposed rule is adopted and in effect, is the same as under the baseline, with the notable exception of "senior" water made available from the reserve in the proposed rule. Groundwater applications in hydraulic continuity with the Entiat River would be subject to the instream flows under the baseline or the proposed rule unless they proposed to obtain water via the reservation under the proposed rule. Under both the proposed rule and the baseline, a use may be approved if it is "clear that overriding considerations of the public interest will be served."

Based on the analysis and recommendations in the Entiat WRIA management plan regarding hydrogeology of the basin, and the location and depth where groundwater withdrawals generally occur, future groundwater withdrawals have a high likelihood of capturing water that would result in impacts to surface water flows and levels in the Entiat River basin. The proposed rule does not create the need for, and does not change the standards for, the analysis regarding whether these impacts cause impairment. However, businesses that initiate new agricultural, commercial, or manufacturing projects relying on wells for process water would be required to suspend water use during periods of low flows, develop storage mechanisms or develop mitigation strategies acceptable to ecology that allow them to mitigate their impacts if water is obtained outside the reservation. This would be the case under the baseline and would not represent an impact of the proposed rule. Both the proposed rule and the baseline allow for an applicant for a new groundwater use to demonstrate that the proposed water use is not in hydraulic continuity with the surface waters of the Entiat River. Both the proposed rule and the basic instream rule would allow for an applicant to mitigate for any impacts to instream flows, thus enabling continuous use of water out-of-stream.

Permit-Exempt Groundwater: A reservation of ground water is proposed for the future uses of residential, commercial, industrial and agricultural uses and provides a management framework for these types of withdrawals. For businesses interested in using an exempt well, there would be several alternatives. Applicants could solicit a hydrogeologist to certify that a well would not cause impairment of a water right in areas where hydraulic continuity between the surface water and groundwater is not likely. This would allow an applicant to develop a well as though the proposed rule or baseline was not in place, but at the additional cost of the analysis. For wells that would be drilled in areas where they are likely to be in hydraulic continuity with streams with instream flows, such that impairment would result, options include obtaining water from the reservation or accepting an interruptible water right with corresponding curtailment or storage. Under the proposed rule, the applicant would only be able to get uninterrupted permit-exempt well water through the reservation. Those that attempted to use a permit-exempt well outside of the reservation would be required to curtail water use during low flow periods or be denied. Under the baseline, there would be no provision for exempt wells during low flow periods and legally they would be required to curtail use during these periods or they would be denied.

Changes or Transfers of Water Rights: Existing water rights will continue to be changed or transferred as permitted by chapters 90.03 and 90.44 RCW and the process would be the same with the proposed rule as with the baseline. Transfers of surface water rights would be evaluated considering the instream flow right as they would be under the baseline. Requirements related to changes in the point of diversion from a surface point to a ground water point, if it is from the same water source, are the same in the baseline and the proposed rule.

Reservation of Water: The reservation of water, use of water under the reservation, and associated conditions for that use, are all part of the rule proposal. In large measure, the reservation will allow residential, commercial, industrial and agricultural development to continue as before with the benefit of having a continuous, reliable source of water during low flow periods, except for a few restrictions. These restrictions include irrigation limitations and the finite quantity of the reservation. Domestic water use must also meet efficiency standards.

IMPACTS TO BUSINESSES IN WRIA 46: The primary impact to businesses of the proposed rule making will likely be the creation of a reservation for future allocations. Existing water rights holders will not be directly affected. In general, the economic costs to businesses are determined based on the business impacts from having less water in the river, but more available for out-of-stream use. Having the reservation makes more water available for out-of-stream uses than would have been the case under the baseline and so it is likely most businesses will be positively affected. The only exception to this would be businesses that utilize water in the river. More specifically, the following potential impacts are possible.

1. **Impacts to Businesses Depending on Instream Flows:** As mentioned above, a reservation is to be created from

which those seeking water for domestic, stockwatering, commercial agricultural and commercial/light industrial uses and meeting the proposed requirements will be able to obtain water in the future. Accessing the reservation will allow entities to use water for various uses during low flow periods. This may slightly reduce the amount of water in the river during certain low flow periods during certain years and could potentially indirectly impact instream benefits such as ecosystem services, recreation, etc. For businesses that provide guide services such as rafting, fishing and bird watching, or those dependent on dilution for waste removal, there could be a very minor impact. However, discussions with local interests indicate that little, if any, impact from the proposed flow reductions will result from establishment of the reservation.

2. **Creation of the Reservation:** Under the baseline, any groundwater withdrawal, including those via exempt wells in continuity with the Entiat River or its tributaries, would be legally required to curtail use during low flow periods. Under the reservation, some or all of the future needs of residential, commercial, industrial and agricultural uses could be met even during low flow periods. For businesses developing land for residential construction, or requiring process or irrigation water, the ability to use water during low flows should be a net benefit from this rule making. The reservation of water for stockwatering will provide year-around access to water for new stockwatering uses, except for feedlots and other activities which are not related to normal grazing uses. Under the baseline, stockwater accessed via permitted or permit-exempt wells would be legally required to curtail use during low flow periods. The change in the rule should be a net benefit to stock-related businesses.

3. **Impacts to Existing Permitted Water Rights:** Allowing access to water from the reservation that allows water withdrawals could affect the value of existing permitted water rights held by some businesses. The exact effect will depend on the allowable use, volume and point of diversion of existing rights, existing uses and the desired uses and volumes of proposed rights.

COST TO FIRMS AND REQUIRED PROFESSIONAL SERVICES: As mentioned above, the impacts of the proposed rule will most likely be experienced by those business entities that depend on water in the river or the beneficial impacts to those businesses that would obtain water from the reservation. The following cost analyses required in chapter 19.85 RCW has been provided:

Reporting and Record keeping: No additional reporting or record keeping will be required.

Additional Professional Services: Some may save the costs associated with mitigation options such as construction of storage tanks and associated water system facilities requiring engineering design services associated with interruptible water rights if access to the reservation allows them to avoid these requirements. Those that would have transferred rights might avoid the use of hydrogeologists, biologists, engineers and attorneys.

Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: No additional equipment, supplies, labor or administrative costs are anticipated. Although, as mentioned above, if some applicants are able to avoid a more

PROPOSED

sophisticated conservation or water use system, this may decrease the cost of professional services and equipment.

Other Compliance Requirements: As mentioned above, potential adverse impacts may be incurred by firms that depend on instream activities and potentially those that hold existing permits. The impacts to instream users would be specific to the firm, but is unlikely to be significant since few firms are dependent on instream flows.³

Existing water right holders could be impacted if the value of their water right changes as a result of this rule. This would ultimately only affect those that want to transfer or lease a right and only for the period of the reservation. The exact cost impact is difficult to determine since it depends on many factors. Only two transfers have been executed in the past ten years. If this rate continues, it is unlikely to be significant. Moreover, the reservation would tend to increase the availability of water relative to the baseline and decrease the incentive to transfer water in the future.

Creation of the reservation should be a net benefit for most businesses that need water. Water that is not available during low flow periods is damaging to any business that needs it for its own use or who are looking to develop residential or commercial properties. In order to have water available during low flow periods under the baseline, water would have to be obtained through leases, transfers or on-site storage. On-site storage for a low flow period can cost approximately \$10,000-\$15,000⁴ for a typical residence and the proposed rule would allow this cost to be avoided for those that utilize the reservation. For other users, the cost of storage would likely preclude it as an option. Agricultural users would likely be required to purchase or transfer water absent the proposed rule. The median quantity of irrigation water requested from pending applications amounts to approximately thirteen acre-ft. Agricultural water ranges in value from \$40-\$120/acre-ft.⁵ Using a mean value of \$80/acre-ft. would yield an avoided cost of between \$960 and \$1040 per year for every low flow year. This analysis assumes that water would be readily available to be transferred or leased. If this was not the case, then prices would likely be significantly higher. The stockwatering reservation would likely yield an avoided cost reflecting the quantity required at a similar unit cost as for agriculture. For those that do not require water for domestic needs during low flow periods, an interruptible right remains an option under both the current and proposed rule.

2. REVENUE IMPACTS AND DISTRIBUTION OF COSTS.

INTRODUCTION: RCW 19.85.040 requires that additional analysis of impacts be provided. Specifically, the analysis should include whether compliance with this rule will cause businesses to lose sales or revenue and whether the proposed rule will have a disproportionate impact on small business. It is the purpose of this section to evaluate the proposed rule to consider these requirements.

REVENUE IMPACTS: As noted previously, the most likely significant impacts are associated with decreased flows in the river and the creation of the reservation. The reduction of flows in the river is unlikely to significantly affect any firms along the Entiat. However, those firms that will now be able to access water from the reservation will experience a benefit from being able to access water without constructing

expensive storage alternatives or purchasing or leasing rights as would be required under the baseline. An instream flow rule would limit uses in exempt wells to periods of time when flows are adequate. It is estimated that summer flows will not meet the minimum instream flows in a majority of years and that storage would likely be required for most domestic uses absent the rule. In that sense, the rule will represent a negative cost (net benefit) to firms. The net benefit to firms is the value of avoiding expensive storage, or purchasing or leasing water rights or other mitigation alternatives to access water during periods of low flow. This will likely lower costs to some potential water users and to that extent, may increase revenues.

Existing water rights holders might see some reduction in the value of existing water rights and this would lower revenues. However, as mentioned above, this effect is likely to be relatively small and is not further considered.

DISTRIBUTION OF COMPLIANCE COSTS: The distribution of compliance costs can be analyzed by evaluating existing business-owned developable parcels. The proposed reservation would yield a net benefit to any business-owned parcels in the watershed under the baseline since on-site storage, leasing or transfers would not have to be provided. The exact amount and distribution of the benefit will depend on the size of parcels, ownership, firm size and zoning and yields the distribution of costs in Table 2.1.

Table 2.1. Distribution of Compliance Benefits (Avoided Costs) for Business-Owned Exempt Well Development⁶

	Number of Firms ⁷	Average Employment (No. of Employees)	Average Benefit per Employee ⁸ (\$1000)	Median Benefit Per Employee (\$1000)
Small Firms	2	1-3	\$35.0	\$35.0
Large Firms	5	340-1170	\$9.2	\$6.7

The values listed in Table 2.1 represent the average avoided storage costs (net benefits) for small and large firms assuming full residential build-out using permit-exempt wells and all business-owned parcels where employment values could be obtained. As can be seen the median avoided cost for small firms exceeds that for large firms by a ratio of 5.2:1. It is important to note that the large avoided cost is based [on] the assumption of full development of all parcels. If a firm (small or large) developed only a portion of their parcels, then the avoided cost would be smaller.

Pending new applications for water rights were also evaluated to consider the impacts of the proposed rule. All new applications for water rights are individual applications with the exception of one. Thirty of the thirty-two indicated irrigation as at least part of the purpose of their request. Although chapter 19.85 RCW does not necessarily include individual farmers as business-entities, the reservation should be a benefit to most of these uses that will allow them to avoid purchasing rights from other locations. Given these are individual farmers; the impacts would be disproportionately beneficial to these small entities.

Overall, the data suggests that the impacts of the proposed rule will be disproportionately beneficial to small businesses under the baseline.

PROPOSED

CONCLUSIONS: All firms of all sizes that elect to use the reservation are likely to experience a negative cost (net benefit) from the rule and it appears the rule will disproportionately benefit small businesses.

3. ACTIONS TAKEN TO REDUCE THE IMPACT ON SMALL BUSINESS.

As noted above, it is unlikely that there will be significant adverse impacts on businesses (small or large) as part of this rule making under the baseline. Therefore, no specific measures have been taken to reduce or mitigate these rule impacts. In general, mitigation options, and allowed uses under the reservation should provide for flexibility in obtaining water for beneficial uses. There are no additional record-keeping, reporting requirements or inspections and compliance timetables and fine schedules are not altered by the proposed rule.

4. HOW WAS SMALL BUSINESS INVOLVED IN THE DEVELOPMENT OF THIS RULE?

The proposed rule has been developed as an outcome of the watershed planning process. This is an open process allowing for comment and participation by all entities as the project has proceeded. After the filing of the CR-102, official public hearings will be held to consider the rule and allowing small businesses to provide additional input.

5. LIST OF INDUSTRIES REQUIRED TO COMPLY.

No industries are required to comply with the proposed rule unless they seek to obtain new water rights in the covered area. However, requirements affecting water use are likely to translate into changes in property values based on impacts to the highest valued uses in the watershed. As such, existing business owners of undeveloped property are likely to be the industries that will be required to "comply" either directly in terms of attempting to acquire water or indirectly in terms of changes in asset values. Therefore, the following list is provided indicating Standard Industrial Codes (SIC) for existing developable properties in the Entiat watershed.⁹

Table 5.1. Industries Likely Required to Comply with the Rule

SIC Code	Description	SIC Code	Description
0175	Deciduous Tree Fruits	6035	Federal savings institutions
2631	Paperboard mills	6162	Mortgage banks and correspondents
5148	Fresh fruits and vegetables	6211	Security brokers and dealers
6029	Commercial banks, nec.	8742	Management consulting services

¹ Due to size limitations relating to the filing of documents with the code reviser, the SBEIS does not contain the appendices that further explain ecology's analysis. Additionally, it does not contain the raw data used in this analysis, or all of ecology's analysis of this data. However, this information is being placed in the rule-making file, and is available upon request.

² As mentioned previously, the baseline for the analysis assumes that there is a basic instream flow rule in place that meets the requirements of chapter 90.82 RCW.

³ Conversations with local interests indicate few commercial activities dependent on instream flows.

⁴ Cost assumes two-5,000 gallon underground potable-water rated tanks.

⁵ Based on Columbia River Basin Project for Water from "Economics of the Columbia River Initiative."

⁶ Costs assume full development of all business-owned developable parcels.

⁷ The total number of firms represents all businesses located in the county listed as owner of the parcel and where Employment Security data could be located.

⁸ Cost comparisons use the largest 10% of firms required to comply.

⁹ The table was constructed based on data provided by the Chelan County Assessor and by the Washington State Employment Security Department.

A copy of the statement may be obtained by contacting Thom Lufkin, Water Resources, Department of Ecology, P.O. Box 47600, Olympia, WA 98503-7600 [98504-7600], phone (360) 407-6631, fax (360) 407-6574, e-mail Entiat@ecy.wa.gov, or by downloading from ecology's webpage at <http://www.ecy.wa.gov/laws-rules/activity/wac173546.html>.

A cost-benefit analysis is not required under RCW 34.05.328. Ecology has decided to voluntarily comply with the requirements under RCW 34.05.328. A preliminary maximum net benefits analysis is available. This document includes the preliminary cost-benefit analysis, required in RCW 34.05.328. It may be obtained by contacting Thom Lufkin, Water Resources, Department of Ecology, P.O. Box 47600, Olympia, WA 98503-7600 [98504-7600], phone (360) 407-6631, fax (360) 407-6574, e-mail Entiat@ecy.wa.gov, or by downloading from ecology's webpage at <http://www.ecy.wa.gov/laws-rules/activity/wac173546.html>.

March 2, 2005

Polly Zehm

Deputy Director

Chapter 173-546 WAC

**WATER RESOURCES MANAGEMENT PROGRAM—
ENTIAT RIVER BASIN WATER RESOURCE INVENTORY AREA (WRIA) 46**

NEW SECTION

WAC 173-546-010 General provisions—Authority and applicability. (1) This chapter is adopted under the authority of the Watershed Planning Act (chapter 90.82 RCW), Water Resources Act of 1971 (chapter 90.54 RCW), Minimum Water Flows and Levels Act (chapter 90.22 RCW), Water resource management (chapter 90.42 RCW), Regulation of public ground waters (chapter 90.44 RCW) and the Water resources management program rule (chapter 173-500 WAC).

(2) This chapter, including any subsequent additions and amendments, applies to all surface waters in the Entiat River basin, and all ground water hydraulically connected with those surface waters.

(3) This chapter shall not affect existing water rights, including perfected riparian rights, federal Indian and non-Indian reserved rights, or other appropriative rights existing on the effective date of this chapter, unless otherwise provided for in the conditions of the water right in question.

(4) This chapter does not limit the department's authority to establish flow requirements or conditions under other laws, including hydropower licensing under RCW 90.48.260.

NEW SECTION

WAC 173-546-020 Purpose. (1) In enacting this chapter, the department uses the Entiat watershed plan as the framework for making future water resource decisions for the Entiat watershed, per RCW 90.82.130. The plan recommendations were approved by the Entiat watershed planning unit, a group composed of a broad base of water use interests, and also by Chelan County officials. The plan recommendations are therefore considered an expression of the public interest.

(2) The chapter creates a reservation for future uses that is senior to the instream flows set in WAC 173-546-050.

(3) This chapter sets forth the department's policies to guide the protection, use and management of Entiat River basin surface water and interrelated ground water resources. It protects existing water rights, establishes instream flows, and sets forth a program for the administration of future water allocation and use.

(4) The purpose of this chapter is to retain perennial rivers, streams, and lakes in the Entiat River basin with the instream flows and levels necessary to protect and preserve wildlife, fish, scenic, aesthetic, recreation, water quality and other environmental values, navigational values, and stock watering requirements.

NEW SECTION

WAC 173-546-030 Definitions. For the purposes of this chapter, the following definitions shall be used:

(1) "**Allocation**" means the designation of specific amounts of water for specific beneficial uses.

(2) "**Appropriation**" means the process of legally acquiring the right to specific amounts of water for beneficial uses, as consistent with the requirements of the ground and surface water codes and other applicable water resource statutes.

(3) "**Beneficial uses**" means uses of water for domestic, stock watering, industrial, commercial, agricultural, irrigation, hydroelectric power production, mining, fish and wildlife maintenance and enhancement, recreational, thermal power production, and preservation of environmental and aesthetic values, and all other uses compatible with the enjoyment of the public waters of the state.

(4) "**Commercial agriculture**" means uses related to commercial orchards and vineyards, and commercial livestock and farming operations.

(5) "**Commercial/light industrial**" means a water supply for use by small businesses and commercial users. It also refers to the "value added" uses associated with agriculture, as defined by the Chelan County Code, Ch. 11.04.010, or any subsequent amendments. A "value added operation" means any activity or process that allows farmers to retain ownership and that alters the original agricultural product or commodity for the purpose of gaining a marketing advantage.

(6) "**Consumptive use**" means a use of water that reduces the amount of water in the water source.

(7) "**Department**" means the Washington state department of ecology.

(8) "**Domestic water use**" means, for the purposes of this chapter, use of water associated with human health and welfare requirements, including water used for drinking,

bathing, sanitary purposes, cooking, laundering, irrigation of not over one-half acre of lawn or garden per dwelling, and other incidental household uses. Stock watering is also included in this category. Stock watering uses must be consistent with the Chelan County Code, Section 11.88.030 or any subsequent amendments. It does not apply to feed lots and other activities which are not related to normal grazing land uses.

(9) "**Existing water right**" includes perfected riparian rights, federal Indian and non-Indian reserved rights or other appropriative rights.

(10) "**Hydraulic continuity**" means the interrelation between ground water (water beneath land surfaces or surface water bodies) and surface water (water above ground, such as lakes and streams).

(11) "**Instream flow**" as used in this chapter, has the same meaning as a minimum instream flow under chapter 90.82 RCW, a base flow under chapter 90.54 RCW, a minimum flow under chapter 90.03 or 90.22 RCW and an administrative flow in the Entiat watershed plan.

(12) "**Nonconsumptive use**" means a use of water that does not reduce the amount of water in the water source.

(13) "**Plan**" or "**watershed plan**" means the Entiat water resource inventory area (WRIA) management plan, approved by the Entiat WRIA planning unit on May 17, 2004, and by the Chelan County commissioners on September 13, 2004.

(14) "**Planning unit**" means the Entiat water resource inventory area (WRIA) planning unit (EWPU), or a successor which is mutually agreed upon by the EWPU. The planning unit was established in 1998 in accordance with chapter 90.82 RCW, Watershed Planning Act. The EWPU presently consists of the landowner steering committee, the Yakama Nation, a technical assistance group, and other interested stakeholders.

(15) "**Public water system**" means any system providing water for human consumption through pipes or other constructed conveyances, excluding a system serving only one single-family residence or a system with four or fewer connections all of which serve residences on the same farm. (Consistent with WAC 246-290-020; any subsequent amendments to WAC 246-290-020 will be incorporated by reference.)

(16) "**Reservation**" means an allocation of water set aside for future domestic, stock watering, agricultural, commercial and industrial beneficial uses. For the purposes of this chapter, the priority date of the reservation is senior to the instream flows set in WAC 173-546-050. "Reservation" is the same as "reserved water" in the Entiat WRIA management plan.

(17) "**Stream management unit**" means a stream segment, reach, or tributary used to describe the part of the relevant stream to which a particular use, action, instream flow level or reserve of water applies. Each of these units contains a control station. A map of the control points is included in this chapter (WAC 173-546-150).

(18) "**Withdrawal**" means the appropriation or use of ground water or surface water.

(19) "WRIA" means water resource inventory area. This term can be used interchangeably with "basin" and "watershed."

NEW SECTION

WAC 173-546-040 Establishment of stream management units. The department hereby establishes the following stream management units. The boundaries of the management units are shown on the map in WAC 173-546-150.

Stream Management Unit Information

Stream Management Unit Name Control Station Gauge #	Control Station by River Mile (RM); Section, Township and Range; Latitude (Lat.) and Longitude (Long.); Hydrologic Unit Code (HUC)	Stream Management Reach Description
USGS Gauge #12452990 Entiat River near Entiat, WA. ("Keystone Gauge") (Lower Entiat)	River Mile 1.4	From the confluence of the Entiat and Columbia rivers to the terminal glacial moraine at RM 16.2, including all tributaries except the Mad River.
	Sec. 18, T.25 N., R.21 E.W.M.	
	Lat. 47°39'48"	
	Long. 120°14'58" NAD 27 HUC 17020010	
USGS Gauge #12452800 Entiat River near Ardenvoir, WA (Upper Entiat)	River Mile 18	From the terminal glacial moraine at RM 16.2, to the Entiat River headwaters, including all tributaries.
	Sec. 27, T.27 N., R.19 E.W.M.	
	Lat. 47°49'07"	
	Long. 120°25'19" NAD 27 HUC 17020010	
USGS Gauge #12452890, Mad River at Ardenvoir	River Mile 0.35	From the confluence of the Mad River with the Entiat River to the Mad River headwaters, including all tributaries.
	Sec.19, T.26, R.20 E.W.M.	
	Lat. 47°44'13"	
	Long. 120°22'03" NAD 27 HUC 17020010	

PROPOSED

NEW SECTION

WAC 173-546-050 Establishment of instream flows.

(1) The instream flows established in this chapter are based on the recommendations of the Entiat planning unit and public input received during the rule-making process. These instream flows are established in accordance with RCW 90.82.080, and are necessary to meet the water resource management and ecosystem maintenance objectives of the Entiat watershed plan. Instream flows can serve to protect senior water rights.

(2) Instream flows established in this chapter protect stream flows from future withdrawals, and preserve flow levels that are necessary to protect wildlife, fish, water quality, scenic, aesthetic and other environmental values, navigational values, and stock watering requirements. In addition to protecting instream resources, instream flows serve to protect senior water rights.

(3) Instream flows established here are water rights. In accordance with RCW 90.82.080 (2)(a), the planning unit determined by unanimous vote that the priority date of the instream flows is the effective date of this chapter.

(4) All water rights established after the priority date of the instream flows, and not covered under the reservation, are expressly subject to these instream flows. Water rights junior to the instream flow may be exercised when flow or ground water conditions will provide enough water to satisfy senior rights, including the instream flows. Withdrawals of water

which would conflict with instream flows shall be authorized only in situations where it is clear that the overriding considerations of the public interest will be served.

(5) The reservation of water established in WAC 173-546-070 will have a priority date senior to the instream flows. Full use of the reservation will not diminish the protective levels established by the instream flows in WAC 173-546-050, and is necessary to meet the water resource management and ecosystem maintenance objectives under chapters 90.82 and 90.54 RCW.

(6) Instream flows are expressed in cubic feet per second (cfs). Instream flows are measured at the control stations identified in WAC 173-546-040.

(7) Instream flows are established for the stream management units in WAC 173-546-040, as follows:

Instream Flows in the Entiat River Basin
(cubic feet per second)

PROPOSED

Month	Days	USGS Gauge #12452990	USGS Gauge #12452800	USGS Gauge #12452890
		Lower Entiat nr. Entiat, RM 1.4	Upper Entiat nr. Ardenvoir, RM 18	Mad River at Ardenvoir RM 0.35
January	1-31	185	175	32
February	1-29	185	175	32
March	1-15	185	175	32
	16-31	250	285	68
April	1-15	250	325	100
	16-30	350	375	100
May	1-15	474	375	100
	16-31	720	375	100
June	1-15	898	325	100
	16-30	617	325	100
July	1-15	359	275	68
	16-31	268	275	68
August	1-15	185	275	68
	16-31	185	275	51
September	1-30	185	175	32
October	1-31	185	175	32
November	1-30	185	175	32
December	1-31	185	175	32

NEW SECTION

WAC 173-546-060 Lakes and ponds. In accordance with RCW 90.54.020(3), lakes and ponds in the Entiat watershed shall be retained substantially in their natural condition, including those in the Wenatchee National Forest.

NEW SECTION

WAC 173-546-070 Reservation of water for specific future uses. (1) Using the watershed plan as a primary expression of public interest, and consistent with the authority under RCW 90.54.050(1) and 90.82.130(4), the department determines that there is water available, and hereby reserves an amount of surface and ground water, up to five cubic feet per second (5 cfs), for specific future beneficial uses.

(a) The priority date for uses under the reservation is the effective date of this chapter.

(b) The reservation is not subject to the instream flows established in WAC 173-546-050.

(c) Beneficial uses eligible for the reservation include domestic, stock watering, commercial agriculture, and commercial/light industrial uses, consistent with the recommendations of the planning unit and the framework established by the Entiat watershed plan. The 5 cfs of reserved water use will be monitored at the USGS Gauge No. 12452990 (Entiat near Entiat, river mile 1.4), identified in the watershed plan as the "Keystone" gauge. Allocation of water from the reservation will be made as follows.

(2) Domestic and stock watering. The department may allocate up to 1 cfs for these uses. This amount is available for appropriation anywhere within the Entiat River basin.

(a) Outdoor irrigation. The department may allocate water for up to one-half acre of lawn or noncommercial garden from the domestic and stock watering reserve.

(3) Commercial agriculture. The department may allocate up to 3 cfs for these uses. This amount is available for appropriation only in the Lower Entiat stream management unit as identified in WAC 173-546-040, generally being within the lower 16.2 river miles of the Entiat River watershed, and downstream of the area known as the "Stillwater" reach.

(4) Commercial and light industrial uses. The department may allocate up to 1 cfs for these uses. This amount is available for appropriation only in the Lower Entiat stream management unit as identified in WAC 173-546-040, generally being within the lower 16.2 river miles of the Entiat River watershed, and downstream of the area known as the "Stillwater" reach.

(5) A water right permit issued from the reserve must be consistent with the requirements of RCW 90.03.290.

(6) All water uses from the reserve must be implemented using water use efficiency and conservation practices, consistent with the watershed plan.

(7) This reservation of water shall only be put to beneficial use within the stream management units defined by this chapter. Applications for the withdrawal of water for pur-

PROPOSED

poses outside of the stream management units defined in this chapter shall be denied by the department.

(8) A record of all withdrawals from the reservation shall be maintained by the department. For accounting purposes, the department shall use the assumptions and estimates outlined in the plan, which include:

(a) In-house domestic uses: A per capita net use of thirty-five gallons per day.

(b) Outdoor irrigation shall be consistent with the guidelines in Tables 4-14 and 4-15 (below), and with other relevant information as it becomes available.

(c) Commercial agriculture: The consumptive amount of the beneficial use shall be consistent with the crop irrigation requirement specified in Tables 4-14 and 4-15 (below), and with other relevant information as it becomes available. The consumptive amount shall also be consistent, when appropriate, with any amount of conveyance water made unavailable to the river through irrigation bypass.

Table 4-14. Monthly tree water use¹(ac-in) at WSU Tree Fruit Research Center, 1972-2002.

YEAR	APR	MAY	JUN	JUL	AUG	SEP	OCT ²	SEASON TOTAL
1972	2.03	5.18	7.47	9.20	8.03	4.43	2.00	38.34
1973	2.28	5.40	9.22	11.48	9.80	4.60	2.00	44.78
1974	1.74	4.57	8.69	9.21	8.95	5.21	2.00	40.37
1975	1.72	5.26	8.33	10.49	8.88	4.66	2.00	41.34
1976	1.84	2.82	7.86	10.04	6.71	4.84	2.00	36.11
1977	1.69	4.49	6.67	8.32	5.43	4.32	2.00	32.92
1978	1.92	5.18	8.07	10.20	8.25	4.63	2.00	40.25
1979	2.10	3.78	8.11	9.45	8.31	3.28	2.00	37.03
1980	1.66	4.52	6.25	9.72	7.06	3.61	2.00	34.82
1981	1.61	4.26	6.19	8.53	7.63	3.76	2.00	33.98
1982	1.61	4.60	7.18	8.06	6.74	3.22	2.00	33.41
1983	1.44	5.20	6.66	7.18	6.53	3.89	2.00	32.90
1984	1.47	3.92	6.42	9.86	7.89	3.26	2.00	34.82
1985	1.72	5.18	8.34	10.71	7.93	3.13	2.00	39.01
1986	1.74	4.65	7.69	8.56	7.97	4.08	2.00	36.69
1987	1.88	4.75	7.30	8.28	8.09	4.46	2.00	36.76
1988	1.56	4.22	6.38	10.06	7.57	4.16	2.00	35.95
1989	1.79	4.47	7.65	9.40	7.13	4.43	2.00	36.87
1990	1.78	3.91	6.69	9.39	6.83	4.55	2.00	35.15
1991	1.87	4.21	6.41	10.00	7.42	4.48	2.00	36.39
1992	2.08	6.34	8.58	8.75	7.65	4.22	2.00	39.62
1993	1.10	4.75	6.36	7.46	7.20	3.90	2.00	32.77
1994	1.69	4.74	8.23	12.41	8.53	4.67	2.00	42.27
1995	1.47	5.28	7.90	10.52	7.90	4.66	2.00	39.73
1996	1.53	4.34	8.54	11.02	9.58	4.65	2.00	41.66
1997	1.14	4.27	7.22	9.16	7.30	3.48	2.00	34.57
1998	1.49	3.66	7.81	9.52	8.29	4.75	2.00	37.52
1999	1.60	4.57	8.03	9.31	7.26	4.00	2.00	36.77
2000	1.65	4.38	8.02	9.85	8.56	3.66	2.00	38.12
2001	1.39	4.98	7.06	10.23	7.65	4.35	2.00	37.66
2002	1.49	4.12	7.69	9.83	7.82	3.81	2.00	36.76
MO. AVG. SINCE 1972	1.68	4.58	7.52	9.55	7.77	4.17	2.00	37.27 ac-in

1. Data have already been adjusted using pan evaporation & KC value to approximate orchard tree water use.
 2. The October value of 2 acre-inches was estimated based on miscellaneous October measurements provided by the WSU Tree Fruit Research Center, and conversations with Tim Smith, WSU Cooperative Extension. April through September values are based on data collected by T. Smith.
- * Note: Actual irrigation rates must be 10 to 40% higher than tree use, depending on irrigation efficiency

(This table is from the watershed plan, based on the *State of Washington Irrigation Guide* and supplemented by Washington State Tree Fruit Research data collected in Wenatchee WA.)

Table 4-15. Average monthly tree and pasture/turf irrigation water use (ac-in) estimates.

Description of Value	Apr	May	Jun	Jul	Aug	Sep	Oct	Season (ac-in)
Average tree fruit water use by month, based on 1972-2002 WSU data.	1.68	4.58	7.52	9.55	7.77	4.17	2.00	37.27
Average tree water use by month, with 65% application efficiency.	2.58	7.05	11.57	14.69	11.95	6.42	3.08	57.34
Average Pasture/Turf water use by month (85% of WSU tree fruit water use avg. value).	1.43	3.89	6.39	8.12	6.60	3.54	1.70	31.68
Average Pasture/Turf water use by month, with 65% efficiency.	2.20	5.99	9.83	12.49	10.16	5.45	2.62	48.74

(This table is from the watershed plan, based on the *State of Washington Irrigation Guide* and supplemented by Washington State Tree Fruit Research data collected in Wenatchee WA.)

(d) Commercial and light industrial: The consumptive amount shall be the amount needed for the specific purpose, as determined by the department and/or the Chelan-Douglas health district.

(9) Since all uses from the reserve will have the same priority date, the following will guide water supply decisions in times of water shortage:

(a) Among the three use categories: Domestic and stock-watering uses will be met first, followed by commercial agriculture and finally commercial/light industrial.

(b) Within each use category, the date of first beneficial use will be used. The use with the earliest date will be satisfied first.

(10) The reservation is created in the context of the year 2025 planning horizon of the watershed plan. Future water supplies may also be available concurrently, using alternative water sources such as storage, reuse and conservation (WAC 173-546-100).

(11) The reservation will be evaluated by the department and the Entiat planning unit no less than every five years: 2010, 2015, and 2020. The allocated and unallocated amounts for each use will be reviewed, as well as the allocated and unallocated amounts for the entire reserve. Modifications to the program may therefore be implemented by rule, if needed.

(12) The department shall notify both Chelan County and the planning unit or its successor, in writing, when it determines that fifty percent, seventy-five percent, and one hundred percent, respectively, of the reservation is allocated. The department shall also issue a public notice in a newspaper of general circulation for the region at the same three junctures.

(13) The department shall require metering and reporting for permitted surface and ground water allocations from the reservation. If more accurate water use data is needed the department may, after consulting with the EWPU (or its successor) and Chelan County, require metering and reporting for ground water withdrawals otherwise exempted from permit requirements under RCW 90.44.050. Public water system providers will be required to meter, as consistent with the state department of health's requirements.

NEW SECTION

WAC 173-546-080 Maximum future allocation.

(1)(a) The department determines that there are certain times when there are surface waters above the instream flows, referred to as "high flows." These high flows provide critical ecological functions such as channel and riparian zone maintenance, flushing of sediments, and fish migration. In order to protect the frequency and duration of these higher flows, the department hereby establishes maximum amounts of water/flow that can be withdrawn from specific streams at specific times above the instream flow levels.

(b) A maximum allocation shall be used to review future applications for beneficial uses from the mainstem Entiat and Mad rivers for the periods and in the amounts specified below:

(i) The maximum allocation from May 1 - June 30 is 100 cfs. Of that 100 cfs, 25 cfs may be allocated from the Mad River.

(ii) For the period of July 1-15, the maximum allocation is 67 cfs from the mainstem Entiat only.

(iii) For the period of April 16-30, the maximum allocation is 25 cfs from the Mad River only.

(iv) For the periods during which it is clear that no water is likely to be available above the instream flows, no maximum allocation amount is indicated.

PROPOSED

Maximum Future Allocation, Entiat River Basin

PROPOSED

Month	Days	Total Maximum Allocation, Mainstem Entiat (in cfs). Measured at USGS Gauge #12452990, Entiat River nr. Entiat, RM 1.4	Portion of Maximum Allocation Available From Mad River (in cfs). Measured at USGS Gauge #12452890, Mad River at Ardenvoir, RM 0.35
January	1-31		
February	1-29		
March	1-31		
April	1-15		
	16-30		25
May	1-15	100	25
	16-31	100	25
June	1-15	100	25
	16-30	100	25
July	1-15	67	
	16-31		
August	1-31		
September	1-30		
October	1-31		
November	1-30		
December	1-31		

(2) The designation of a maximum allocation does not constitute a determination that water is available, as defined in RCW 90.03.290. A determination of water availability requires the application of four tests: Water is available; the use will not impair senior rights; water will be put to beneficial use; and the use is not detrimental to the public interest. Establishment of a water right from the allocation occurs after proper authorization from the department and after the water is first put to beneficial use. The water rights are subject to the instream flows established in WAC 173-546-050, and other provisions established in statutory, administrative and case law.

(3) The department shall require the metering and reporting of all permitted surface and ground water withdrawals from the maximum allocation.

(4) The department will maintain a record of the amount of water allocated from the Entiat and Mad Rivers. If the maximum amounts are fully appropriated, the department shall notify Chelan County and the planning unit or its successor, in writing. The department shall also issue a public notice in a newspaper of general circulation for the region.

NEW SECTION

WAC 173-546-090 Future permitting actions. (1) Surface and ground water permits not subject to the instream flows established in WAC 173-546-050 may be issued if:

(a) The proposed use is nonconsumptive, and compatible with the intent of this chapter.

(b) The water use qualifies for the reservation established in WAC 173-546-070.

(2)(a) Future applications for surface waters that are not part of the reserve established in WAC 173-546-070 may be approved subject to the instream flows established in WAC 173-546-050 and the maximum water allocation limits established in WAC 173-546-080.

(b) Future applications for ground waters that are not part of the reservation established in WAC 173-546-070 may be approved subject to the instream flows established in WAC 173-546-050 and the maximum water allocation limits established in WAC 173-546-080. Based upon the findings in the watershed plan, the department determines that there is hydraulic continuity between surface water and ground water sources within both the Lower and Upper Entiat River management units established in WAC 173-546-040. Therefore, water rights shall be issued for ground water only if the department determines that the withdrawal of ground water with proposed mitigation in place would not interfere with or impair the instream flows or the maximum water allocation.

(3) No right to withdraw or store the public surface or ground waters of the Entiat River basin that conflict with the provisions of this chapter will hereafter be granted, except in cases where such rights will clearly serve overriding considerations of the public interest, as stated in RCW 90.54.020 (3)(a).

(4) All future surface and ground water permit holders shall be required to install and maintain measuring devices and report the data to the department in accordance with permit requirements. In addition, the department may require the permit holder to monitor stream flows and ground water levels.

PROPOSED

NEW SECTION

WAC 173-546-100 Alternative sources of water. (1) The legislature, in enacting chapter 90.82 RCW, required that strategies for increasing water supplies must be developed as part of the watershed plans. Such strategies may also be implemented through the watershed planning process. WAC 173-546-070 provides a limited reservation of water for specific new uses in the Entiat River basin. However, the ongoing need for reliable sources of new water continues. This need dictates the continued development and use of alternative sources of water, such as:

- Multipurpose water storage facilities;
- Conservation and efficiency measures applied to existing uses and the transfer of saved water; and
- Acquisition, leasing, establishment of a trust water rights program (including water banking).

(2) Alternative sources of water of equal or better quality than the proposed source can be used to improve stream flows for fish, offset impacts of withdrawals on stream flows and provide sources of water for future out-of-stream uses.

NEW SECTION

WAC 173-546-110 Future changes and transfers. No changes to, or transfers of, existing surface and ground water rights in the Entiat River basin shall hereafter be granted if they conflict with the purpose of this chapter. Any change or transfer proposal can be approved only if there is a finding that existing rights, including the instream flows established in WAC 173-546-050, will not be impaired.

NEW SECTION

WAC 173-546-120 Compliance and enforcement. (1) To obtain compliance with this chapter the department, with assistance from Chelan County, the planning unit or its successor and partners, shall prepare and distribute technical and educational information regarding the scope and requirements of this chapter to the public. This is intended to assist the public in complying with the requirements of their water rights and applicable water laws.

(2) When the department determines that a violation has occurred, it shall first attempt to achieve voluntary compliance. An approach to achieving this is to offer information and technical assistance to the person, in writing, identifying one or more means to accomplish the person's purposes within the framework of the law.

(3) To obtain compliance and enforce this chapter, the department may impose such sanctions as appropriate under authorities vested in it, including, but not limited to, issuing regulatory orders under RCW 43.27A.190; and imposing civil penalties under RCW 43.83B.336, 90.03.400, 90.03.410, 90.03.600, 90.44.120 and 90.44.130.

NEW SECTION

WAC 173-546-130 Appeals. All final written decisions of the department pertaining to permits, regulatory orders, and related decisions made pursuant to this chapter can be

subject to review by the pollution control hearings board in accordance with chapter 43.21B RCW.

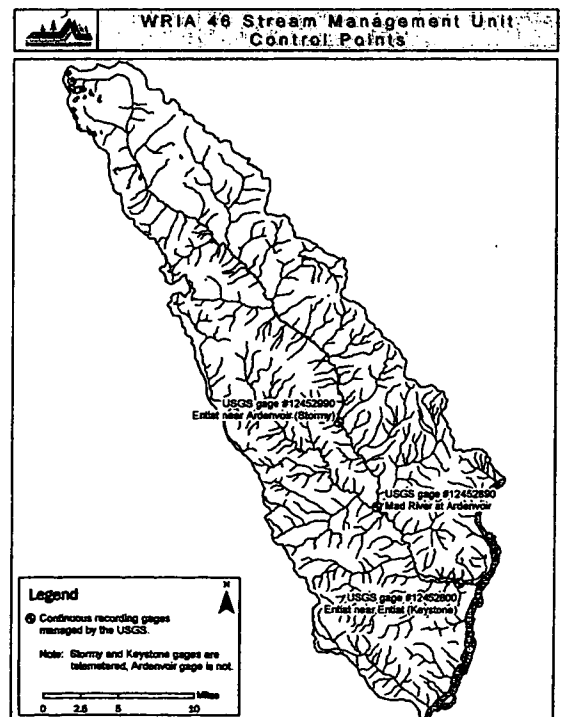
NEW SECTION

WAC 173-546-140 Regulation review. Review of this chapter may be initiated by the department whenever significant new information is available, a significant change in conditions occurs, statutory changes are enacted that are determined by the department to require review of the chapter, or if modifications are necessary based on the review described in WAC 173-546-070. Chelan County, the planning unit, or other interested citizens with standing may request that the department initiate a review at any time. If the department initiates a review, it will consult with Chelan County and the planning unit or its successor. If necessary, the department will modify the appropriate provisions of this chapter by rule.

The reservation will be evaluated by the department and the Entiat planning unit no less than every five years: 2010, 2015, and 2020. The allocated and unallocated amounts for each use will be reviewed, as well as the allocated and unallocated amounts for the entire reserve. Modifications to the program may therefore be implemented by rule, if needed.

NEW SECTION

WAC 173-546-150 Map. For the purposes of administering this chapter, the boundaries of the Entiat River basin identified in the figure below are presumed to accurately reflect the basin hydrology.



WSR 05-06-120
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed March 2, 2005, 11:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 04-15-149.

Title of Rule and Other Identifying Information: WAC 246-802-060 Clinical training and 246-802-130 Application exhibits required.

Hearing Location(s): Department of Health, Point Plaza East, 310 Israel Road S.E., Room, Tumwater, WA 98501, on April 26, 2005, at 9:30 a.m.

Date of Intended Adoption: May 3, 2005.

Submit Written Comments to: Vicki Brown, P.O. Box 47867, Olympia, WA 98504-7867, e-mail vicki.brown@doh.wa.gov, fax (360) 664-9077, by April 12, 2005.

Assistance for Persons with Disabilities: Contact Vicki Brown, TTY (800) 833-6388 or (360) 236-4865.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: With the passage of SSB 6554 (chapter 262, Laws of 2004), eliminating credentialing barriers for health professions, the amended statute has changed the requirements for clinical training for individuals applying for acupuncture licensure. The proposal revises the current clinical training requirements to reflect the legislative changes. This will allow more applicants from out-of-state to be licensed in Washington.

Reasons Supporting Proposal: These rules reduce barriers to licensing, allowing more acupuncture applicants to become licensed in Washington state and ensuring the rules are consistent with the statute.

Statutory Authority for Adoption: RCW 18.06.050 and 18.06.160.

Statute Being Implemented: Chapter 18.06 RCW.

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

Name of Proponent: Department of Health, Acupuncture program, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Vicki Brown, Program Manager, Department of Health, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4865.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement does not need to be prepared because the rule does not impose more than minor costs to small businesses and the content is explicitly and specifically dictated by statute.

A cost-benefit analysis is not required under RCW 34.05.328. This proposal is exempt under RCW 34.05.328 (5)(b)(v) because the content is explicitly and specifically dictated by statute.

February 28, 2005
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-802-060 Clinical training. ~~((+))~~ A student must complete a minimum of ((one)) five hundred hours ((or nine quarter credits)) of supervised clinical training ((shall consist)) consisting of up to one hundred hours of observation which ((shall)) includes case presentation and discussion.

~~((2)) Supervised practice consists of at least four hundred separate patient treatments involving a minimum of one hundred patients. Twenty nine quarter credits of supervised practice shall be completed over a minimum period of one academic year.~~

~~((a))~~ (1) A qualified instructor must observe and provide guidance to the student ((during the first one hundred patient treatments)) as appropriate, and must be available within the clinical facility to provide consultation and assistance to the student for patient treatments ((performed subsequently)). ((In the case of each and every)) Prior to initiation of each treatment, the instructor must have knowledge of and approve the diagnosis and treatment plan ((prior to the initiation of treatment)).

~~((b))~~ (2) "Patient treatment" ((shall)) includes:

~~((i))~~ (a) Conducting a patient intake interview concerning the patient's past and present medical history;

~~((ii))~~ (b) Performing ((traditional)) acupuncture examination and diagnosis;

~~((iii))~~ (c) Discussion between the instructor and the student concerning the proposed diagnosis and treatment plan;

~~((iv))~~ (d) Applying acupuncture treatment principles and techniques ~~((a minimum of three hundred sixty patient treatments involving point location, insertion and withdrawal of all needles must be performed))~~; and

~~((v))~~ (e) Charting of patient conditions, evaluative discussions and findings, and concluding remarks.

~~((e)) Supervised practice shall consist of a reasonable time per patient treatment and a reasonable distribution of patient treatment over one or more academic years so as to facilitate the student's learning experience. If the department is not satisfied that the time per patient treatment and distribution of treatments over one or more academic years facilitates the student's learning experience, it may require detailed documentation of the patient treatments.)~~

AMENDATORY SECTION (Amending Order 295B, filed 8/13/92, effective 9/13/92)

WAC 246-802-130 Application exhibits required. ~~((Every application shall be accompanied by:))~~ An applicant must submit:

(1) The application fee required under WAC 246-802-990;

(2) Verification of academic or educational study and training at a school or college which may include the following:

(a) Photostatic copy of diploma, certificate, or other certified documents and original copy of school transcript from a school or college evidencing completion of a program and a copy of the curriculum in the areas of study involved in the

school or college forwarded directly from the issuing agency/organization; or

(b) Notarized affidavit or statement bearing the official school seal and signed by an officer of the school or training program certifying the applicant's satisfactory completion of the academic and clinical training and designating the subjects and hours; or

(c) ~~((If, for good cause shown, the school is no longer existent, an applicant may submit a sworn affidavit so stating and shall name the school, its address, dates of enrollment and curriculum completed, and such other information and documents as the department may deem necessary; or~~

~~((d)))~~ Certified copies of licenses issued by the applicants jurisdiction which must be forwarded directly to the department of health from the issuing licensing and/or translation agency rather than the applicant.

(d) If the school no longer exists, an applicant may submit a sworn affidavit stating the name of the school and that it no longer exists. The applicant must also provide the school's address, dates of enrollment and curriculum completed, and other information and documents as requested by the department.

(3) Verification of clinical training. The applicant shall submit a ~~((certification))~~ verification of clinical training form. The form must be signed by ((the instructor(s) under oath)) an officer of the approved program and must state that the applicant completed a course of supervised clinical training ((under the direction of the instructor which shall)). The verification form must include:

(a) The location(s) of the training site(s).

(b) The inclusive dates of training.

(c) A statement that the supervised ~~((practice included a minimum of four hundred patient treatments involving a minimum of one hundred different patients)) clinical training meets the requirements of WAC 246-802-060.~~

~~(((d) One hundred hours of observation including case presentation and discussion.))~~

(4) Certified verification of successful completion of:

(a) The national written examination((:));

(b) Practical examination of point location skills; and ((approved))

(c) A clean needle technique course ~~((from)) approved by the National Certification Commission for ((Certification of Acupuncturists)) Acupuncture and Oriental Medicine (NCCAOM).~~

(5) If required by WAC 246-802-090(3), certified verification of a successful score of at least 550 on the test of English as a foreign language (TOEFL) ~~((if required by WAC 246-802-090(3))).~~ The applicant shall have a copy of his/her official score records sent directly to the department from the testing service. The department may grant an exemption to this requirement if the department determines there is good cause.

WSR 05-06-121

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed March 2, 2005, 11:31 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 246-08-400 Allowable fees for searching and duplicating medical records.

Hearing Location(s): 310 Israel Road S.E., 1st Floor, Tumwater, WA 98501, on May 2, 2005, at 9:00 a.m.

Date of Intended Adoption: May 3, 2005.

Submit Written Comments to: Sherry Thomas, Department of Health, P.O. Box 47850, Olympia, WA 98504-7850, e-mail sherry.thomas@doh.wa.gov, fax (360) 236-4626, by May 2, 2005.

Assistance for Persons with Disabilities: Contact Sherry Thomas by April 15, 2005, TTY (800) 833-6388.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed changes adjust the fees that medical providers are allowed to charge for searching and duplicating medical records based on the change in the consumer price index for all consumers for the Seattle/Tacoma metropolitan area for the previous biennium. The anticipated effects are that fees will increase to allow for inflation.

Reasons Supporting Proposal: The proposed rule helps to provide patients with access to their medical records by setting reasonable fees providers are allowed to charge for cost recovery. This adjustment is mandated to occur every two years. The fees were last adjusted in July 2003.

Statutory Authority for Adoption: RCW 70.02.010(12) and 43.70.040.

Statute Being Implemented: RCW 70.02.010(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 and Implementation: Sherry Thomas, 310 Israel Road, Tumwater, WA 98501, (360) 236-4612.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule is exempt under RCW 34.05.310(4) because it adjusts fees pursuant to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. This rule is exempt from the cost-benefit analysis under RCW 34.05.328 (5)(b)(vi), it adjusts fees pursuant to legislative standards.

February 28, 2005

Mary C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 03-14-036, filed 6/23/03, effective 7/24/03)

WAC 246-08-400 How much can a medical provider charge for searching and duplicating medical records? RCW 70.02.010(12) allows medical providers to charge fees

for searching and duplicating medical records. The fees a provider may charge cannot exceed the fees listed below:

(1) Copying charge per page:

(a) No more than (~~eighty-eight~~) ninety-one cents per page for the first thirty pages;

(b) No more than (~~sixty-seven~~) sixty-nine cents per page for all other pages.

(2) Additional charges:

(a) The provider can charge a (~~twenty~~) twenty-one dollar clerical fee for searching and handling records;

(b) If the provider personally edits confidential information from the record, as required by statute, the provider can charge the usual fee for a basic office visit.

(3) This section is effective July 1, (~~2003~~) 2005, through June 30, (~~2005~~) 2007.

(4) This section does not restrict a health care provider, a third-party payor, or an insurer regulated under Title 48 RCW from complying with obligations imposed by federal or state health care payment programs or federal or state law.

WSR 05-06-123

PROPOSED RULES

STATE BOARD OF HEALTH

[Filed March 2, 2005, 11:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 03-20-043.

Title of Rule and Other Identifying Information: Chapters 246-100 and 246-101 WAC, HIV counseling and testing and partner notification services, these proposed rule changes address HIV counseling and testing, partner notification services and HIV prevention services with HIV-infected persons.

Hearing Location(s): Comfort Inn, 1620 74th Avenue S.W., Tumwater, WA, on April 13, 2005, at 1:30 p.m.

Date of Intended Adoption: April 13, 2005.

Submit Written Comments to: John F. Peppert, P.O. Box 47840, Olympia, WA 98504-7840, e-mail <http://www3.doh.wa.gov/policyreview>, fax (360) 236-3427, by April 5, 2005.

Assistance for Persons with Disabilities: Contact Desiree Day Robinson by April 1, 2005, TTY (800) 833-6388 or (360) 236-4110.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In general, these proposed rule changes address expanding access to HIV testing, increasing efforts to notify exposed partners of their exposure to HIV infection, and encouraging services to meet the HIV prevention needs of HIV-infected persons. Specifically:

- HIV counseling requirements are revised such that the requirement to provide counseling is significantly reduced as a barrier to the receipt of HIV testing.
- Specific consent for HIV testing is maintained though that consent no longer has to be separate.

- Public health officials are given primary responsibility for partner notification unless the principal health provider accepts that responsibility.
- CDC guidance for counseling and testing and for partner notification are referenced as standards for both the public sector and the private sector.
- Allows partner notification records to be maintained for more than three months if they are being used in the investigation of conduct endangering the public health.
- Requires the principle health care provider to provide HIV prevention information for persons with HIV when appropriate, and STD clinicians must recommend HIV testing for persons being treated for an STD.

Reasons Supporting Proposal: There are public health, personal health, and cost-savings benefits to early knowledge of HIV infection status. These include reduced risk behaviors, improved health outcomes, and potential for reduced infectiousness for those on antiretroviral treatment.

Statutory Authority for Adoption: RCW 74.13.289.

Statute Being Implemented: RCW 74.13.289.

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

Name of Proponent: Washington State Board of Health and Washington State Department of Health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John F. Peppert, 7211 Cleanwater Lane, Building 9, Tumwater, WA 98501, (360) 236-3427.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department did not prepare a small business economic impact statement under chapter 19.85 RCW, because this rule does not impose more than minor costs on offices conducting HIV testing.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting John F. Peppert, P.O. Box 47840, Olympia, WA 98504-7840, phone (360) 236-3427, fax (360) 236-3400, e-mail john.peppert@doh.wa.gov.

March 1, 2005

Craig McLaughlin
Executive Director

AMENDATORY SECTION (Amending WSR 03-06-003, filed 2/19/03, effective 2/19/03)

WAC 246-100-011 Definitions. The following definitions shall apply in the interpretation and enforcement of chapter 246-100 WAC:

(1) "Acquired immunodeficiency syndrome (AIDS)" means illness, disease, or conditions defined and described by the Centers for Disease Control, U.S. Public Health Service, Morbidity and Mortality Weekly Report (MMWR), December 18, 1992, Volume 41, Number RR-17. A copy of this publication is available for review at the department and at each local health department.

(2) "AIDS counseling" means counseling directed toward:

(a) Increasing the individual's understanding of acquired immunodeficiency syndrome; and

(b) Assessing the individual's risk of HIV acquisition and transmission; and

(c) Affecting the individual's behavior in ways to reduce the risk of acquiring and transmitting HIV infection.

(3) "Anonymous HIV testing" means that the name or identity of the individual tested for HIV will not be recorded or linked to the HIV test result. However, once the individual testing positive receives HIV health care or treatment services, reporting of the identity of the individual to the state or local public health officer is required.

(4) "Board" means the Washington state board of health.

((4)) (5) "Case" means a person, alive or dead, having been diagnosed to have a particular disease or condition by a health care provider with diagnosis based on clinical or laboratory criteria or both.

((5)) (6) "Child day care facility" means an agency regularly providing care for a group of children for less than twenty-four hours a day and subject to licensing under chapter 74.15 RCW.

((6)) (7) "Communicable disease" means an illness caused by an infectious agent which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission via an intermediate host or vector, food, water, or air.

((7)) (8) "Confidential HIV testing" means that the name or identity of the individual tested for HIV will be recorded and linked to the HIV test result, and that the name of the individual testing positive for HIV will be reported to the state or local health officer in a private manner.

(9) "Contaminated" or "contamination" means containing or having contact with infectious agents or chemical or radiological materials that pose an immediate threat to present or future public health.

((8)) (10) "Contamination control measures" means the management of persons, animals, goods, and facilities that are contaminated, or suspected to be contaminated, in a manner to avoid human exposure to the contaminant, prevent the contaminant from spreading, and/or effect decontamination.

((9)) (11) "Department" means the Washington state department of health.

((10)) (12) "Detention" or "detainment" means physical restriction of activities of an individual by confinement for the purpose of controlling or preventing a serious and imminent threat to public health and may include physical plant, facilities, equipment, and/or personnel to physically restrict activities of the individual to accomplish such purposes.

((11)) (13) "Disease control measures" means the management of persons, animals, goods, and facilities that are infected with, suspected to be infected with, exposed to, or suspected to be exposed to an infectious agent in a manner to prevent transmission of the infectious agent to humans.

((12)) (14) "Health care facility" means:

(a) Any facility or institution licensed under chapter 18.20 RCW, boarding home, chapter 18.46 RCW, birthing centers, chapter 18.51 RCW, nursing homes, chapter 70.41 RCW, hospitals, or chapter 71.12 RCW, private establish-

ments, clinics, or other settings where one or more health care providers practice; and

(b) In reference to a sexually transmitted disease, other settings as defined in chapter 70.24 RCW.

((13)) (15) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care who is:

(a) Licensed or certified in this state under Title 18 RCW; or

(b) Is military personnel providing health care within the state regardless of licensure.

((14)) (16) "HIV testing" means conducting a laboratory test or sequence of tests to detect the human immunodeficiency virus (HIV) or antibodies to HIV performed in accordance with requirements to WAC 246-100-207. To assure that the protection, including but not limited to, pre- and post-test counseling, consent, and confidentiality afforded to HIV testing as described in chapter 246-100 WAC also applies to the enumeration of CD4 + (T4) lymphocyte counts (CD4 + counts) and CD4 + (T4) percents of total lymphocytes (CD4 + percents) when used to diagnose HIV infection, CD4 + counts and CD4 + percents will be presumed HIV testing except when shown by clear and convincing evidence to be for use in the following circumstances:

(a) Monitoring previously diagnosed infection with HIV;

(b) Monitoring organ or bone marrow transplants;

(c) Monitoring chemotherapy;

(d) Medical research; or

(e) Diagnosis or monitoring of congenital immunodeficiency states or autoimmune states not related to HIV.

The burden of proving the existence of one or more of the circumstances identified in (a) through (e) of this subsection shall be on the person asserting such existence.

((15)) (17) "Infectious agent" means an organism such as a virus, rickettsia, bacteria, fungus, protozoan, or helminth that is capable of producing infection or infectious disease.

((16)) (18) "Isolation" means the separation, for the period of communicability or contamination, of infected or contaminated persons or animals from others in such places and under such conditions as to prevent or limit the direct or indirect transmission of the infectious agent or contaminant from those infected or contaminated to those who are susceptible or who may spread the agent or contaminant to others.

((17)) (19) "Local health department" means the city, town, county, or district agency providing public health services to persons within the area, as provided in chapter 70.05 RCW and chapter 70.08 RCW.

((18)) (20) "Local health officer" means the individual having been appointed under chapter 70.05 RCW as the health officer for the local health department, or having been appointed under chapter 70.08 RCW as the director of public health of a combined city-county health department, or his or her delegee appointed by the local board of health.

((19)) (21) "Nosocomial infection" means an infection acquired in a hospital or other health care facility.

((20)) (22) "Outbreak" means the occurrence of cases of a disease or condition in any area over a given period of time in excess of the expected number of cases.

~~((21))~~ (23) "Post-test counseling" means counseling after the HIV test when results are provided and directed toward:

- (a) Increasing the individual's understanding of human immunodeficiency virus (HIV) infection;
- (b) Affecting the individual's behavior in ways to reduce the risk of acquiring and transmitting HIV infection;
- (c) Encouraging the individual testing positive to notify persons with whom there has been contact capable of spreading HIV;
- (d) Assessing emotional impact of HIV test results; and
- (e) Appropriate referral for other community support services.

~~((22))~~ (24) "Pretest counseling" means counseling provided prior to HIV testing and aimed at:

- (a) Helping an individual to understand:
 - (i) Ways to reduce the risk of human immunodeficiency virus (HIV) transmission;
 - (ii) The nature, purpose, and potential ramifications of HIV testing;
 - (iii) The significance of the results of HIV testing; and
 - (iv) The dangers of HIV infection; and
- (b) Assessing the individual's ability to cope with the results of HIV testing.

~~((23))~~ (25) "Principal health care provider" means the attending physician or other health care provider recognized as primarily responsible for diagnosis and treatment of a patient or, in the absence of such, the health care provider initiating diagnostic testing or therapy for a patient.

~~((24))~~ (26) "Quarantine" means the limitation of freedom of movement of such well persons or domestic animals as have been exposed to, or are suspected to have been exposed to, an infectious agent, for a period of time not longer than the longest usual incubation period of the infectious agent, in such manner as to prevent effective contact with those not so exposed.

~~((25))~~ (27) "School" means a facility for programs of education as defined in RCW 28A.210.070 (preschool and kindergarten through grade twelve).

~~((26))~~ (28) "Sexually transmitted disease (STD)" means a bacterial, viral, fungal, or parasitic disease or condition which is usually transmitted through sexual contact, including:

- (a) Acute pelvic inflammatory disease;
- (b) Chancroid;
- (c) Chlamydia trachomatis infection;
- (d) Genital and neonatal herpes simplex;
- (e) Genital human papilloma virus infection;
- (f) Gonorrhea;
- (g) Granuloma inguinale;
- (h) Hepatitis B infection;
- (i) Human immunodeficiency virus infection (HIV) and acquired immunodeficiency syndrome (AIDS);
- (j) Lymphogranuloma venereum;
- (k) Nongonococcal urethritis (NGU); and
- (l) Syphilis.

~~((27))~~ (29) "Spouse" means any individual who is the marriage partner of an HIV-infected individual, or who has been the marriage partner of the HIV-infected individual

within the ten-year period prior to the diagnosis of HIV-infection, and evidence exists of possible exposure to HIV.

~~((28))~~ (30) "State health officer" means the person designated by the secretary of the department to serve as state-wide health officer, or, in the absence of such designation, the person having primary responsibility for public health matters in the state.

~~((29))~~ (31) "Suspected case" or "suspected to be infected" means the local health officer, in his or her professional judgment, reasonably believes that infection with a particular infectious agent is likely based on signs and symptoms, laboratory evidence, or contact with an infected individual, animal, or contaminated environment.

~~((30))~~ (32) "Veterinarian" means an individual licensed under provisions of chapter 18.92 RCW, veterinary medicine, surgery, and dentistry and practicing animal health care.

AMENDATORY SECTION (Amending WSR 99-17-077, filed 8/13/99, effective 9/1/99)

WAC 246-100-072 Rules for notification of partners at risk of HIV infection. ~~((1) A health care provider may consult with the local health officer or an authorized representative about an HIV-infected individual.~~

~~(2) Only under the specific circumstances listed below, a principal health care provider shall report the identity of sex or injection equipment sharing partners, including spouses, of an HIV-infected individual to the local health officer or an authorized representative:~~

~~(a) After being informed of the necessity to notify sex and injection equipment sharing partners, including spouses, and confirm notification to the health care provider, the HIV-infected individual either refuses or is unable to notify partners that partners:~~

~~(i) May have been exposed to and infected with HIV; and~~

~~(ii) Should seek HIV pretest counseling and consider HIV testing; and~~

~~(b) The HIV-infected individual neither accepts assistance nor agrees to referral to the local health officer or an authorized representative for assistance in notifying partners.~~

~~(3) Only in the specific circumstances listed below, shall a principal health care provider notify the local health officer or an authorized representative to directly contact the HIV-infected person for the purpose of partner notification:~~

~~(a) The HIV-infected person agrees to meet with the local health officer or authorized representative; or~~

~~(b) The principal health care provider provided pretest counseling as described in WAC 246-100-209(1) before the individual was tested; and~~

~~(c) The principal health care provider made efforts, but was unable to meet face to face with the individual to notify the individual of the HIV test result and to provide post test counseling as required in WAC 246-100-209 in order to assure partner notification.)~~ (1) A local health officer or authorized representative shall:

(a) Within seven days of receipt of a report indicative of a previously unreported case of HIV infection, contact the principal health care provider to determine the best means

and the necessity of conducting a partner notification case investigation; and

(b) Contact the HIV-infected person for the purpose of providing assistance in notifying sex or injection equipment-sharing partners, including spouses, that they may have been exposed to and infected with HIV and that they should seek HIV pretest counseling and HIV testing, unless:

(i) The principal health care provider recommends that the state or local health officer not meet with the HIV-infected individual for the purpose of notifying partners, including spouses; or

(ii) The local health officer determines a partner notification case investigation is not necessary;

(c) Provide assistance notifying partners in accordance with the "HIV Partner Counseling and Referral Services—Guidance" as published by the Centers for Disease Control and Prevention, December 1998.

(2) If the local health officer decides to conduct the partner notification case investigation, the principal health care provider:

(a) May provide recommendations to the state or local health officer on the best means of contacting the HIV-infected individual for the purpose of notifying sex or injection equipment-sharing partners, including spouses, that partners may have been exposed to and infected with HIV and that partners should seek HIV pretest counseling and HIV testing; and

(b) Shall inform the HIV-infected person that the local health officer or authorized representative will contact the HIV-infected person for the purpose of providing assistance with the notification of partners.

(3) If the principal health care provider recommends that the state or local health officer not meet with the HIV-infected individual for the purpose of notifying partners, including spouses, the principal health care provider shall:

(a) Inform the HIV-infected individual of the necessity to notify sex and injection equipment-sharing partners, including spouses, that they have been exposed to and may be infected with HIV and should seek HIV testing; and

(b) Provide assistance notifying partners in accordance with the "HIV Partner Counseling and Referral Services—Guidance" as published by the Centers for Disease Control and Prevention, December 1998; and

(c) Inform the local health officer or an authorized representative of the identity of sex or injection equipment-sharing partners known to the provider when the HIV-infected individual either refuses or is unable to notify such partners and confirm notification to the health care provider; and

(d) Upon request of the state or local health officer, report the number of exposed partners, including spouses that have been contacted and offered HIV testing.

(4) A health care provider shall not disclose the identity of an HIV-infected individual or the identity of sex and injection equipment-sharing partners, including spouses, at risk of HIV infection, except as authorized in RCW 70.24.105(,) or WAC 246-100-072(, or 246-100-076).

(5) Local health officers and authorized representatives shall:

(a) ((Confirm conditions in subsections (2) and (3) of this section were met prior to initiating partner notification or

receiving referral of identity of an HIV-infected individual; and

(b)) Use identifying information, provided according to this section, on HIV-infected individuals only for:

(i) Contacting the HIV-infected individual to provide post-test counseling or to contact sex and injection equipment-sharing partners, including spouses; or

(ii) Carrying out an investigation of conduct endangering the public health or of behaviors presenting an imminent danger to the public health pursuant to RCW 70.24.022 or 70.24.024; and

((e)) (b) Destroy documentation of referral information established under this subsection, containing identities and identifying information on the HIV-infected individual and at-risk partners of that individual, immediately after notifying partners or within three months of the date information was received, whichever occurs first unless such documentation is being used in an active investigation of conduct endangering the public health or of behaviors presenting an imminent danger to the public health pursuant to RCW 70.24.022 or 70.24.024.

(6) A health care provider may consult with the local health officer or an authorized representative about an HIV-infected individual and the need for notification of partners at any time.

NEW SECTION

WAC 246-100-202 Special diseases—Sexually transmitted diseases—Duties and authorities. (1) Health care providers shall:

(a) Report each case of sexually transmitted disease as required in chapter 246-101 WAC; and

(b) At each medical encounter, when providing treatment for an infectious sexually transmitted disease, provide instruction, appropriate to each patient regarding:

(i) Communicability of the disease; and

(ii) Requirements to refrain from acts that may transmit the disease to another; and

(c) Ensure completion of a prenatal serologic test for syphilis in each pregnant woman pursuant to RCW 70.24.090 including:

(i) Submitting a blood sample for syphilis to a laboratory approved to perform prenatal serologic tests for syphilis, as required in RCW 70.24.090, at the time of the first prenatal visit; and

(ii) Deciding whether or not to omit the serologic test for syphilis if the test was performed elsewhere during the current pregnancy; and

(d) When diagnosing or caring for a patient with gonococcal or chlamydial ophthalmia neonatorum, reporting the case to the local health officer or local health department in accordance with the provisions of chapter 246-101 WAC; and

(e) When attending or assisting in the birth of any infant or caring for an infant after birth, ensure instillation of a department-approved prophylactic ophthalmic agent into the conjunctival sacs of the infant within the time frame established by the department in policy statement of ophthalmia

agents approved for the prevention of ophthalmia neonatorum in the newborn, issued June 19, 1981.

(2) Laboratories, health care providers, and other persons shall deny issuance of a certificate or statement implying an individual is free from sexually transmitted disease.

(3) State and local health officers or their authorized representatives shall have authority to conduct or cause to be conducted an interview and investigation of persons infected or reasonably believed to be infected with a sexually transmitted disease.

(a) For the purpose of this section, "reasonable belief" and "reasonably believed" shall mean a health officer's belief based upon a credible report from an identifiable individual indicating another person is likely to have a sexually transmitted disease (STD) or to have been exposed to a STD;

(b) Investigations shall be conducted using procedures and measures described in WAC 246-100-036(4).

(4) Local health officers, health care providers, and others shall comply with the provisions in chapter 70.24 RCW, in addition to requirements in chapters 246-100 and 246-101 WAC.

(5) Any person who violates a rule adopted by the board for the control and treatment of a sexually transmitted disease is subject to penalty under RCW 70.24.080.

NEW SECTION

WAC 246-100-203 Special diseases—Sexually transmitted diseases—Health officer orders. (1) A state or local health officer within his or her jurisdiction may, in accordance with RCW 70.24.024, issue orders for medical examination, testing, and/or counseling, as well as orders to cease and desist specific activities, when he or she knows or has reason to believe that a person has a sexually transmitted disease and is engaging in conduct endangering the public health.

(a) For purposes of this section, "reason to believe" means a health officer's belief that is based on:

(i) Laboratory test results confirming or suggestive of a STD; or

(ii) A health care provider's direct observation of clinical signs confirming an individual has or is likely to have a STD; or

(iii) Information obtained directly from an individual infected with a STD about the identity of his or her sexual or needle-sharing contacts when:

(A) Contact with the infected individual occurred during a period when the disease may have been infectious; and

(B) The contact was sufficient to transmit the disease; and

(C) The infected individual is, in the health officer's judgment, credible and believable.

(b) "Conduct endangering the public health" for the purposes of RCW 70.24.024 and this section, means:

(i) Anal, oral, or vaginal intercourse for all sexually transmitted diseases;

(ii) For HIV and Hepatitis B:

(A) Anal, oral, or vaginal intercourse; and/or

(B) Sharing of injection equipment; and/or

(C) Donating or selling blood, blood products, body tissues, or semen; and

(iii) Activities described in (b)(i) and (ii) of this subsection resulting in introduction of blood, semen, and/or vaginal fluids to:

(A) Mucous membranes;

(B) Eyes;

(C) Open cuts, wounds, lesions; or

(D) Interruption of epidermis.

(c) State and local health officers and their authorized representatives shall have authority to issue written orders for medical examination, testing, and/or counseling under chapter 70.24 RCW, only after:

(i) All other efforts to protect public health have failed, including reasonable efforts to obtain the voluntary cooperation of the person to be affected by the order; and

(ii) They have sufficient evidence to "reasonably believe" the individual to be affected by the order:

(A) Has a sexually transmitted disease; and

(B) Is engaging in "conduct endangering public health"; and

(iii) They have investigated and confirmed the existence of "conduct endangering the public health" by:

(A) Interviewing sources to assess their credibility and accuracy; and

(B) Interviewing the person to be affected by the order; and

(iv) They have incorporated all information required in RCW 70.24.024 in a written order.

(d) State and local health officers and their authorized representatives shall have authority to issue written orders for treatment under RCW 70.24.022 only after laboratory test results or direct observation of clinical signs or assessment of clinical data by a physician confirm the individual has, or is likely to have, a sexually transmitted disease.

(e) State and local health officers and their authorized representatives shall have authority to issue written orders to cease and desist from specified activities under RCW 70.24.024 only after:

(i) They have determined the person to be affected by the order is engaging in "conduct endangering public health"; and

(ii) Laboratory test results, or direct observation of clinical signs or assessment of clinical data by a physician, confirm the individual has, or is likely to have, a sexually transmitted disease; and

(iii) They have exhausted procedures described in subsection (8)(a) of this section; and

(iv) They have enlisted, if appropriate, court enforcement of the orders described in subsection (8)(a) and (b) of this section.

(f) Written orders to cease and desist from specified activities shall be for an initial period of time not to exceed three months, and may be renewed by the health officer for periods of time not to exceed three months provided all requirements of RCW 70.24.024 regarding notification, confidentiality, right to a judicial hearing, and right to counsel are met again at the time of renewal.

(2) A state or local health officer within his or her jurisdiction may, in accordance with RCW 70.24.034, bring

action in superior court to detain the person in a designated or approved facility when he or she knows or has reason to believe that person has a sexually transmitted disease and continues to engage in behaviors that present an imminent danger to the public health.

(a) "Behaviors that present an imminent danger to public health" or "BPID" for the purposes of detention in accordance with RCW 70.24.034 and this section means the following activities, under conditions specified below, performed by an individual with a laboratory-confirmed HIV infection:

(i) Anal or vaginal intercourse without a latex condom; or

(ii) Shared use of blood-contaminated injection equipment;

(iii) Donating or selling HIV-infected blood, blood products, or semen; and

(iv) Activities described in (a)(i) and (ii) of this subsection constitute BPID only if:

(A) The infected individual received post-test counseling as described in WAC 246-100-209 prior to repeating activities; and

(B) The infected individual did not inform the persons with whom the activities occurred of his or her infectious status.

(b) State and local health officers and their authorized representatives shall have authority to seek court orders for detainment under RCW 70.24.034 only for persons infected with HIV and only after:

(i) Exhausting procedures described in subsection (1) of this section; and

(ii) Enlisting, if appropriate, court enforcement of orders to cease and desist; and

(iii) Having sufficient evidence to "reasonably believe" the person is engaging in BPID.

(c) A local health officer may notify the state health officer if he or she determines:

(i) The criteria for BPID are met by an individual; and

(ii) Such individual fails to comply with a cease and desist order affirmed or issued by a court.

(d) A local or state health officer may request the prosecuting attorney to file an action in superior court to detain an individual specified in subsection (9)(a) of this section. The requesting local or state health officer or authorized representative shall:

(i) Notify the department prior to recommending the detainment setting where the individualized counseling and education plan may be carried out consistent with subsection (9)(d), (e), and (f) of this section;

(ii) Make a recommendation to the court for placement of such individual consistent with subsection (9)(d) and (f) of this section; and

(iii) Provide to the court an individualized plan for education and counseling consistent with (f) of this subsection.

(e) State board of health requirements for detainment of individuals demonstrating BPID include:

(i) Sufficient number of staff, caregivers, and/or family members to:

(A) Provide round-the-clock supervision, safety of detainee, and security; and

(B) Limit and restrict activities to prevent BPID; and

(C) Make available any medical, psychological, or nursing care when needed; and

(D) Provide access to AIDS education and counseling; and

(E) Immediately notify the local or state health officer of unauthorized absence or elopement; and

(ii) Sufficient equipment and facilities to provide:

(A) Meals and nourishment to meet nutritional needs; and

(B) A sanitary toilet and lavatory; and

(C) A bathing facility; and

(D) Bed and clean bedding appropriate to size of detainee; and

(E) A safe detention setting appropriate to chronological and developmental age of detainee; and

(F) A private sleeping room; and

(G) Prevention of sexual exploitation;

(iii) Sufficient access to services and programs directed toward cessation of BPID and providing:

(A) Linguistically, socially, culturally, and developmentally appropriate ongoing AIDS education and counseling; and

(B) Psychological and psychiatric evaluation and counseling; and

(C) Implementation of court-ordered plan for individualized counseling and education consistent with (g) of this subsection;

(iv) If required, provide access to isolation and/or restraint in accordance with restraint and seclusion rules in WAC 275-55-263 (2)(c);

(v) Maintain a safe, secure environment free from harassment, physical danger, and sexual exploitation.

(f) Washington state board of health standards for an individualized counseling and education plan for a detainee:

(i) Consideration of detainee's personal and environmental characteristics, culture, social group, developmental age, and language;

(ii) Identification of habitual and addictive behavior and relapse pattern;

(iii) Identification of unique risk factors and possible cross-addiction leading to behavior presenting imminent danger to public health;

(iv) Identification of obstacles to behavior change and determination of specific objectives for desired behavior;

(v) Provision of information about acquisition and transmission of HIV infection;

(vi) Teaching and training of individual coping skills to prevent relapse to BPID;

(vii) Specific counseling for chemical dependency, if required;

(viii) Identification of and assistance with access to community resources, including social services and self-help groups appropriate to provide ongoing support and maintenance of behavior change; and

(ix) Designation of a person primarily responsible for counseling and/or education who:

(A) Completed pretest and post-test counselor training approved by the office on AIDS; and

(B) Received training, as approved by the office on AIDS, focused on facilitating behavior change related to preventing BPID; and

(C) Has a postgraduate degree in social work, psychology, counseling, psychosocial nursing, or other allied profession; and

(D) Completed at least one year clinical experience after postgraduate education with a primary focus on individualized behavior change; and

(E) Is a certified counselor under chapter 18.19 RCW;

(x) Designation and provision of a qualified counselor under WAC 275-19-145 when the detainee is assessed to have a drug or alcohol problem.

(g) The state board of health designates the following settings appropriate for detention provided a setting meets requirements in (d)(i), (ii), (iii), (iv), and (v) of this subsection:

(i) Homes, care facilities, or treatment institutions operated or contracted by the department;

(ii) Private homes, as recommended by the local or state health officer;

(iii) Boarding homes licensed under chapter 18.20 RCW;

(iv) Nursing homes licensed under chapter 18.51 RCW;

(v) Facilities licensed under chapter 71.12 RCW, including:

(A) Psychiatric hospitals, per chapter 246-322 WAC;

(B) Alcoholism treatment centers if certified for substance use under chapter 275-19 WAC;

(C) Adult residential rehabilitation centers, per chapter 246-325 WAC;

(D) Private adult treatment homes, per chapter 246-325 WAC;

(E) Residential treatment facilities for psychiatrically impaired children and youth, per chapter 246-323 WAC;

(vi) A hospital licensed under chapter 70.41 RCW.

NEW SECTION

WAC 246-100-204 Special diseases—Human immunodeficiency virus (HIV)—Absence of HIV as an occupational qualification. For the purpose of RCW 49.60.172 concerning the absence of HIV infection as a bona fide occupational qualification only, "significant risk" means a job qualification which requires person-to-person contact likely to result in direct introduction of blood into the eye, an open cut or wound, or other interruption of the epidermis, when:

(1) No adequate barrier protection is practical; and

(2) Determined only on case-by-case basis consistent with RCW 49.60.180.

NEW SECTION

WAC 246-100-205 Special diseases—HIV—Testing and counseling following occupational exposure. A person who has experienced a substantial exposure to another person's bodily fluids in a manner that presents a possible risk of transmission of HIV, and who is exposed while engaged in a category of employment determined to be at risk of substantial exposure to HIV, may ask a state or local health officer to order pretest counseling, HIV testing, and post-test counsel-

ing of the person who was the source of the bodily fluids in accordance with RCW 70.24.340.

(1) Substantial exposure that presents a possible risk of transmission shall be limited to:

(a) A physical assault upon the exposed person involving blood or semen;

(b) Intentional, unauthorized, nonconsensual use of needles or sharp implements to inject or mutilate the exposed person; or

(c) An accidental parenteral or mucous membrane or nonintact skin exposure to blood, semen, or vaginal fluids.

(2) The alleged exposure must have occurred on the job while the individual was employed or acting as an authorized volunteer in one of the following employment categories that are at risk of substantial exposure to HIV:

(a) Law enforcement officer;

(b) Fire fighter;

(c) Health care provider;

(d) Staff of health care facilities;

(e) Funeral director; or

(f) Embalmer.

(3) The health officer shall:

(a) Determine that the alleged exposure meets the criteria established in this section for substantial exposure that presents a possible risk of transmission; and

(b) Ensure that pretest counseling of the individual to be tested, or a legal representative, occurs; and

(c) Arrange for testing of the individual who is the source of the exposure to occur within seven days of the request from the person exposed; and

(d) Ensure that records on HIV testing ordered by a health officer are maintained only by the ordering health officer.

(4) The health officer, as a precondition for ordering counseling and testing of the person who was the source of the bodily fluids, may require that the exposed individual agree to be tested for HIV if such testing is determined appropriate by the health officer.

(5) This section does not apply to the department of corrections or to inmates in its custody or subject to its jurisdiction.

AMENDATORY SECTION (Amending WSR 02-12-106, filed 6/5/02, effective 7/6/02)

WAC 246-100-206 Special diseases—(~~Sexually transmitted diseases~~) HIV—Testing and counseling of jail detainees. (~~((1) Any person who violates a rule adopted by the board for the control and treatment of a sexually transmitted disease is subject to penalty under RCW 70.24.080.~~)

(2) Definitions.

(a) "~~Anonymous HIV testing~~" means that the name or identity of the individual tested for HIV will not be recorded or linked to the HIV test result. However, once the individual testing positive receives HIV health care or treatment services, reporting of the identity of the individual to the state or local public health officer is required.

(b) "~~Behaviors presenting imminent danger to public health (BPID)~~" means the following activities, under condi-

tions specified below, performed by an individual with a laboratory confirmed HIV infection:

- (i) Anal or vaginal intercourse without a latex condom;
- or
- (ii) Shared use of blood-contaminated injection equipment;
- (iii) Donating or selling HIV-infected blood, blood products, or semen; and
- (iv) Under the following specified conditions:
 - (A) The infected individual received post-test counseling as described in WAC 246-100-209 prior to repeating activities in subsection (2)(b)(i) and (ii) of this section; and
 - (B) The infected individual did not inform the persons, with whom activities described in subsection (2)(b)(i) and (ii) of this section occurred, of his or her infectious status.
- (e) "Behaviors presenting possible risk" means:
 - (i) Actual actions resulting in "exposure presenting a possible risk" limited to:
 - (A) Anal, oral, or vaginal intercourse excluding conjugal visits; or
 - (B) Physical assault; or
 - (C) Sharing of injection equipment or sharp implements;
 - or
 - (D) Throwing or smearing of blood, semen, or vaginal fluids; or
 - (ii) Threatened action if:
 - (A) The threatening individual states he or she is infected with HIV; and
 - (B) The threatened behavior is listed in subsection (2)(b)(i)(A), (B), (C), and (D) of this section; and
 - (C) The threatened behavior could result in "exposure presenting a possible risk."
 - (d) "Conduct endangering public health" means:
 - (i) Anal, oral, or vaginal intercourse for all sexually transmitted diseases;
 - (ii) For HIV and Hepatitis B:
 - (A) Anal, oral, or vaginal intercourse; and/or
 - (B) Sharing of injection equipment; and/or
 - (C) Donating or selling blood, blood products, body tissues, or semen; and
 - (iii) Activities described in subsection (2)(d)(i) and (ii) of this section resulting in introduction of blood, semen, and/or vaginal fluids to:
 - (A) Mucous membranes;
 - (B) Eyes;
 - (C) Open cuts, wounds, lesions; or
 - (D) Interruption of epidermis.
 - (e) "Confidential HIV testing" means that the name or identity of the individual tested for HIV will be recorded and linked to the HIV test result, and that the name of the individual testing positive for HIV will be reported to the state or local health officer in a private manner.
 - (f) "Exposure presenting possible risk" means one or more of the following:
 - (i) Introduction of blood, semen, or vaginal fluids into:
 - (A) A body orifice or a mucous membrane;
 - (B) The eye; or
 - (C) An open cut, wound, lesion, or other interruption of the epidermis.

(ii) A needle puncture or penetrating wound resulting in exposure to blood, semen, and/or vaginal fluids.

(g) "Reasonably believed" or "reason to believe," in reference to a sexually transmitted disease, means a health officer's belief which:

(i) For the purpose of investigating the source and spread of disease, is based upon a credible report from an identifiable individual indicating another person is likely to have a sexually transmitted disease (STD) or to have been exposed to a STD; and

(ii) For the purpose of issuing a written order for an individual to submit to examination, counseling, or treatment is based upon:

(A) Laboratory test results confirming or suggestive of a STD; or

(B) A health care provider's direct observation of clinical signs confirming an individual has or is likely to have a STD; or

(C) Obtaining information directly from an individual infected with a STD about the identity of his or her sexual or needle-sharing contacts when:

(I) Contact with the infected individual occurred during a period when the disease may have been infectious; and

(II) The contact was sufficient to transmit the disease; and

(III) The infected individual is, in the health officer's judgment, credible and believable.

(h) "Substantial exposure" means physical contact resulting in exposure presenting possible risk, limited to:

(i) A physical assault upon the exposed person involving blood or semen;

(ii) Intentional, unauthorized, nonconsensual use of needles or sharp implements to inject or mutilate the exposed person;

(iii) An accidental parenteral or mucous membrane or nonintact skin exposure to blood, semen, or vaginal fluids.

(3) Health care providers shall:

(a) Report each case of sexually transmitted disease as required in chapter 246-100 WAC, and

(b) Instruct each patient regarding:

(i) Communicability of the disease, and

(ii) Requirements to refrain from acts that may transmit the disease to another.

(c) Ensure completion of a prenatal serologic test for syphilis in each pregnant woman pursuant to RCW 70.24.090 including:

(i) Submission of a blood sample for syphilis to a laboratory approved to perform prenatal serologic tests for syphilis, as required in RCW 70.24.090, at the time of the first prenatal visit, and

(ii) Decide whether or not to omit the serologic test for syphilis if the test was performed elsewhere during the current pregnancy.

(4) Laboratories, health care providers, and other persons shall deny issuance of a certificate or statement implying an individual is free from sexually transmitted disease.

(5) Local health officers, health care providers, and others, in addition to requirements in chapter 246-100 WAC, shall comply with the provisions in chapter 70.24 RCW.

~~(6) Prevention of ophthalmia neonatorum.~~

~~(a) Health care providers diagnosing or caring for a patient with gonococcal or chlamydial ophthalmia neonatorum shall report the case to the local health officer or local health department in accordance with the provisions of this chapter.~~

~~(b) The principal health care provider attending or assisting in the birth of any infant or caring for an infant after birth, shall ensure instillation of a department approved prophylactic ophthalmic agent into the conjunctival sacs of the infant within the time frame established by the department in policy statement of ophthalmia agents approved for the prevention of ophthalmia neonatorum in the newborn, issued June 19, 1981.~~

~~(7) State and local health officers or their authorized representatives shall:~~

~~(a) Have authority to conduct or cause to be conducted an interview and investigation of persons infected or reasonably believed to be infected with a sexually transmitted disease; and~~

~~(b) Use procedures and measures described in WAC 246-100-036(4) in conducting investigations.~~

~~(8) State and local health officers and their authorized representatives shall have authority to:~~

~~(a) Issue written orders for medical examination, testing, and/or counseling under chapter 70.24 RCW, only after:~~

~~(i) All other efforts to protect public health have failed, including reasonable efforts to obtain the voluntary cooperation of the person to be affected by the order; and~~

~~(ii) Having sufficient evidence to "reasonably believe" the individual to be affected by the order:~~

~~(A) Has a sexually transmitted disease; and~~

~~(B) Is engaging in "conduct endangering public health"; and~~

~~(iii) Investigating and confirming the existence of "conduct endangering public health" by:~~

~~(A) Interviewing sources to assess their credibility and accuracy; and~~

~~(B) Interviewing the person to be affected by the order; and~~

~~(iv) Including in a written order all information required in RCW 70.24.024.~~

~~(b) Issue written orders for treatment under RCW 70.24.022 only after laboratory test results, or direct observation of clinical signs or assessment of clinical data by a physician, confirm the individual has, or is likely to have, a sexually transmitted disease;~~

~~(c) Issue written orders to cease and desist from specified activities, under RCW 70.24.024 only after:~~

~~(i) Determining the person to be affected by the order is engaging in "conduct endangering public health"; and~~

~~(ii) Laboratory test results, or direct observation of clinical signs or assessment of clinical data by a physician, confirm the individual has, or is likely to have, a sexually transmitted disease; and~~

~~(iii) Exhausting procedures described in subsection (8)(a) of this section; and~~

~~(iv) Enlisting, if appropriate, court enforcement of the orders described in subsection (8)(a) and (b) of this section; and~~

~~(d) Seek court orders for detainment under RCW 70.24.034, only for persons infected with HIV and only after:~~

~~(i) Exhausting procedures described in subsection (8)(a), (b), and (c) of this section; and~~

~~(ii) Enlisting, if appropriate, court enforcement of orders to cease and desist; and~~

~~(iii) Having sufficient evidence to "reasonably believe" the person is engaging in "behaviors presenting an imminent danger to public health."~~

~~(9) Conditions for detainment of individuals infected with sexually transmitted disease:~~

~~(a) A local health officer may notify the state health officer if he or she determines:~~

~~(i) The criteria for "behaviors presenting imminent danger to public health (BPID)" are met by an individual; and~~

~~(ii) Such individual fails to comply with a cease and desist order affirmed or issued by a court.~~

~~(b) A local or state health officer may request the prosecuting attorney to file an action in superior court to detain an individual specified in subsection (9)(a) of this section.~~

~~(c) The requesting local or state health officer or authorized representative shall:~~

~~(i) Notify the department prior to recommending the detainment setting where the individualized counseling and education plan may be carried out consistent with subsection (9)(d), (e), and (f) of this section;~~

~~(ii) Make a recommendation to the court for placement of such individual consistent with subsection (9)(d) and (f) of this section; and~~

~~(iii) Provide to the court an individualized plan for education and counseling consistent with subsection (9)(e) of this section.~~

~~(d) State board of health requirements for detainment of individuals demonstrating BPID:~~

~~(i) Sufficient number of staff, caregivers, and/or family members to:~~

~~(A) Provide round the clock supervision, safety of detainee, and security; and~~

~~(B) Limit and restrict activities to prevent BPID; and~~

~~(C) Make available any medical, psychological, or nursing care when needed; and~~

~~(D) Provide access to AIDS education and counseling; and~~

~~(E) Immediately notify the local or state health officer of unauthorized absence or elopement; and~~

~~(ii) Sufficient equipment and facilities to provide:~~

~~(A) Meals and nourishment to meet nutritional needs; and~~

~~(B) A sanitary toilet and lavatory; and~~

~~(C) A bathing facility; and~~

~~(D) Bed and clean bedding appropriate to size of detainee; and~~

~~(E) A safe detention setting appropriate to chronological and developmental age of detainee; and~~

~~(F) A private sleeping room; and~~

~~(G) Prevention of sexual exploitation.~~

~~(iii) Sufficient access to services and programs directed toward cessation of BPID and providing:~~

~~(A) Linguistically, socially, culturally, and developmentally appropriate ongoing AIDS education and counseling; and~~

~~(B) Psychological and psychiatric evaluation and counseling; and~~

~~(C) Implementation of court-ordered plan for individualized counseling and education consistent with subsection (9)(e) of this section.~~

~~(iv) If required, provide access to isolation and/or restraint in accordance with restraint and seclusion rules in WAC 275-55-263 (2)(e);~~

~~(v) Maintain a safe, secure environment free from harassment, physical danger, and sexual exploitation.~~

~~(e) Washington state board of health standards for an individualized counseling and education plan for a detainee include:~~

~~(i) Consideration of detainee's personal and environmental characteristics, culture, social group, developmental age, and language;~~

~~(ii) Identification of habitual and addictive behavior and relapse pattern;~~

~~(iii) Identification of unique risk factors and possible cross-addiction leading to behavior presenting imminent danger to public health;~~

~~(iv) Identification of obstacles to behavior change and determination of specific objectives for desired behavior;~~

~~(v) Provision of information about acquisition and transmission of HIV infection;~~

~~(vi) Teaching and training of individual coping skills to prevent relapse to BPID;~~

~~(vii) Specific counseling for chemical dependency, if required;~~

~~(viii) Identification of and assistance with access to community resources, including social services and self-help groups appropriate to provide ongoing support and maintenance of behavior change; and~~

~~(ix) Designation of a person primarily responsible for counseling and/or education who:~~

~~(A) Completed pretest and post-test counselor training approved by the office on AIDS; and~~

~~(B) Received training, as approved by the office on AIDS, focused on facilitating behavior change related to preventing BPID; and~~

~~(C) Has a post-graduate degree in social work, psychology, counseling, psychosocial nursing, or other allied profession; and~~

~~(D) Completed at least one year clinical experience after post-graduate education with a primary focus on individualized behavior change; and~~

~~(E) Is a certified counselor under chapter 18.19 RCW.~~

~~(x) Designation and provision of a qualified counselor under WAC 275-19-145 when the detainee is assessed to have a drug or alcohol problem.~~

~~(f) The state board of health designates the following settings appropriate for detainment provided a setting meets requirements in subsection (9)(d)(i), (ii), (iii), (iv), and (v) of this section:~~

~~(i) Homes, care facilities, or treatment institutions operated or contracted by the department;~~

~~(ii) Private homes, as recommended by the local or state health officer;~~

~~(iii) Boarding homes licensed under chapter 18.20 RCW;~~

~~(iv) Nursing homes licensed under chapter 18.51 RCW;~~

~~(v) Facilities licensed under chapter 71.12 RCW, including:~~

~~(A) Psychiatric hospitals, per chapter 246-322 WAC;~~

~~(B) Alcoholism treatment centers if certified for substance use under chapter 275-19 WAC;~~

~~(C) Adult residential rehabilitation centers, per chapter 246-325 WAC;~~

~~(D) Private adult treatment homes, per chapter 246-325 WAC;~~

~~(E) Residential treatment facilities for psychiatrically impaired children and youth, per chapter 246-323 WAC;~~

~~(vi) A hospital licensed under chapter 70.41 RCW.~~

~~(10) Jail administrators may order pretest counseling, post-test counseling, and HIV testing of persons detained in jail according to RCW 70.24.360 only under the following conditions:~~

~~(a) The jail administrator documents and reports to the local health officer, within seven days after the incident, any incident perceived to be actual or threatened "behaviors presenting possible risk"; and~~

~~(b) The local health officer:~~

~~(i) Determines the documented behavior or behaviors meet the criteria established in the definition of "behaviors presenting a possible risk"; and~~

~~(ii) Interviews the detained individual to evaluate the factual basis for alleged actual or threatened behavior; and~~

~~(iii) Makes a fact determination, based upon the documented behavior, the interview with the detained individual, and/or independent investigation, that sufficient factual evidence exists to support the allegation of actual or threatened "behaviors presenting possible risk"; and~~

~~(iv) Arranges for testing of the individual who is the source of the behavior to occur within seven days of the request from the jail administrator; and~~

~~(v) Reviews with the detained individual who is the source of the behavior the documentation of the actual or threatened behavior to try to assure understanding of the basis for HIV testing; and~~

~~(vi) Provides written approval of the jail administrator's order prior to HIV testing in accordance with subsection (7)(a)(i) of this section.~~

~~(e) The jail administrator maintains HIV test results and identity of the tested individual as a confidential, nondisclosable record, as provided in RCW 70.24.105.~~

~~(11) When an individual experiences a substantial exposure to another individual's body fluids and requests HIV testing of that other individual, the state and local health officers have authority to order pretest counseling, HIV testing, and post-test counseling of that other individual providing:~~

~~(a) The alleged exposure occurred when the individual was employed or acting as an authorized volunteer in one of the following employment categories:~~

~~(i) Law enforcement officer;~~

~~(ii) Firefighter;~~

~~(iii) Health care provider;~~

(iv) Staff of health care facilities;

(v) Funeral director;

(vi) Embalmer; and

(b) The alleged substantial exposure occurred on the job;

and

(e) The request to the health officer for testing and counseling of the individual was made within seven days of the occurrence of the alleged exposure; and

(d) The local health officer:

(i) Determines that the alleged exposure meets the criteria established in the definition of "substantial exposure"; and

(ii) Ensures that pretest counseling of the individual to be tested, or a legal representative, occurs; and

(iii) Arranges for testing of the individual who is the source of the exposure to occur within seven days of the request from the person exposed; and

(e) The exposed individual agrees to be tested for HIV if such testing is determined appropriate by the health officer; and

(f) Records on HIV testing ordered by a health officer are maintained only by the ordering health officer.

(12) For the purpose of RCW 49.60.172 concerning the absence of HIV infection as a bona fide occupational qualification only, "significant risk" means a job qualification which requires person-to-person contact likely to result in direct introduction of blood into the eye, an open cut or wound, or other interruption of the epidermis, when:

(a) No adequate barrier protection is practical; and

(b) Determined only on case-by-case basis consistent with RCW 49.60.180:)) Jail administrators, with the approval of the local public health officer, may order pretest counseling, HIV testing and post-test counseling of a jail detainee in accordance with RCW 70.24.360, provided that the local public health officer determines that the detainee's actual or threatened behavior presents a possible risk to the staff, general public, or other persons.

(1) Actual behaviors present a possible risk if they result in "exposure presenting a possible risk" and involve one of the following actions:

(a) Anal, oral, or vaginal intercourse excluding conjugal visits; or

(b) Physical assault; or

(c) Sharing of injection equipment or sharp implements;

or

(e) Throwing or smearing of blood, semen, or vaginal fluids; or

(2) Threatened behaviors present a "possible risk" if:

(a) The threatening individual states he or she is infected with HIV; and

(b) The threatened behavior is listed in subsection (1)(a), (b), (c), or (d) of this section; and

(c) The threatened behavior could result in "exposure presenting a possible risk."

(3) For purposes of subsections (1) and (2) of this section, "exposure presenting possible risk" means one or more of the following:

(a) Introduction of blood, semen, or vaginal fluids into:

(i) A body orifice or a mucous membrane;

(ii) The eye; or

(iii) An open cut, wound, lesion, or other interruption of the epidermis.

(b) A needle puncture or penetrating wound resulting in exposure to blood, semen, and/or vaginal fluids.

(4) Jail administrators may order pretest counseling, post-test counseling, and HIV testing only under the following conditions:

(a) The jail administrator documents and reports to the local health officer, within seven days after the incident, any incident perceived to be actual or threatened "behaviors presenting possible risk"; and

(b) The local health officer:

(i) Determines the documented behavior or behaviors meet the criteria established in this section for behaviors presenting a "possible risk"; and

(ii) Interviews the detained individual to evaluate the factual basis for alleged actual or threatened behavior; and

(iii) Makes a fact determination, based upon the documented behavior, the interview with the detained individual, and/or independent investigation, that sufficient factual evidence exists to support the allegation of actual or threatened "behaviors presenting possible risk"; and

(iv) Arranges for testing of the individual who is the source of the behavior to occur within seven days of the request from the jail administrator; and

(v) Reviews with the detained individual who is the source of the behavior the documentation of the actual or threatened behavior to try to assure understanding of the basis for HIV testing; and

(vi) Provides written approval of the jail administrator's order prior to HIV testing.

(c) The jail administrator maintains HIV test results and identity of the tested individual as a confidential, nondisclosable record, as provided in RCW 70.24.105.

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 02-12-106, filed 6/5/02, effective 7/6/02)

WAC 246-100-207 Human immunodeficiency virus (HIV) testing—Ordering—Laboratory screening—Interpretation—Reporting. (1) Any person ordering or prescribing an HIV test for another, except for seroprevalent studies under chapter 70.24 RCW or provided under subsections (2) and (3) of this section or provided under WAC 246-100-208(1), shall:

(a) Provide ((or refer for pretest counseling described under WAC 246-100-209)) a brief evaluation of both behavioral and clinical HIV risk factors; and

(b) Unless the person has been previously tested and declines receipt of information, provide verbal or written information that is culturally, linguistically, developmentally and, medically appropriate to the individual being tested regarding HIV including:

(i) The benefits of learning HIV status and the potential dangers of the disease; and

(ii) A description of ways in which HIV is transmitted and ways in which it can be prevented; and

(iii) The meaning of HIV test results and the importance of obtaining test results; and

(iv) As appropriate, the availability of anonymous HIV testing and the differences between anonymous testing and confidential testing; and

(c) Obtain or ensure verbal or written informed specific consent of the individual to be tested ((separate from other consents)) prior to ordering or prescribing an HIV test, unless excepted under provisions in chapter 70.24 RCW and document the consent of the individual being tested; and

~~((e) Inform, orally or in writing, the individual to be tested of the availability of anonymous HIV testing and of the differences between "anonymous HIV testing" and "confidential HIV testing"; and))~~

(d) Recommend and offer or refer for pretest counseling described under WAC 246-100-209 to any person requesting pretest counseling and to any person determined to be at increased risk for HIV as defined by Federal Centers for Disease Control and Prevention published in Revised Guidelines for HIV Counseling, Testing and Referral, November 9, 2001. The individual's decision to refuse pretest counseling is not grounds for denying HIV testing; and

(e) Provide or refer for other appropriate prevention, support or medical services, including Hepatitis services; and

(f) Provide or ((refer)) ensure successful completion of referral for post-test counseling described under WAC 246-100-209 if the HIV test is positive for or suggestive of HIV infection; and

(g) In the event that the individual tests positive, had a confidential test, and fails to return for post-test counseling, provide the name of the individual and locating information to the local health officer for follow-up to provide post-test counseling as required by WAC 246-100-209(2).

(2) Any person authorized to order or prescribe an HIV test for another may offer anonymous HIV testing without restriction.

(3) Blood banks, tissue banks, and others collecting or processing blood, sperm, tissues, or organs for transfusion/transplanting shall:

(a) Obtain or ensure informed specific consent of the individual prior to ordering or prescribing an HIV test, unless excepted under provisions in chapter 70.24 RCW;

(b) Explain that the reason for HIV testing is to prevent contamination of the blood supply, tissue, or organ bank donations;

(c) At the time of notification regarding a positive HIV test, provide or ensure at least one individual counseling session; and

(d) Inform the individual that the name of the individual testing positive for HIV infection will be confidentially reported to the state or local health officer.

(4) Persons subject to regulation under Title 48 RCW and requesting an insured, subscriber, or potential insured or subscriber to furnish the results of an HIV test for underwriting purposes, as a condition for obtaining or renewing coverage under an insurance contract, health care service contract, or health maintenance organization agreement shall:

(a) Before obtaining a specimen to perform an HIV test, provide written information to the individual tested explaining:

(i) What an HIV test is;

(ii) Behaviors placing a person at risk for HIV infection;

(iii) The purpose of HIV testing in this setting is to determine eligibility for coverage;

(iv) The potential risks of HIV testing; and

(v) Where to obtain HIV pretest counseling.

(b) Obtain informed specific written consent for an HIV test. The written informed consent shall include:

(i) An explanation of confidential treatment of test result reports limited to persons involved in handling or determining applications for coverage or claims for the applicant or claimant; and

(ii) That the name of the individual testing positive for HIV infection will be confidentially reported to the state or local health officer; and

(iii) Requirements under subsection (4)(c) of this section.

(c) Establish procedures to inform an applicant of the following:

(i) Post-test counseling specified under WAC 246-100-209((4))~~(2)~~ is required if an HIV test is positive or indeterminate;

(ii) Post-test counseling is done at the time any positive or indeterminate HIV test result is given to the tested individual;

(iii) The applicant is required to designate a health care provider or health care agency to whom positive or indeterminate HIV test results are to be provided for interpretation and post-test counseling; and

(iv) When an individual applicant does not identify a designated health care provider or health care agency and the applicant's HIV test results are positive or indeterminate, the insurer, health care service contractor, or health maintenance organization shall provide the test results to the state or local health department for interpretation and post-test counseling.

(5) Laboratories and other places where HIV testing is performed ~~((shall))~~ must demonstrate ~~((complete and satisfactory participation in an HIV proficiency testing program approved by the Department Laboratory Quality Assurance Section, Mailstop K17-9, 1610 N.E. 150th, Seattle, Washington 98155))~~ compliance with all of the requirements in the Medical test site rules, chapter 246-338 WAC.

(6) The department laboratory quality assurance section shall accept substitutions for EIA screening only as approved by the United States Food and Drug Administration (FDA) and a published list or other written FDA communication.

(7) Persons informing a tested individual of positive laboratory test results indicating HIV infection shall do so only when:

(a) ~~((HIV is isolated by viral culture technique; or~~

~~(b) HIV nucleic acid (RNA or DNA) is detected; or~~

~~(c) HIV is detected through a P24 antigen (neutralizable) test; or~~

~~(d) HIV antibodies are identified by a sequence of tests which are reactive and include:~~

~~(i) A repeatedly reactive screening test such as the enzyme immunoassay (EIA); and~~

~~(ii) An additional, more specific, assay such as a positive western blot assay (WBA) or other tests as approved by the~~

~~United States Food and Drug Administration (FDA) in a published list or other written FDA communication.~~

~~(e)) The test or sequence of tests has been approved by the United States Food and Drug Administration (FDA) or the Federal Centers for Disease Control and Prevention as a confirmed positive test result; and~~

~~(b) Such information consists of relevant, pertinent facts communicated in such a way that it will be readily understood by the recipient.~~

~~(8) Persons may inform a tested individual of the unconfirmed reactive results of an FDA-approved rapid HIV test provided the test result is interpreted as preliminarily positive for HIV antibodies, and the tested person is informed that:~~

~~(a) Further testing is necessary to confirm the reactive screening test result;~~

~~(b) The meaning of reactive screening test result is explained in simple terms, avoiding technical jargon;~~

~~(c) The importance of confirmatory testing is emphasized and a return visit for confirmatory test results is scheduled; and~~

~~(d) The importance of taking precautions to prevent transmitting infection to others while awaiting results of confirmatory testing is stressed.~~

AMENDATORY SECTION (Amending WSR 02-12-106, filed 6/5/02, effective 7/6/02)

WAC 246-100-208 Counseling standard—AIDS counseling. (1) Principal health care providers shall counsel or ensure AIDS counseling for each pregnant woman continuing the pregnancy. This subsection shall not apply when health care is sought in order to terminate a pregnancy or as a result of a terminated pregnancy. "AIDS counseling" for a pregnant woman means:

(a) Performing a risk screening that includes an assessment of sexual and drug use history as part of the intake process;

(b) Providing written or verbal information on HIV infection that at a minimum includes:

(i) All pregnant women are recommended to have an HIV test;

(ii) HIV is the cause of AIDS and how HIV is transmitted;

(iii) A woman may be at risk for HIV infection, and not know it;

(iv) The efficacy of treatments to reduce vertical transmission;

(v) The availability of anonymous testing, and why confidential testing is recommended for pregnant women;

(vi) The need to report HIV infection;

(vii) Public funds are available to assist eligible HIV-infected women receive medical care and other assistance; and

(viii) Women who decline testing will not be denied care for themselves or their infants;

(c) Obtaining the informed consent of the pregnant woman, separately or as part of the consent for a battery of other routine tests provided that the woman is specifically informed in writing or verbally that a test for HIV is included;

(d) Providing HIV testing unless the pregnant woman refuses to give consent;

(e) If the pregnant woman refuses a confidential test, discussing and addressing reasons for refusal and document in the medical record that refusal and the provision of education on the benefits of HIV testing;

(f) If the risk screening indicates, providing or referring for behavioral change counseling for women who:

(i) Have or recently have had a sexual partner(s) who is known to be HIV infected or is a man who has sex with another man or is an injection drug user;

(ii) Uses or recently have used injection drugs;

(iii) ~~((Has))~~ Have signs or symptoms of HIV seroconversion;

(iv) Currently have or ~~((has))~~ recently have exchanged sex for drugs or money or had a sexually transmitted disease or had multiple sex partners; or

(v) Express~~((es))~~ a need for further, more intensive counseling; and

(g) Basing the behavioral change counseling on the standards defined in WAC 246-100-209 and the recommendations of the federal Centers for Disease Control and Prevention published in *Revised Guidelines for HIV Counseling, Testing and Referral*, and *Revised Recommendations for HIV Screening of Pregnant Women, November 9, 2001*; and

(h) Offering referrals and providing follow-up to other necessary medical, social and HIV prevention services.

(2) Health care providers may obtain a sample brochure addressing the elements of subsection (1)(b) of this section by contacting the department of health's HIV prevention program at P.O. Box 47840, Olympia, WA 98504-7840.

(3) Principal health care providers shall counsel or ensure AIDS counseling as defined in WAC 246-100-011(2) and offer and encourage HIV testing for each patient seeking treatment of a sexually transmitted disease.

(4) Drug treatment programs under chapter 70.96A RCW shall provide or ensure provision of AIDS counseling as defined in WAC 246-100-011(2) for each person in a drug treatment program.

(5) Health care providers, persons, and organizations providing AIDS counseling in subsections (3) and (4) of this section shall:

(a) Assess the behaviors of each individual counseled for risk of acquiring and transmitting human immunodeficiency virus (HIV);

(b) Maintain a nonjudgmental environment during counseling which:

(i) Considers the individual's particular circumstances; and

(ii) Is culturally, ~~((socially,))~~ linguistically, and developmentally appropriate to the individual being counseled.

(c) Focus counseling on behaviors increasing the risk of HIV acquisition and transmission;

(d) Offer or refer for HIV testing and provide or ensure provision of personalized risk reduction education to individuals who~~((:~~

~~(i) Are men who had sex with other men at any time since 1977;~~

~~(ii) Used intravenous substances at any time since 1977;~~

- (iii) Engaged in sex for money or drugs at any time since 1977;
- (iv) Have had sexual and/or injection equipment sharing contact with persons listed in (d)(i), (ii), and (iii) of this subsection;
- (v) Have been exposed to or known to have had a sexually transmitted disease at any time since 1977;
- (vi) Are at increased risk of HIV infection by definition of United States Public Health Service, Centers for Disease Control and Prevention;
- (vii) Are enrolled in a drug treatment program under chapter 69.54 RCW; or
- (viii) Received multiple transfusions of blood, plasma, or blood products from 1977 to 1985.
- (e) Encourage individuals assessed to be at other than virtually no risk of HIV infection to:
- (i) Receive AIDS risk reduction counseling;
- (ii) Consider information about the nature, purpose, and potential ramifications of HIV testing;
- (iii) Receive pretest counseling;
- (iv) Consider confidential or anonymous voluntary HIV testing if appropriate and understand the differences between "anonymous HIV testing" and "confidential HIV testing"; and
- (v) "Virtually no risk of HIV infection" means persons with medical histories absent of and reporting none of the following factors:
- (A) Transfusion with blood or blood products at any time since 1977;
- (B) Residence at any time in countries where HIV is considered endemic since 1977;
- (C) Unprotected sex between men at any time since 1977;
- (D) Use of intravenous substances at any time since 1977, especially when sharing injection equipment;
- (E) Engagement in sex for money or drugs at any time since 1977;
- (F) Sexual and/or injection equipment sharing contacts at any time since 1977 with persons listed in (e)(v)(C), (D), and (E) of this subsection;
- (G) Exposure to a sexually transmitted disease; and
- (H) Increased risk of HIV infection by definition of United States Public Health Service, Centers for Disease Control and Prevention)) are determined to be at increased risk for HIV as defined by Federal Centers for Disease Control and Prevention published in Revised Guidelines for HIV Counseling, Testing and Referral, November 9, 2001.
- (6) Persons and organizations providing AIDS counseling may provide additional or more comprehensive counseling than required in this section.

AMENDATORY SECTION (Amending WSR 99-17-077, filed 8/13/99, effective 9/1/99)

WAC 246-100-209 Counseling standards—Human immunodeficiency virus (HIV) pretest counseling—HIV post-test counseling. (1) Health care providers and other persons providing pretest counseling shall(:

- (a)) assess the individual's risk of acquiring and transmitting HIV by evaluating information about the individual's possible risk-behaviors(;
- (b) Provide at least one individual counseling session prior to HIV testing;
- (c) Inform in writing or orally any individual planning to be tested for HIV that:
- (i) Anonymous HIV testing is available through the local health department, home testing kits, or may be available through other community sources, and explain the differences between "anonymous HIV testing" and "confidential HIV testing"; and
- (ii) If the test result is positive, sex and injection equipment sharing partners, including spouses must be notified that they:
- (A) May have been exposed to and infected with HIV; and
- (B) Should seek HIV pretest counseling and consider HIV testing; and
- (iii) The principal health care provider is required to refer identities of at risk partners to the local health officer or authorized representative if:
- (A) The HIV infected individual either refuses or is unable to notify partners of exposure, possible infection, and need for pretest counseling and HIV testing; or
- (B) The HIV infected individual neither accepts assistance nor agrees to referral to the local health officer or an authorized representative for assistance in notifying partners; and
- (iv) Unless HIV testing is anonymous, the principal health care provider is required to confidentially refer the identity of the individual testing positive to the local health officer or an authorized representative.
- (2) When an individual is assessed by a counselor or health care provider as "virtually no risk of HIV infection," as defined in WAC 246-100-208 (3)(e)(v) a counselor or the health care provider shall, in addition to subsection (1)(a) of this section:
- (a) Maintain a nonjudgmental environment during counseling which:
- (i) Considers the individual's particular circumstances; and
- (ii) Is culturally, socially, linguistically, and developmentally appropriate to the individual being counseled.
- (b) Explain the nature, purpose, value, and reason for the HIV tests;
- (c) In writing or orally, inform the individual to be tested that anonymous HIV testing is available through the local health department, home testing kits, or may be available through other community sources, and explain the differences between "anonymous HIV testing" and "confidential HIV testing;"
- (d) Explain the possible effect of HIV testing and a positive HIV test result related to employment, insurance, housing, and other potential legal, social, and personal consequences;
- (e) Develop and maintain a system of referral and make referrals that:
- (i) Are accessible and confidential for those counseled;
- (ii) Are acceptable to and supportive of those counseled;

(iii) Provide assistance to those counseled in maintaining risk reduction behaviors.

(f) Provide at least one individual counseling session at the time HIV test results are disclosed to individuals testing positive; and

(g) Maintain disclosure and confidentiality requirements in WAC 246-100-016.

(3) If the individual is assessed by a health care provider to be other than "virtually no risk of HIV infection," as defined in WAC 246-100-208 (3)(e)(v), the person providing pretest counseling shall maintain requirements in subsection (1) and (2) of this section and:

(a) Focus counseling on behaviors increasing the risk of HIV acquisition and transmission;

(b) Provide personalized risk reduction education to individuals who:

(i) Are men engaging in unprotected intercourse with other men at any time since 1977;

(ii) Used intravenous substances at any time since 1977, especially those sharing injection equipment;

(iii) Engaged in sex for money or drugs at any time since 1977;

(iv) Have had sexual and/or injection equipment-sharing contacts at any time since 1977 with persons listed in subsection (3)(b)(i), (ii), and (iii) of this section;

(v) Have been exposed to or diagnosed with a sexually transmitted disease;

(vi) Are at increased risk of HIV infection by definition of United States Public Health Services, Centers for Disease Control;

(vii) Are required by RCW 70.24.095 and 70.24.340 to receive HIV counseling and testing.

(e) Inform any individual planning to be tested for HIV of the need to notify sexual and injection equipment-sharing partners, including spouses, if test results are positive;

(d) Advise individuals listed in subsection (3)(b)(i), (ii), and (iii) of this section not to donate or sell blood, blood products, semen, organs, or other body tissues; and

(e) Emphasize or reemphasize the following counseling messages:

(i) The following will eliminate or decrease the risk of HIV infection:

(A) Sexual abstinence;

(B) A mutually monogamous relationship between uninfected people; and

(C) Following safer sex guidelines.

(ii) Do not share intravenous drugs and injection equipment;

(iii) Do not engage in behaviors in which blood, vaginal fluid, or semen is exchanged;

(iv) Condoms, even if used properly, do not supply absolute protection from HIV infection;

(v) Condoms may reduce risk of HIV infection if the condom is:

(A) Latex and used with a water-based lubricant rather than an oil-based lubricant, if a lubricant is used;

(B) Used in conjunction with spermicide during vaginal or anal intercourse; and

(C) Worn from start to finish of vaginal, oral, and anal intercourse.

(vi) Dental dams may reduce risk of HIV infection if the dental dam is:

(A) Latex; and

(B) Used from start to finish of oral intercourse.

(vii) The sexual behaviors having highest risk for HIV infection are those involving the exchange of blood or semen, especially receptive anal and vaginal intercourse;

(viii) Anal intercourse may increase the risk of condom failure and HIV infection;

(ix) Infected women should postpone pregnancy until more is known about how to prevent prenatal and perinatal transmission of HIV infection;

(x) Sexual negotiation skills can be learned to enhance risk reduction; and

(xi) Other sexually transmitted diseases, especially those causing genital ulcers, may increase the risk of acquiring or transmitting HIV infection.

(f) Make those counseled aware HIV retesting at a later date may be necessary or recommended)) and unique circumstances, and as appropriate;

(a) Base counseling on the recommendations of the Federal Centers for Disease Control and Prevention as published in the Revised Guidelines for HIV Counseling, November 2001; and

(b) Assist the individual to set a realistic behavior-change goal and establish strategies for reducing their risk of acquiring or transmitting HIV; and

(c) Provide appropriate risk reduction skills-building opportunities to support the behavior change goal; and

(d) Provide or refer for other appropriate prevention, support or medical services, including those services for other bloodborne pathogens.

((4)) (2) Health care providers and other persons providing post-test counseling shall:

(a) ((Follow)) For all individuals tested for HIV, offer at least one individual counseling session at the time HIV test results are disclosed consistent with the requirements in subsection (1) of this section; and

(b) ((Provide at least one individual counseling session at the time HIV test results are disclosed for individuals:

(i) Testing positive for HIV; or

(ii) Reporting practice of behaviors listed in (3)(b)(i), (ii), and (iii) of this section.

(e)) If the individual being counseled tested positive for HIV infection:

(i) Provide or arrange for at least one individual in-person counseling session consistent with the requirements in subsection (1) of this section;

(ii) Unless testing was anonymous, ((remind)) inform the individual that the identity of the individual testing positive for HIV infection will be confidentially reported to the state or local health officer;

((ii)) Provide assistance to persons in notifying partners, including spouses, and confirm those partners including spouses have been notified; and/or))

(iii) ((Seek agreement to refer the name of the individual to the local health officer for assistance in notifying partners; and/or)) Ensure compliance with the partner notification provisions contained in WAC 246-100-072, and inform the tested person of those requirements;

(iv) ~~((Offer to refer partners for counseling and testing; and~~

~~(v))~~ Develop or adopt a system to avoid documenting the names of referred partners in the permanent record of the individual being counseled; and

~~((vi))~~ (v) Offer referral for alcohol and drug and mental health counseling, including suicide prevention, if appropriate; and

~~((vii))~~ (vi) Provide or refer for medical evaluation including services for other bloodborne pathogens, antiretroviral treatment, HIV prevention and other support services; and

~~((viii))~~ (vii) Provide or refer for tuberculosis screening.

AMENDATORY SECTION (Amending WSR 03-06-003, filed 2/19/03, effective 2/19/03)

WAC 246-101-505 Duties of the local health officer or the local health department. Local health officers or the local health department shall:

(1) Review and determine appropriate action for:

(a) Each reported case or suspected case of a notifiable condition;

(b) Any disease or condition considered a threat to public health; and

(c) Each reported outbreak or suspected outbreak of disease, requesting assistance from the department in carrying out investigations when necessary;

(2) Establish a system at the local health department for maintaining confidentiality of written records and written and telephoned notifiable conditions case reports;

(3) Notify health care providers, laboratories, and health care facilities within the jurisdiction of the health department of requirements in this chapter;

(4) Notify the department of cases of any condition notifiable to the local health department (except animal bites) upon completion of the case investigation;

(5) Distribute appropriate notification forms to persons responsible for reporting;

(6) Notify the principal health care provider~~((~~

~~(a))~~, if possible, prior to initiating a case investigation by the local health department~~((; and~~

~~(b) For HIV infection, not contact the HIV-infected person directly without considering the recommendations of the principal health care provider on the necessity and best means for conducting the case investigation, unless:~~

~~(i) The principal health care provider cannot be identified; or~~

~~(ii) Reasonable efforts to reach the principal health care provider over a two-week period of time have failed;))~~

(7) Carry out the HIV partner notification requirements of WAC 246-100-072.

(8) Allow laboratories to contact the health care provider ordering the diagnostic test before initiating patient contact if requested and the delay is unlikely to jeopardize public health;

~~((8))~~ (9) Conduct investigations and institute control measures in accordance with chapter 246-100 WAC;

~~((9))~~ (10) The local health department may ~~((negotiate))~~ adopt alternate arrangements for meeting the reporting

requirements under this chapter through cooperative agreement between the local health department and any health care provider, laboratory or health care facility;

~~((10))~~ (11) Each local health officer has the authority to:

(a) Carry out additional steps determined to be necessary to verify a diagnosis reported by a health care provider;

(b) Require any person suspected of having a reportable disease or condition to submit to examinations required to determine the presence of the disease or condition;

(c) Investigate any case or suspected case of a reportable disease or condition or other illness, communicable or otherwise, if deemed necessary;

(d) Require the notification of additional conditions of public health importance occurring within the jurisdiction of the local health officer.

AMENDATORY SECTION (Amending WSR 00-23-120, filed 11/22/00, effective 12/23/00)

WAC 246-101-520 Special conditions—AIDS and HIV. (1) The local health officer and local health department personnel shall maintain individual case reports for AIDS and HIV as confidential records consistent with the requirements of this section. The local health officer and local health department personnel shall:

(a) Use identifying information on HIV-infected individuals only:

(i) For purposes of contacting the HIV-positive individual to provide test results and post-test counseling; or

(ii) To contact persons who have experienced substantial exposure, including sex and injection equipment-sharing partners, and spouses; or

(iii) To link with other name-based public health disease registries when doing so will improve ability to provide needed care services and counseling and disease prevention;

or

(iv) As specified in WAC 246-100-072.

(b) Destroy case report identifying information on asymptomatic HIV-infected individuals received as a result of this chapter within three months of receiving a complete case report.

(c) Destroy documentation of referral information established in WAC 246-100-072 and this subsection containing identities and identifying information on HIV-infected individuals and at-risk partners of those individuals immediately after notifying partners or within three months, whichever occurs first unless such documentation is being used in an investigation of conduct endangering the public health or of behaviors presenting an imminent danger to the public health pursuant to RCW 70.24.022 or 70.24.024.

(d) Not disclose identifying information received as a result of this chapter unless:

(i) Explicitly and specifically required to do so by state or federal law; or

(ii) Authorized by written patient consent.

(2) Local health department personnel are authorized to use HIV identifying information obtained as a result of this chapter only for the following purposes:

(a) Notification of persons with substantial exposure, including sexual or syringe-sharing partners;

(b) Referral of the infected individual to social and health services; ~~((and))~~

(c) Linkage to other public health data bases, provided that the identity or identifying information on the HIV-infected person is not disclosed outside of the health department; ~~and~~

(d) Investigations pursuant to RCW 70.24.022 or 70.24.-024.

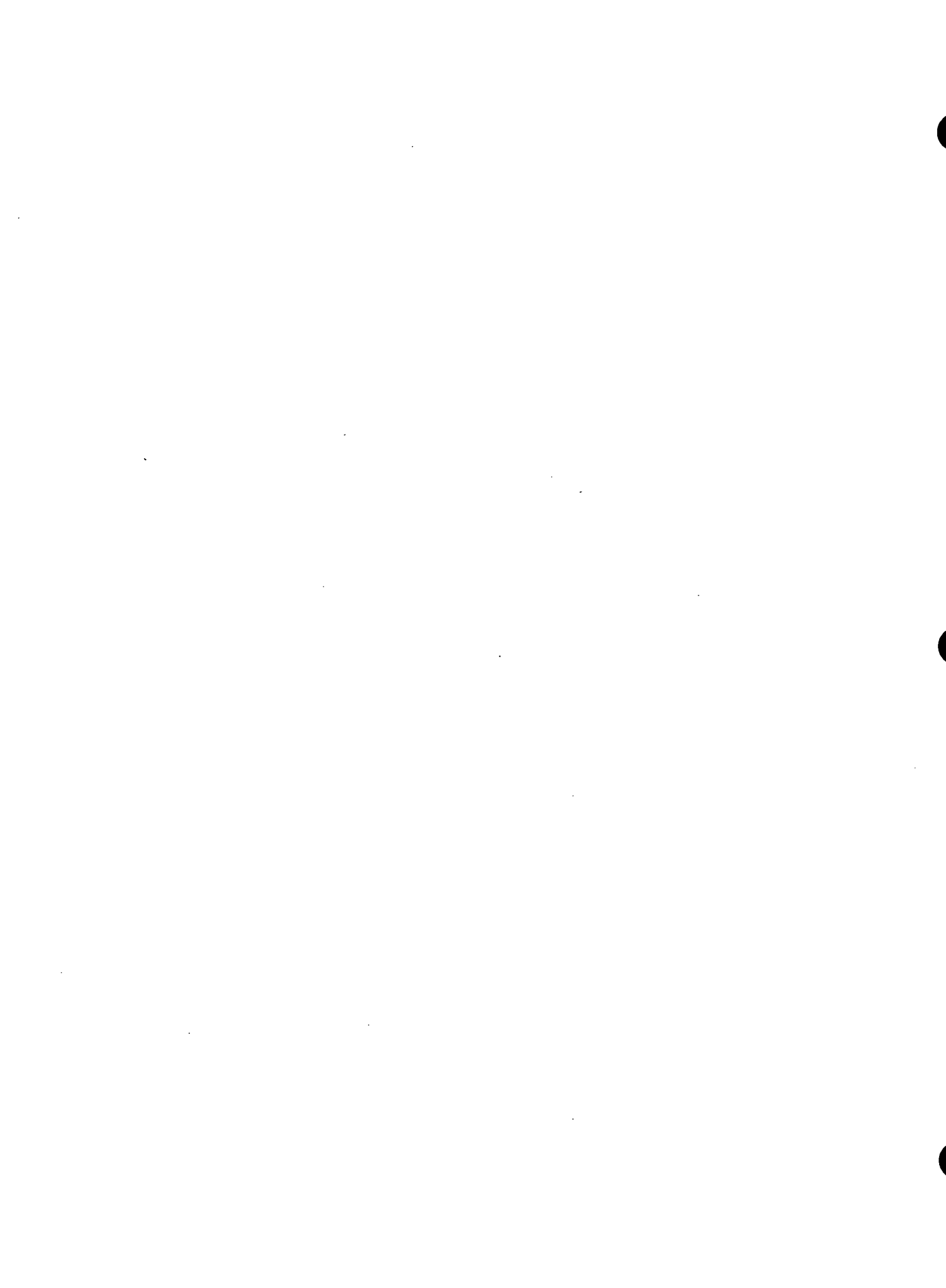
(3) Public health data bases do not include health professions licensing records, certifications or registries, teacher certification lists, other employment rolls or registries, or data bases maintained by law enforcement officials.

(4) Local health officials will report asymptomatic HIV infection cases to the state health department according to a standard code developed by the state health department.

(5) Local health officers shall require and maintain signed confidentiality agreements with all health department employees with access to HIV identifying information. These agreements will be renewed at least annually and include reference to criminal and civil penalties for violation of chapter 70.24 RCW and other administrative actions that may be taken by the department.

(6) Local health officers shall investigate potential breaches of the confidentiality of HIV identifying information by health department employees. All breaches of confidentiality shall be reported to the state health officer or their designee for review and appropriate action.

PROPOSED



WSR 05-06-045
EXPEDITED RULES
HEALTH CARE
FACILITIES AUTHORITY
 [Filed February 28, 2005, 10:56 a.m.]

Title of Rule and Other Identifying Information: Conforming the authority WAC to the authority statute regarding signatures on bonds, notes and coupons issued by the authority.

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 John H. Van Gorkom, Executive Director, Washington Health Care Facilities Authority, 410 11th Avenue S.E., Olympia, WA 98504, AND RECEIVED BY May 2, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rule change is to bring WAC 247-02-050(7) into conformance with RCW 70.37.050.

RCW 70.37.050 in pertinent part states: "Such bonds shall be executed by the chairman, by either its duly elected secretary or its executive director, and by the trustee if the authority determines to utilize a trustee for the bonds. Execution of the bonds may be by manual or facsimile signature: PROVIDED, That at least on signature placed thereon shall be manually subscribed. Any interest coupons appurtenant to the bonds shall be executed by facsimile or manual signature or signatures, as the authority shall determine."

WAC 247-02-050 states in pertinent part: "All bonds and coupons shall bear the facsimile signatures of the governor and executive director."

Therefore, the WAC needs to be changed to reflect the statutory language to assure conformity.

Statutory Authority for Adoption: Motion of board on Washington Health Care Facilities Authority, February 17, 2005.

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

Name of Proponent: Washington Health Care Facilities Authority, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John H. Van Gorkom, Olympia, Washington, (360) 753-6185.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The authority requests the change to bring the agency WAC into conformance with the agency statute.

February 28, 2005

John H. Van Gorkom
 Executive Director

AMENDATORY SECTION (Amending WSR 82-19-064 (Order 12), filed 9/20/82)

WAC 247-02-050 Operations and procedures. (1) Uniform procedure rules: Practice and procedure in and before the authority are governed by the uniform procedural rules codified in the Washington Administrative Code, **WAC 1-08-005** through **1-08-590**, as now or hereafter amended, which rules the authority adopts as its own, subject to any additional rules the authority may add from time to time. The authority reserves the right to make whatever determination is fair and equitable should any question not covered by its rules come before the authority, said determination to be in accordance with the spirit and intent of the law.

(2) Authority meetings: The meetings of the authority shall all be "special meetings" as that designation is applied in chapter 42.30 RCW. They may be called at any time and place by the chairman or a majority of the members of the authority. At least ten days' notice of all special meetings shall be given by delivering personally or by mail to each member a written notice specifying the time and place of the meeting and a copy of the agenda prepared by the executive director in consultation with the chairman, and by giving such notice to the public as may be required by law. If an emergency is deemed to exist, the chairman may shorten the notice period to not less than twenty-four hours. An executive session may be called by the chairman or by a majority of all members of the authority to consider the appointment, employment or dismissal of an officer or employee, and such other matters as are permitted by RCW 42.30.110.

(3) Quorum: Three members shall constitute a quorum, and the act of a majority of the members present at any meeting, if there is a quorum, shall be deemed the act of the authority except as specified hereafter in **WAC 247-02-050(7)**.

(4) Chairman's voting rights: The chairman shall have the right to vote on all matters before the authority, just as any other authority member.

(5) Minutes of meetings: Minutes shall be kept of the proceedings of the authority.

(6) Rules of order: The authority shall generally follow *Robert's Rules of Order*, newly revised, in conducting its business meetings.

(7) Form of authority action: The authority may act on the basis of a motion except when authorizing issuance of bonds pursuant to **WAC 247-16-070** and when otherwise taking official and formal action with respect to the creation of special funds and the issuance and sale of bonds for a project of a participant, in which case the authority shall act by resolution. Such resolutions shall be adopted upon the affirmative vote of a majority of the members of the authority and shall be signed by a majority of the members of the authority. Motions shall be adopted upon the affirmative vote of a majority of a quorum of members present at any meeting. ~~All bonds and coupons shall bear the facsimile signatures of the governor and executive director.~~ **All bonds shall be executed in the manner provided in RCW 70.37.050.**

(8) Public participation in the meetings of the authority shall be as follows:

(a) Any person or organization wishing to make a formal presentation at a regularly scheduled meeting of the authority

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shall so notify the executive director in writing at least forty-eight hours prior to the time of the meeting.

(i) Such notification shall contain the name of the person, association, corporation or organization that desires to make a presentation; the address of such person and, if applicable, the address of the entity to be represented in the presentation; and the topic to be presented or discussed.

(ii) Permission to make a presentation to the authority shall be granted by the executive director as authorized by the authority.

(iii) Confirmation of permission to make a presentation to the authority shall be made, if at all possible, by the authority staff prior to the meeting of the authority and shall include the date and time of the meeting and time set for the formal presentation.

(b) The chairman of the authority shall have the discretion to recognize anyone in the audience who indicates in writing at the time of the meeting a desire to speak at such meeting, provided that remarks by any individual person shall be limited to five minutes unless a time extension is granted by the chairman.

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.

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 05-06-067
EXPEDITED RULES
OFFICE OF
FINANCIAL MANAGEMENT**

[Filed March 1, 2005, 3:10 p.m.]

Title of Rule and Other Identifying Information: WAC 82-50-021 Official state lagged semi-monthly pay dates established.

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 Roselyn Marcus, Office of Financial Management (OFM), P.O. Box 43113, Olympia, WA 98504-3113, AND RECEIVED BY May 2, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 82-50-021, publishes the official lagged, semi-monthly pay dates for state officers and employees. This WAC, which provides pay dates for the current and ensuing calendar years, is amended each year to add pay dates for the ensuing year and delete the pay dates for the previous year. The purpose of this filing is to establish official pay dates for state officers and

employees for calendar year 2006 and delete the obsolete pay dates for calendar year 2004.

Reasons Supporting Proposal: The statute requires that OFM annually update and publish state pay dates.

Statutory Authority for Adoption: RCW 42.16.010(1) and 42.16.017.

Statute Being Implemented: RCW 42.16.010(1) and 42.16.017.

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: Steve Nielson, 6639 Capitol Boulevard, Tumwater, (360) 664-7681; Implementation and Enforcement: Wendy Jarrett, 6639 Capitol Boulevard, Tumwater, (360) 664-7675.

March 1, 2005
Roselyn Marcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-15-006, filed 7/7/04, effective 8/7/04)

WAC 82-50-021 Official lagged, semimonthly pay dates established. Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1). The following are the official lagged, semimonthly pay dates for calendar years ((2004 and)) 2005 and 2006:

((CALENDAR YEAR 2004	CALENDAR YEAR 2005
Friday, January 9, 2004	Monday, January 10, 2005
Monday, January 26, 2004	Tuesday, January 25, 2005
Tuesday, February 10, 2004	Thursday, February 10, 2005
Wednesday, February 25, 2004	Friday, February 25, 2005
Wednesday, March 10, 2004	Thursday, March 10, 2005
Thursday, March 25, 2004	Friday, March 25, 2005
Friday, April 9, 2004	Monday, April 11, 2005
Monday, April 26, 2004	Monday, April 25, 2005
Monday, May 10, 2004	Tuesday, May 10, 2005
Tuesday, May 25, 2004	Wednesday, May 25, 2005
Thursday, June 10, 2004	Friday, June 10, 2005
Friday, June 25, 2004	Friday, June 24, 2005
Friday, July 9, 2004	Monday, July 11, 2005
Monday, July 26, 2004	Monday, July 25, 2005
Tuesday, August 10, 2004	Wednesday, August 10, 2005
Wednesday, August 25, 2004	Thursday, August 25, 2005
Friday, September 10, 2004	Friday, September 9, 2005
Friday, September 24, 2004	Monday, September 26, 2005
Friday, October 8, 2004	Friday, October 7, 2005
Monday, October 25, 2004	Tuesday, October 25, 2005
Wednesday, November 10, 2004	Thursday, November 10, 2005
Wednesday, November 24, 2004	Wednesday, November 23, 2005
Friday, December 10, 2004	Friday, December 9, 2005
Thursday, December 23, 2004	Friday, December 23, 2005))

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CALENDAR YEAR 2005

Monday, January 10, 2005
Tuesday, January 25, 2005
Thursday, February 10, 2005
Friday, February 25, 2005
Thursday, March 10, 2005
Friday, March 25, 2005
Monday, April 11, 2005
Monday, April 25, 2005
Tuesday, May 10, 2005
Wednesday, May 25, 2005
Friday, June 10, 2005
Friday, June 24, 2005
Monday, July 11, 2005
Monday, July 25, 2005
Wednesday, August 10, 2005
Thursday, August 25, 2005
Friday, September 9, 2005
Monday, September 26, 2005
Friday, October 7, 2005
Tuesday, October 25, 2005
Thursday, November 10, 2005
Wednesday, November 23, 2005
Friday, December 9, 2005
Friday, December 23, 2005

CALENDAR YEAR 2006

Tuesday, January 10, 2006
Wednesday, January 25, 2006
Friday, February 10, 2006
Friday, February 24, 2006
Friday, March 10, 2006
Friday, March 24, 2006
Monday, April 10, 2006
Tuesday, April 25, 2006
Wednesday, May 10, 2006
Thursday, May 25, 2006
Friday, June 9, 2006
Monday, June 26, 2006
Monday, July 10, 2006
Tuesday, July 25, 2006
Thursday, August 10, 2006
Friday, August 25, 2006
Monday, September 11, 2006
Monday, September 25, 2006
Tuesday, October 10, 2006
Wednesday, October 25, 2006
Thursday, November 9, 2006
Wednesday, November 22, 2006
Monday, December 11, 2006
Friday, December 22, 2006

WSR 05-06-095**EXPEDITED RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed March 1, 2005, 4:24 p.m.]

Title of Rule and Other Identifying Information: WAC 388-530-1280 Preferred drug list(s).

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 Rules Coordinator, Department of Social and Health Services, P.O. Box 45850, Olympia, WA 98504-5850, AND RECEIVED BY 5:00 p.m., on May 2, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To correct a typographical error in a cross-reference. The introduction to WAC 388-530-1280 refers to RCW 69.41.090; the correct reference is RCW 69.41.190.

Reasons Supporting Proposal: To ensure the correct cross-reference is cited. RCW 34.05.353 (1)(c) allows using

the expedited rule-making process to correct typographical errors.

Statutory Authority for Adoption: RCW 74.08.090, 70.14.050, 69.41.190.

Statute Being Implemented: RCW 69.41.190.

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, P.O. Box 45503, 925 Plum Street S.E., Olympia, WA 98504, (360) 725-1345; Implementation and Enforcement: Siri Childs, P.O. Box 45506, 805 Plum Street S.E., Olympia, WA 98504, (360) 725-1564.

February 25, 2005

Andy Fernando, Manager

Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 05-02-044, filed 12/30/04, effective 1/30/05)

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)) 69.41.191 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.

(e) 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.

WSR 05-06-099**EXPEDITED RULES****DEPARTMENT OF AGRICULTURE**

[Filed March 2, 2005, 9:34 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-448 WAC, Standards for potatoes.

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 George Huffman, Rules Coordinator, Washington Department of Agriculture, Administrative Regulations Program, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY May 2, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 34.05.353 (2)(d) allows the Washington State Department of Agriculture to file notice for the expedited repeal of rules if "other rules of the agency or another agency govern the same activity as the rule, making the rule redundant." Chapter 16-448 WAC, Standards for potatoes, is antiquated and no longer necessary because the Washington potato industry adheres to the grades and standards established by the United States Department of Agriculture (USDA). Repealing chapter 16-448 WAC will reduce confusion within the regulated industry and allow the department to comply with Executive Order 97-02, which directs the department to repeal all rules that are no longer needed.

Reasons Supporting Proposal: Chapter 16-448 WAC is outdated and no longer followed by industry. It has been supplanted by USDA grades and standards for potatoes and is, therefore, redundant. This proposal to repeal chapter 16-448 WAC is a result of the department's ongoing rule review effort under Executive Order 97-02. Failure to repeal chapter 16-448 WAC could lead to confusion within the potato industry and contradicts the spirit of the executive order.

Statutory Authority for Adoption: RCW 15.17.030, 15.17.050, and 34.05.353.

Statute Being Implemented: Chapter 15.17 RCW.

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

Name of Proponent: Washington State Department of Agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Quigley, Olympia, Washington, (360) 902-1833.

March 2, 2005
Robert W. Gore
Assistant Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 16-448-130	Promulgation.
WAC 16-448-135	Applicability.
WAC 16-448-140	Washington No. 1 grade.
WAC 16-448-145	Washington commercial.
WAC 16-448-150	Washington No. 2.
WAC 16-448-155	Culls.
WAC 16-448-160	Size.
WAC 16-448-165	Tolerances.
WAC 16-448-170	Application of tolerances.
WAC 16-448-175	Samples for grade and size determination.
WAC 16-448-180	Skinning.
WAC 16-448-185	Definitions.
WAC 16-448-190	Marking requirements.
WAC 16-448-195	Forbidden practices.
WAC 16-448-200	Effective date.

WSR 05-06-100**EXPEDITED RULES****DEPARTMENT OF AGRICULTURE**

[Filed March 2, 2005, 9:35 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-404 WAC, Standards for summer apples marketed within Washington.

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 George Huffman, Rules Coordinator, Washington Department of Agriculture, Administrative Regulations Program, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY May 2, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 34.05.353 (2)(d) allows the Washington State Department of Agriculture to file notice for the expedited repeal of rules if "other rules of the agency or another agency govern the same activity as the rule, making the rule redundant." Chapter 16-404

WAC, Standards for summer apples marketed within Washington, is antiquated and no longer necessary because standards for all apples marketed within Washington are contained in chapter 16-403 WAC, Standards for apples marketed within the state of Washington. Repealing chapter 16-404 WAC will reduce confusion within the regulated industry and allow the department to comply with Executive Order 97-02, which directs the department to repeal all rules that are no longer needed.

Reasons Supporting Proposal: Chapter 16-404 WAC is outdated and no longer followed by industry. It has been supplanted by chapter 16-403 WAC and is, therefore, redundant. This proposal to repeal chapter 16-404 WAC is a result of the department's ongoing rule review effort under Executive Order 97-02. Failure to repeal chapter 16-404 WAC could lead to confusion within the apple industry and contradicts the spirit of the executive order.

Statutory Authority for Adoption: RCW 15.17.030, 15.17.050, and 34.05.353.

Statute Being Implemented: Chapter 15.17 RCW.

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

Name of Proponent: Washington State Department of Agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Quigley, Olympia, Washington, (360) 902-1833.

March 2, 2005
Robert W. Gore
Assistant Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 16-404-001 Promulgation.
- WAC 16-404-010 Definitions.
- WAC 16-404-020 Grades—Washington extra fancy apples.
- WAC 16-404-030 Grades—Washington summer fancy apples.
- WAC 16-404-040 Grades—Color percentages.
- WAC 16-404-050 Marking requirements.
- WAC 16-404-060 Tray packs.
- WAC 16-404-070 Exceptions.

WSR 05-06-101
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE
[Filed March 2, 2005, 9:36 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-445 WAC, Standards for Italian prunes.

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 George Huffman, Rules Coordinator, Washington Department of Agriculture, Administrative Regulations Program, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY May 2, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 34.05.353 (1)(c) allows the Washington State Department of Agriculture (WSDA) to file notice for the expedited adoption of rules if "the proposed rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect." The WSDA has rewritten, reformatted and reorganized chapter 16-445 WAC, Standards for Italian prunes, in a clear and readable format so the rule is easier to understand and use. **No new requirements are included in the rewritten chapter 16-445 WAC.**

CURRENT RULE SECTIONS	PROPOSED RULE SECTIONS	ACTION and COMMENT
WAC 16-445-001 Promulgation.		REPEALED SECTION This section was repealed but it is unnecessary and represents an outdated method of rule writing.
WAC 16-445-080 Definition of terms.		REPEALED SECTION This section was repealed but its content was rewritten, reformatted and renumbered as WAC 16-445-015.
	WAC 16-445-015 What definitions are important to this chapter?	NEW SECTION This is considered a new section because the department renumbered WAC 16-445-080. WAC 16-445-015 is written in a "question and answer" format, the definitions are arranged alphabetically, a definition for "department" has been added and some definitions like "damage" and "serious damage", because of their length, have been moved to a separate section.

EXPEDITED

EXPEDITED

CURRENT RULE SECTIONS	PROPOSED RULE SECTIONS	ACTION and COMMENT
	WAC 16-445-025 What does "damage" and "serious damage" mean?	NEW SECTION Because the definitions for "damage" and "serious damage" are so long, they have been moved to a separate section to make them easier to understand. Also, to improve clarity, they have been presented in a tabular format. There are no new requirements.
WAC 16-445-040 Washington No. 1 grade and tolerances.	WAC 16-445-040 What is a "Washington No. 1 grade" Italian prune?	AMENDED SECTION that was rewritten for clarity by separating grade and tolerance requirements. Tolerance content was moved to a new section, WAC 16-445-045. There are no new requirements.
	WAC 16-445-045 What tolerances apply to Italian prune?	NEW SECTION To improve clarity, tolerance requirements were put into a separate WAC section and presented in a tabular format. The content is the same as what was contained in the old WAC 16-445-040. There are no new requirements.
WAC 16-445-050 Culls.		REPEALED SECTION This section was repealed but its content was moved to the definition section (WAC 16-445-015).
WAC 16-445-060 Application of tolerances.	WAC 16-445-060 How does the department apply its Italian prunes tolerances during an inspection?	AMENDED SECTION by rewriting the section title in the form of a question and rewriting the section content to improve its clarity and understanding. There are no changes in requirements.
WAC 16-445-070 Standard pack.	WAC 16-445-070 What are the "standard pack" requirements for Italian prunes?	AMENDED SECTION by rewriting the section title in the form of a question and rewriting the section content to improve clarity. There are no changes in requirements except old, outdated requirements

CURRENT RULE SECTIONS	PROPOSED RULE SECTIONS	ACTION and COMMENT
		have been deleted. The rewritten section reflects current industry practices.
WAC 16-445-090 Effective date.		REPEALED SECTION This section was repealed but it is unnecessary and represents an outdated method of rule writing.

Reasons Supporting Proposal: The department believes that the rewritten chapter 16-445 WAC is easier to understand and use and should be a benefit to department inspectors and the Washington state Italian prune industry. The rewritten chapter 16-445 WAC is a result of the department's ongoing Executive Order 97-02 rule review effort and complies with the executive order's "clarity criteria."

Statutory Authority for Adoption: RCW 15.17.030, 15.17.050, and 34.05.353.

Statute Being Implemented: Chapter 15.17 RCW.

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

Name of Proponent: Washington State Department of Agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Quigley, Olympia, Washington, (360) 902-1833.

March 2, 2005
Robert W. Gore
Assistant Director

Chapter 16-445 WAC

WASHINGTON STANDARDS FOR ITALIAN PRUNES

NEW SECTION

WAC 16-445-015 What definitions are important to this chapter? The following definitions are important to this chapter and apply only to Italian prunes:

"Badly misshapen" means prunes so malformed or rough that they appear to be seriously damaged. Doubles that have approximately equal sized halves are not considered "badly misshapen."

"Culls" mean prunes that are immature, or seriously damaged by growth cracks, hail, insect pests, mechanical or other means.

"Department" means the Washington state department of agriculture.

"Diameter" means the greatest distance measured through the center of a prune at right angles to a line running from the stem to the blossom end.

"Fairly uniform size" means that the prunes in each packed container must not show a variation of more than one-fourth of an inch in diameter.

"Fairly well colored" means that at least three-fourths of the surface of a prune is purple color.

"Mature" means that a prune has reached the stage of maturity that will insure proper completion of the ripening process.

"Sunscald" means an apparent softening or collapse of a prune's flesh that is caused by the sun.

"Well colored" means that except for the portion of allowed russeting, ninety-five percent of the surface of a prune is purple color.

"Well-formed" means that a prune has the shape characteristic of the variety. Doubles are not considered well-formed.

NEW SECTION

WAC 16-445-025 What does "damage" and "serious damage" mean? The following table explains the differences between "damage" and "serious damage" as the terms apply to Italian prunes:

"Damage" means:	"Serious damage" means:
(1) Any injury or defect that materially affects the prune's appearance, or its edible or shipping quality.	(1) Any injury or defect that seriously affects the prune's appearance, or its edible or shipping quality.
Note: Internal growth cracks, cavities or gum spots are not considered damage.	
(2) Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, is "damage":	(2) Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, is "serious damage":
(a) Broken skins that are unhealed.	(a) Broken skins that are unhealed and more than one-eighth inch in diameter or depth.
Note:	Note:
<ul style="list-style-type: none"> Broken skins caused by pulled stems where the skin is not torn beyond the stem basin are not damage. Broken skins that have healed are considered scars. 	<ul style="list-style-type: none"> Broken skins caused by pulled stems where the skin is not torn beyond the stem basin are not serious damage. Broken skins that have healed are considered scars.
(b) Heat injury that is extensive or not light in color.	(b) Heat injury that causes any softening or dark discoloration of the flesh.
	Note:
	<ul style="list-style-type: none"> Heat injury may cause internal or external discoloration, and may or may not be serious.

"Damage" means:	"Serious damage" means:
	<ul style="list-style-type: none"> Heat injury should not be confused with sunscald, which causes softening or collapse of the tissue, and which is always classed as serious damage.
(c) External growth cracks , when:	(c) External growth cracks that are:
<ul style="list-style-type: none"> There are more than one on a prune; or One is deep; or One is not well healed; or One is more than 1/4 inch in length. 	<ul style="list-style-type: none"> Not well healed; or More than 3/16 inch in depth; or More than 1/2 inch in length.
(d) Sunburn that has:	(d) Sunburn that causes:
<ul style="list-style-type: none"> Materially changed the normal color of a prune; or Caused the skin to blister or crack. 	<ul style="list-style-type: none"> Decided flattening of a prune; or Blistering, cracking, or noticeable brownish discoloration of the skin.
(e) Split pit that:	(e) Split pit that:
<ul style="list-style-type: none"> Causes a readily apparent crack at the stem end; or Affects a prune's shape so it is not well-formed. 	<ul style="list-style-type: none"> Causes a crack at the stem end more than 3/16 inch in length, including any part that may be covered by the stem; or Affects the shape to the extent that the fruit is badly misshapen.
(f) Hail marks , or other similar depressions or scars that:	(f) Hail marks that:
<ul style="list-style-type: none"> Are not shallow or superficial; or Total more than 3/8 inch in diameter; or Break the skin. 	<ul style="list-style-type: none"> Are more than 3/16 inch deep; or Total more than 1/2 inch in diameter.
(g) Drought spots or external gum spots that are more than 1/4 inch in diameter.	(g) Drought spots or external gum spots that total more than 1/2 inch in diameter.

EXPEDITED

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<p>"Damage" means:</p> <p>(h) Russeting that is:</p> <ul style="list-style-type: none"> • Not excessively rough but totals more than 1/10 of a prune's surface; or • Excessively rough and totals more than 1/4 inch in diameter. <p>(i) Scars:</p> <ul style="list-style-type: none"> • Dark, rough or depressed scars totaling more than 1/4 inch in diameter. • Fairly smooth, superficial scars that total more than 1/2 inch in diameter. An example is fairly light discoloration such as that caused by handling or packing or by prunes rubbing against each other while on the tree. • Thorn and limb scratches that are not well healed, or that total more than 1/2 inch in length. 	<p>"Serious damage" means:</p> <p>(h) Russeting that is:</p> <ul style="list-style-type: none"> • Not excessively rough but totals more than 1/3 of a prune's surface; or • Excessively rough and totals more than 1/2 inch in diameter. <p>(i) Scars that are:</p> <ul style="list-style-type: none"> • Very dark or excessively rough and total more than 1/2 inch in diameter; or • More than 3/16 inches deep.
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percent may be allowed for decay. In addition, not more than ten percent, by count, in any container may not meet the color requirements and not more than ten percent, by count, may not meet the size specifications, but the combined tolerance for all defects shall not exceed fifteen percent.

(b) ~~At destination or en route:~~ Not more than a total of eighteen percent of the prunes in any container may not meet the requirements of this grade and not more than the following percentages shall be allowed for the defects listed:

~~Ten percent which fail to meet the color requirement;~~
~~Ten percent which fail to meet the minimum size requirement;~~

~~Ten percent which fail to meet the requirements of the grade because of other permanent defects;~~

~~Seven percent for defects causing serious damage, including therein not more than five percent for serious damage by permanent defects and not more than two percent decay.)~~ To be labeled "Washington No. 1 grade," Italian prunes must be:

- (1) Of one variety;
- (2) A purplish color over at least 2/3 of their surface;
- (3) Well-formed;
- (4) At least 1-1/4 inches in diameter unless otherwise specified;
- (5) Mature but not overripe, soft or shriveled;
- (6) Free from decay and sunscald; and
- (7) Free from damage caused by:
 - (a) Broken skins;
 - (b) Heat injury;
 - (c) Growth cracks;
 - (d) Sunburn;
 - (e) Split pits;
 - (f) Hail marks;
 - (g) Drought spots;
 - (h) Russeting;
 - (i) Scars; or
 - (j) Dirt, other foreign material, disease, insects or mechanical or other means.

AMENDATORY SECTION (Amending Order 1549, filed 3/31/78)

WAC 16-445-040 What is a "Washington No. 1 grade (and tolerances.)" Italian prune? ~~((1) Defined.~~ Washington No. 1 grade shall consist of prunes of one variety which are well formed (1), mature (2) but not overripe, soft or shriveled, and which are free from decay and sunscald (3), and from damage (4) caused by broken skins (4a), heat injury (4b), growth cracks (4c), sunburn (4d), split pits (4e), hail marks (4f), drought spots (4g), russeting (4h), scars (4i), dirt or other foreign material, disease, insects or mechanical or other means. Italian type prunes shall have two thirds of the surface with purplish color characteristic of the particular area where grown, and unless otherwise specified, the minimum size of such prunes shall be not less than 1-1/4 inches in diameter (7).

(2) ~~Tolerances.~~ In order to allow for variations incident to proper grading and handling, the following tolerances are specified:

(a) ~~At shipping point:~~ Not more than a total of ten percent, by count, of the prunes in any container may not meet the requirements of this grade for defects other than color and size, but not more than five percent by count, may be allowed for defects causing serious damage and not more than one

NEW SECTION

WAC 16-445-045 What tolerances apply to Italian prunes? The following tolerances apply to prunes in any container and are adopted to allow for variations that are incidental to proper grading and handling:

<p>(1) Tolerances that apply at the shipping point:</p> <p>(a) Other than color and size, no more than ten percent, by count, may fail to meet the grade requirements for defects.</p> <p>(b) No more than five percent, by count, may have serious damage defects.</p>	<p>(2) Tolerances that apply to the destination or en route to the destination:</p> <p>(a) No more than eighteen percent, by count, may fail to meet grade requirements.</p> <p>(b) No more than ten percent, by count, may fail to meet grade requirements due to other permanent defects.</p>
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(c) No more than one percent, by count, may be decayed.	(c) No more than seven percent, by count, may have defects that cause serious damage, including no more than five percent for permanent defects and no more than two percent for decay.
(d) No more than ten percent, by count, may fail to meet the color requirements.	(d) No more than ten percent, by count, may fail to meet color requirements.
(e) No more than ten percent, by count, may fail to meet the size specifications.	(e) No more than ten percent, by count, may fail to meet minimum size requirements.
(f) The combined tolerance for all defects must not exceed fifteen percent by count.	

AMENDATORY SECTION (Amending Order 1262, filed 5/5/72)

WAC 16-445-060 ((Application of tolerances.)) How does the department apply its Italian prunes tolerances during an inspection? ((The contents of individual containers in the lot, based on sample inspection, are subject to the following limitations, provided the averages for the entire lot are within the tolerances specified:

(1) When a tolerance is 10 percent or more, individual containers in any lot shall have not more than one and one-half times the tolerance specified, except that at least one defective and one undersized fruit may be permitted in a container.

(2) When a tolerance is less than 10 percent, individual containers in any lot shall have not more than double the tolerance specified, except that at least one defective and one undersized fruit may be permitted in a container.) If the averages for an entire lot are within the specified tolerances, the following limitations apply to the contents of the individual containers in the lot. Based upon sample inspections, the individual containers in the lot:

- (1) May contain at least one defective and one undersized prune.
- (2) Must have no more than one and one-half times the tolerance specified when a tolerance is ten percent or more.
- (3) Must have no more than double the tolerance specified when a tolerance is less than ten percent.

AMENDATORY SECTION (Amending Order 1262, filed 5/5/72)

WAC 16-445-070 ((Standard pack.)) What are the "standard pack" requirements for Italian prunes? ((1) ~~The prunes shall be of fairly uniform size (10) and tightly packed according to the approved and recognized methods. The fruits in the top layer shall not be noticeably superior in quality or size to those in the remainder of the package.~~

(2) ~~The size of prunes packed in 4 basket crates shall be indicated as follows: 4x4, 4x5, 5x5, etc., in accordance with the arrangement in the top layer of the basket. These packs shall not be more than 3 layers deep. Arrangements such as 4-3x5 and 5-4x5 shall not be considered standard packs.~~

(3) ~~The arrangement of the bottom layer shall be one row less one way, and may be one row less each way than the arrangement of the top layer. The arrangement of the middle layer may be the same as the top layer, or may be one row less one way than the arrangement of the top layer. Straight, offset, and diagonal packs in the layers are permitted. For example: A pack with 5x5 in the top layer may have 5x5 in the middle layer, and shall have 4x5 or 4-3x5 in the bottom layer; or it may have 4x5 or 4-3x5 in the middle layer, and shall have 4x5, 4-3x5, or 4x4 in the bottom layer.~~

(4) ~~In layer packed California peach or lug boxes, the count in the entire container shall be marked on the package.~~

(5) ~~In double faced and filled special lugs the number of rows, lengthwise of the lugs, shall be marked on the package to indicate size, as "nine row."~~

(6) ~~In order to allow for variations incident to proper packing, not more than 10 percent, by count, of the containers in any lot may fail to meet the requirements of the standard pack.)) (1) A standard pack of Italian prunes must:~~

- (a) Contain prunes of fairly uniform size;
- (b) Be tightly packed according to industry-approved methods; and
- (c) Contain prunes in the top layer that are not noticeably superior in quality or size to those below the top layer.

(2) In order to allow for variations incident to proper packing, no more than ten percent of the containers in any lot, by count, may fail to meet the standard pack requirements of this section.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-445-001 Promulgation.
- WAC 16-445-050 Culls.
- WAC 16-445-080 Definitions of terms.
- WAC 16-445-090 Effective date.

**WSR 05-06-102
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE**

[Filed March 2, 2005, 9:38 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-409 WAC, Standards for asparagus.

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

EXPEDITED

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 George Huffman, Rules Coordinator, Washington Department of Agriculture, Administrative Regulations Program, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY May 2, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 34.05.353 (1)(c) allows the Washington State Department of Agriculture (WSDA) to file notice for the expedited adoption of rules if "the proposed rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect." The WSDA has rewritten, reformatted and reorganized chapter 16-409 WAC, Standards for asparagus, in a clear and readable format so the rule is easier to understand and use. **No new requirements are included in the rewritten chapter 16-445 WAC.**

EXPEDITED

CURRENT RULE SECTIONS	PROPOSED RULE SECTIONS	ACTION and COMMENT
	WAC 16-409-022 What grades are used to identify asparagus in Washington state?	NEW SECTION To improve clarity, grade requirements were put into a separate WAC section and presented in a tabular format. The content is the same as what was contained in the old WAC 16-409-020. There are no new requirements.
WAC 16-409-060 Washington standards — Size designations.		REPEALED SECTION This section was repealed but its content was rewritten, reformatted and renumbered as WAC 16-409-024.
	WAC 16-409-024 What are the size requirements for Washington asparagus grades?	NEW SECTION This is considered a "new section" because the department renumbered the old section WAC 16-409-060. The content has not been changed; it has just been presented in a tabular format so it is easier to use.
WAC 16-409-085 Adoption of United States standards as Washington state standards.		REPEALED SECTION This section was repealed but its content was rewritten, reformatted and renumbered as WAC 16-409-026.
	WAC 16-409-026 Does the department adopt U.S. standards for fresh asparagus as Washington state standards?	NEW SECTION This is considered a "new section" because the department renumbered the old section WAC 16-409-085. The content has not been changed.
WAC 16-409-030 Tol- erances for defects, color, diameter and trim.	WAC 16-409-030 What tolerances are adopted for Washing- ton asparagus?	AMENDED SEC- TION by rewriting the section title in the form of a question and pre- senting the section content in a table for- mat. There are no changes in require- ments.
WAC 16-409-035 Application of toler- ances.	WAC 16-409-035 How does the depart- ment apply its aspara- gus tolerances during an inspection?	AMENDED SEC- TION by rewriting the section title in the form of a question and rewriting the section content to improve clarity. There are no changes in require- ments.

CURRENT RULE SECTIONS	PROPOSED RULE SECTIONS	ACTION and COMMENT
WAC 16-409-075 Exemption.		REPEALED SEC- TION This section was repealed but its content was rewritten, reformatted and renumbered as WAC 16-409-005
	WAC 16-409-005 Must all Washington fresh asparagus com- ply with Washington state standards?	NEW SECTION This is considered a new section because the department renum- bered WAC 16-409- 075. The contents of the new WAC 16-409- 005 and the old WAC 16-409-075 are the same.
WAC 16-409-015 Def- initions.	WAC 16-409-015 What definitions are important to this chap- ter?	AMENDED SEC- TION by rewriting the section title in the form of a question, arranged the definitions accord- ing to alphabetical order, added defini- tions for "department" and "director" and moved terms like "clean" and "well trimmed" from other parts of the chapter into the definition sec- tion.
WAC 16-409-020 Washington stan- dards—Grades.	WAC 16-409-020 What standards apply to all asparagus mar- keted within Washing- ton state?	AMENDED SEC- TION by moving much of its content into the new section WAC 16-409-022.

((WASHINGTON STANDARDS))

CURRENT RULE SECTIONS	PROPOSED RULE SECTIONS	ACTION and COMMENT
WAC 16-409-065 Containers.	WAC 16-409-065 What requirements apply to the containers used to market fresh asparagus?	<u>AMENDED SECTION</u> by rewriting the section title in the form of a question and presenting the section content in a table format. There are no changes in requirements.
WAC 16-409-070 Marking requirements.	WAC 16-409-070 What marking requirements apply to fresh asparagus containers?	<u>AMENDED SECTION</u> by rewriting the section title in the form of a question and rewriting the section content to improve clarity. There are no changes in requirements.

AMENDATORY SECTION (Amending Order 1848, filed 3/15/85)

WAC 16-409-015 ((Definitions)) What definitions are important to this chapter? ((1) "Clean" means that the asparagus is free from excessive dirt, dust, residue or foreign matter.

(2) "Fresh" means that the stalk is not limp or flabby.

(3) "Well trimmed" means that at least two thirds of the butt of the stalk is smoothly trimmed in a plane approximately parallel to the bottom of the container and that the butt is not stringy or frayed.

(4) "Fairly well trimmed" means that at least one third of the butt of the stalk is smoothly trimmed in a plane approximately parallel to the bottom of the container and that the butt is not badly stringy or frayed.

(5) "Diameter" means the greatest thickness of the stalk measured at a point approximately one inch from the butt.

(6) "Fairly uniform in length" means that stalks within a container shall vary not more than one and one half inches in length.

(7) "White" means that portion of the stalk near the butt, which is white in color or light purple over white. White is measured from the extreme tip of the butt to the point of beginning of green color.

(8) "Green" means that portion of the stalk having green color, purplish green or greenish purple color, and purple at the tip.

(9) "Damage" means any defect, or combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the stalk.

(10) "Serious damage" means any defect, or combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the stalk.

(11) "Badly misshapen" means the stalk is so badly flattened, crooked or otherwise so badly deformed that its appearance is seriously affected.

(12) "Fresh asparagus" as used in the standards means a lot of asparagus marketed for the purpose of fresh consumption.

(13) "Lot" means any number of containers of fresh asparagus being offered as a unit for the purpose of inspection, sale, or shipment.

(14) "Shipment" means any number of containers of fresh asparagus transported on a single conveyance from the area of production.

(15) "Field container" means an open lug made of wood, plastic, or similar material and used repetitively for field harvesting.) The following definitions are important to this chapter:

"Badly misshapen" means the stalk is so badly flattened, crooked or otherwise so badly deformed that its appearance is seriously affected.

"Clean" means the asparagus is free from excessive dirt, dust, residue or foreign matter.

"Damage" means any defect or combination of defects that materially detract from the appearance, edible quality or marketing quality of the stalk.

EXPEDITED

Reasons Supporting Proposal: The department believes that the rewritten chapter 16-409 WAC is easier to understand and use and should be a benefit to department inspectors and the Washington state asparagus industry. The rewritten chapter 16-409 WAC is a result of the department's ongoing Executive Order 97-02 rule review effort and complies with the executive order's "clarity criteria."

Statutory Authority for Adoption: RCW 15.17.030, 15.17.050, and 34.05.353.

Statute Being Implemented: Chapter 15.17 RCW.

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

Name of Proponent: Washington State Department of Agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Quigley, Olympia, Washington, (360) 902-1833.

March 2, 2005
Robert W. Gore
Assistant Director

Chapter 16-409 WAC

WASHINGTON STANDARDS FOR ASPARAGUS

NEW SECTION

WAC 16-409-005 Must all Washington fresh asparagus comply with Washington state standards? The following table explains which Washington fresh asparagus is exempt from some of the requirements of this chapter:

If an individual shipment of fresh Washington asparagus:	Then the shipment is exempt from the requirements in:
(1) Consists of asparagus for home use and not for resale; and	• WAC 16-409-020 through 16-409-060;
(2) Does not exceed two hundred fifty pounds net weight.	• WAC 16-409-065 (2), (3), (4), (5), and (7); and • WAC 16-409-070.

"Department" means the Washington state department of agriculture (WSDA).

"Diameter" means the greatest thickness of the stalk measured at a point approximately one inch from the butt.

"Director" means the director of the Washington state department of agriculture or the director's designee.

"Fairly uniform in length" means the stalks within a container must not vary in length more than one and one-half inches.

"Fairly well trimmed" means that:

(1) At least one-third of the butt of the stalk is smoothly trimmed in a plane approximately parallel to the bottom of the container; and

(2) The butt is not badly stringy or frayed.

"Field container" means an open lug made of wood, plastic, or similar material that is repetitively used for field harvesting.

"Fresh" means that the stalk is not limp or flabby.

"Fresh asparagus" means asparagus marketed by lot for fresh consumption.

"Green" means the portion of the stalk having green, purplish-green or greenish-purple color with purple at the tip.

"Lot" means any number of containers of fresh asparagus offered as a unit for inspection, sale, or shipment.

"Serious damage" means any defect or combination of defects that seriously detract from the appearance, edible quality or marketing quality of the stalk.

"Shipment" means any number of containers of fresh asparagus transported from the production area by a single conveyance.

"Well trimmed" means that:

(1) At least two-thirds of the butt of the stalk is smoothly trimmed in a plane approximately parallel to the bottom of the container; and

(2) The butt is not stringy or frayed.

"White" means the portion of the stalk near the butt that is white or light purple over white in color. The white is measured from the extreme tip of the butt to the point where the green color begins.

AMENDATORY SECTION (Amending Order 6015, filed 2/19/97, effective 3/22/97)

WAC 16-409-020 (~~Washington standards—Grades~~) **What standards apply to all asparagus marketed within Washington state?** (~~((1) Washington extra fancy shall consist of:~~

(a) Clean, fresh stalks of asparagus, fairly uniform in length, well trimmed, fairly straight, not wilted, and which are free from decay and damage caused by spreading or broken tips, dirt, disease, insects, or mechanical or other means. Stalks shall have at least eighty five percent green color.

(b) Stalks within individual containers shall meet one of the following designated sizes: Jumbo, large, or standard.

(2) Washington extra fancy tips shall consist of:

(a) Clean, fresh stalks of asparagus, fairly uniform in length, well trimmed, fairly straight, not wilted, and which are free from decay and damage caused by spreading or broken tips, dirt, disease, insects, or mechanical or other means. Stalks shall be all green.

(b) Stalks within the individual containers shall meet one of the following designated sizes: Jumbo, large, standard, or small.

(3) Washington fancy shall consist of:

(a) Clean, fresh stalks of asparagus, fairly uniform in length, fairly well trimmed, not wilted and not badly misshapen, and which are free from decay and serious damage caused by spreading or broken tips, dirt, disease, insects, mechanical or other means. Stalks shall have at least eighty-five percent green color.

(b) Each stalk shall have a diameter of not less than four-sixteenths inch.

(4) Washington consumer pack shall consist of:

(a) Clean, fresh stalks of asparagus, fairly uniform in length, fairly well trimmed, which are fairly straight, not wilted and which are free from decay and damage caused by spreading or broken tips, dirt, disease, insects, mechanical or other means. Stalks shall have at least eighty five percent green color.

(b) Each stalk shall have a diameter of not less than four-sixteenths inch.

(5) Culls-

(a) Asparagus which is not graded in conformity with Washington extra fancy, Washington extra fancy tips, Washington fancy, Washington consumer pack, or U.S. No. 1, or U.S. No. 2 shall be designated as "culls."

(b) Culls shall not be marketed if more than ten percent by count of the stalks show white in excess of two inches.

(6) Any lot of fresh asparagus, including "culls" marketed within the state of Washington, shall have not more than ten percent of stalks with white in excess of two inches, nor more than ten percent of stalks which are less than four-sixteenths inch in diameter.)) **Any lot of fresh asparagus, including "culls," marketed within Washington state must have no more than ten percent of the stalks that:**

(1) **Have white in excess of two inches; and**

(2) **Are less than 4/16 inch in diameter.**

NEW SECTION

WAC 16-409-022 **What grades are used to identify asparagus in Washington state?** (1) The following table identifies and describes the asparagus grades used in Washington state:

Washington Asparagus Grades:					
Stalk Characteristics:	"Extra Fancy Grade Asparagus"	"Extra Fancy Grade Asparagus Tips"	"Fancy Grade Asparagus"	"Consumer Pack Asparagus"	"Culls"
Stalks must be:					
(a) Clean;	Yes	Yes	Yes	Yes	No
(b) Fresh;	Yes	Yes	Yes	Yes	No
(c) Fairly uniform in length;	Yes	Yes	Yes	Yes	No
(d) Well trimmed;	Yes	Yes	No	No	No
(e) Fairly well trimmed;	No	No	Yes	Yes	No
(f) Fairly straight;	Yes	Yes	No	Yes	No
(g) Not wilted;	Yes	Yes	Yes	Yes	No
(h) Not badly misshapen;	No	No	Yes	No	No
(i) Free from decay;	Yes	Yes	Yes	Yes	No
(j) Free from damage caused by spreading or broken tips, dirt, disease, insects, or mechanical or other means;	Yes	Yes	Yes	Yes	No
(k) At least eighty-five percent green in color;	Yes	No	Yes	Yes	No
(l) All green.	No	Yes	No	No	No

EXPEDITED

(2) "Culls" describes asparagus that:

- (a) Is not graded in conformity with Washington extra fancy, Washington extra fancy tips, Washington fancy, Washington consumer pack, or U.S. No. 1, or U.S. No. 2; and
- (b) Must not be marketed if more than ten percent by count of the stalks show white in excess of two inches.

NEW SECTION

WAC 16-409-024 What are the size requirements for Washington asparagus grades? The following table identifies asparagus size requirements by Washington grades:

Washington Asparagus Grades	Stalks within individual containers must meet one of the following designated sizes:	Grade lots must be designated as:	Ninety percent, by count, of the stalks in any lot must conform to the diameters for such designations:
"Extra Fancy Grade Asparagus"	Jumbo	Washington extra fancy jumbo or Washington jumbo	Washington extra fancy jumbo or Washington jumbo must have stalks at least 13/16 inch in diameter.
	Large	Washington extra fancy large or Washington large	Washington extra fancy large or Washington large must have stalks at least 7/16 inch in diameter.
	Standard	Washington extra fancy standard or Washington standard	Washington extra fancy standard or Washington standard must have stalks at least 6/16 inch in diameter.
"Extra Fancy Grade Asparagus Tips"	Jumbo	Washington extra fancy tips jumbo	Washington extra fancy tips jumbo must be 13/16 inch in diameter or larger.

EXPEDITED

Washington Asparagus Grades	Stalks within individual containers must meet one of the following designated sizes:	Grade lots must be designated as:	Ninety percent, by count, of the stalks in any lot must conform to the diameters for such designations:
	Large	Washington extra fancy tips large	Washington extra fancy tips large must be 7/16 inch in diameter or larger.
	Standard	Washington extra fancy tips standard	Washington extra fancy tips standard must be 6/16 inch in diameter or larger.
	Small	Washington extra fancy tips small	Washington extra fancy tips small must have a diameter of at least 4/16 inch.
"Fancy Grade Asparagus"	Small	Minimum diameter; or Washington fancy small or Washington small	Washington fancy grade asparagus lots must be designated by minimum diameter: However, when at least ninety percent, by count, of the stalks in any lot are at least 4/16 inch in diameter, the lot may be designated as Washington fancy small or Washington small.
"Washington consumer pack"	N/A	Washington consumer pack	Washington consumer pack lots must be designated by minimum diameter and stalks must be at least 4/16 inch in diameter.
"U.S. No. 1 grade"	N/A	Minimum diameter; or	N/A
	Jumbo	Washington jumbo	U.S. No. 1 grade jumbo must have stalks at least 13/16 inch in diameter.
	Large	Washington large	U.S. No. 1 grade large must have stalks at least 7/16 inch in diameter.
	Standard	Washington standard	U.S. No. 1 grade standard must have stalks at least 6/16 inch in diameter.
"U.S. No. 2 grade"	N/A	Minimum diameter; or	N/A
	Small	Washington small	U.S. No. 2 grade small must have stalks at least 4/16 inch in diameter.

NEW SECTION

WAC 16-409-026 Does the department adopt U.S. standards for fresh asparagus as Washington state standards? (1) In addition to the Washington state fresh asparagus standards contained in this chapter, the Washington state department of agriculture has adopted, as Washington state

standards, modified United States fresh asparagus standards for U.S. grades No. 1 and No. 2.

(2) The department's modifications to the U.S. standards are as follows:

(a) U.S. No. 1 must be at least 6/16 inch in diameter and must meet or exceed Washington extra fancy grade requirements.

(b) U.S. No. 2 must be at least 4/16 inch in diameter and must meet or exceed Washington fancy grade requirements.

AMENDATORY SECTION (Amending Order 6008, filed 12/17/96, effective 1/17/97)

WAC 16-409-030 (~~Tolerances for defects, color, diameter and trim.~~) **What tolerances are adopted for Washington asparagus?** ((1) In order to allow for variations incident to proper grading and handling in the Washington extra fancy, Washington extra fancy tips, Washington fancy, and Washington consumer pack grades, the following tolerances are provided as specified:

(a) Ten percent, by count, for stalks failing to meet the requirements of the grade other than for trim and color

requirements, including therein, not more than one percent for stalks affected by decay.

(b) An additional ten percent, by count, for stalks having less than the specified amount of green color.

(c) An additional ten percent, by count, for stalks not meeting trim requirements.

(2) In order to allow for variations in diameter and length incident to proper sizing in the Washington extra fancy, Washington extra fancy tips, Washington fancy, and Washington consumer pack grades, the following tolerance is provided as specified: Ten percent, by count, for stalks failing to meet the required minimum and maximum diameter, and/or length, as defined under, "fairly uniform in length" and "size designations.") **The following table identifies and explains the tolerances adopted for Washington asparagus:**

<u>Washington Asparagus Grades to Which Tolerances Apply</u>	<u>Defect, color and trim tolerances adopted for Washington asparagus</u>	<u>Diameter and length tolerances adopted for Washington asparagus</u>
<u>Washington extra fancy</u> <u>Washington extra fancy tips</u> <u>Washington fancy</u> <u>Washington consumer pack</u>	<u>To allow for variations incident to proper grading and handling, the following tolerances are adopted:</u>	<u>To allow for variations in diameter and length incident to proper sizing, the following tolerances are adopted:</u>
	(1) <u>Ten percent, by count, for stalks failing to meet grade requirements other than for trim and color, including no more than one percent for decayed stalks.</u>	(1) <u>Ten percent, by count, for stalks failing to meet the required minimum and maximum diameter defined in WAC 16-409-015 ("fairly uniform in length").</u>
	(2) <u>An additional ten percent, by count, for stalks having less than the required amount of green color.</u>	(2) <u>Ten percent, by count, for stalks failing to meet the required length as established in WAC 16-409-022.</u>
	(3) <u>An additional ten percent, by count, for stalks not meeting trim requirements.</u>	

EXPEDITED

AMENDATORY SECTION (Amending Order 1848, filed 3/15/85)

WAC 16-409-035 (~~Application of tolerances.~~) **How does the department apply its asparagus tolerances during an inspection?** ((Individual samples are subject to the following limitations: Provided, That the averages for the entire lot are within the tolerances specified for the grade.

(1) For a tolerance of ten percent or more, individual samples shall contain not more than one and one-half times the tolerance specified.

(2) For a tolerance of less than ten percent, individual samples shall contain not more than double the tolerance specified.

(3) ~~One decayed or otherwise defective stalk, one poorly trimmed stalk, one poorly colored, and one off-size stalk shall be permitted in any sample.~~) (1) If the averages for an entire lot are within the tolerances specified in WAC 16-409-030, the limitations in this section, based upon sample inspections, apply to the contents of individual containers in the lot.

(2) Individual containers:

(a) May contain one decayed or otherwise defective stalk, one poorly trimmed stalk, one poorly colored, and one off-size stalk.

(b) Must have no more than one and one-half times the tolerance specified when a tolerance is ten percent or more.

(c) Must have no more than double the tolerance specified when a tolerance is less than ten percent.

AMENDATORY SECTION (Amending Order 6008, filed 12/17/96, effective 1/17/97)

WAC 16-409-065 (~~Containers.~~) **What requirements apply to the containers used to market fresh asparagus?** ((1) Fresh asparagus shall be marketed in containers which are clean and free from dirt, trash, and visible contaminants.

(2) Fresh asparagus of the Washington extra fancy, Washington extra fancy tips, Washington fancy, U.S. No. 1, and U.S. No. 2 grades shall be marketed in containers with moisture pads.

(3) Fresh asparagus of the Washington consumer pack grade shall be marketed in pyramid type containers with moisture pads, or in fibre board or wooden "western lug" containers having inside dimensions of approximately seven,

by eleven and one-half, by eighteen inches, or capacity of thirteen hundred fifty to fifteen hundred fifty cubic inches.

(4) ~~Western lugs shall contain not less than twenty pounds net weight.~~

(5) ~~Culls shall be marketed in wooden pyramid containers with moisture pads.~~

(6) ~~Fresh asparagus in field containers shall not be marketed.~~

(7) ~~The director may allow the use of containers not specified in subsections (2), (3), (4), and (5) of this section, as experimental containers for the purpose of test or trial marketing.) The following table identifies and explains the requirements that apply to the containers used to market fresh asparagus:~~

<u>Asparagus Grades:</u>	<u>Container Requirements:</u>
(1) <u>All fresh asparagus:</u>	<u>Must be marketed in containers that are clean and free from dirt, trash, and visible contaminates.</u>
(2) <u>All fresh asparagus:</u>	<u>Must not be marketed in field containers.</u>
(3) <u>For testing or trial marketing purposes, the director:</u>	<u>May allow the use of any experimental containers not specified in this table.</u>
(4) <u>Washington extra fancy, Washington extra fancy tips, Washington fancy, U.S. No. 1, and U.S. No. 2 grades of fresh asparagus:</u>	<u>Must be marketed in containers with moisture pads.</u>
(5) <u>Washington consumer pack grade of fresh asparagus:</u>	<u>Must be marketed either in:</u> (a) <u>Pyramid type containers with moisture pads; or</u> (b) <u>Fiberboard or wooden "western lug" containers with:</u> (i) <u>Inside dimensions of approximately seven inches, by eleven and one-half inches, by eighteen inches; or</u> (ii) <u>A capacity of thirteen hundred and fifty to fifteen hundred and fifty cubic inches.</u> (iii) <u>Western lugs must contain at least twenty pounds net weight.</u>
(6) <u>Culls:</u>	<u>Must be marketed in wooden pyramid containers with moisture pads.</u>

EXPEDITED

AMENDATORY SECTION (Amending Order 6008, filed 12/17/96, effective 1/17/97)

WAC 16-409-070 ((~~Marking requirements.~~) **What marking requirements apply to fresh asparagus containers?** ((1) Containers shall be conspicuously and legibly marked with the name and address of the grower, packer, or distributor, the grade, and net weight, and a size designation or diameter size as defined in WAC 16-409-060 (1), (2), (3), (4), (5), and (6).

(2) The grade and size designation shall be marked in letters at least three eighths inch in height.

(3) The following abbreviations of grade and size designation shall be acceptable: Washington may be abbreviated as Wash. or WA. Extra fancy may be abbreviated as ex fey or extra fey. Fancy may be abbreviated as fey. Large may be abbreviated as lge. Standard may be abbreviated as std.

(4) The use of U.S. No. 1 or U.S. No. 2 grade markings shall be permitted subject to WAC 16-409-085.

(5) If culls are marketed, the word "culls" shall be conspicuously and legibly marked in letters at least one inch in height and shall be predominant in size over other markings.

(6) All required markings shall be placed on one end of the container, and may be duplicated on opposite end of container.) (1) All required markings must be placed on one end of the container, but may be duplicated on the opposite end.

(2) Containers must be conspicuously and legibly marked with the:

(a) Name and address of the grower, packer, or distributor;

(b) Grade;

(c) Net weight; and

(d) Size designation or diameter size as defined in WAC 16-409-024.

(3) The grade and size designation required in subsection (2) of this section must be marked in letters at least 3/8 inch in height.

(4) The following abbreviations of grade and size designation are acceptable:

(a) Washington as Wash. or WA

(b) Extra fancy as ex fcy or extra fcy

(c) Fancy as fcy

(d) Large as lge.

(e) Standard as std.

(5) The use of U.S. No. 1 or U.S. No. 2 grade markings is permissible subject to the requirements in WAC 16-409-026.

(6) If culls are marketed:

(a) The word "culls" must be:

(i) Conspicuously and legibly marked in letters at least one inch in height; and

(ii) Predominant in size over any other markings on the container.

(b) They must be marketed only in wooden pyramid containers with moisture pads.

((UNITED STATES STANDARDS FOR FRESH ASPARAGUS))

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-409-060	Washington standards—Size designations.
WAC 16-409-075	Exemption.
WAC 16-409-085	Adoption of United States standards as Washington state standards.

WSR 05-06-111

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed March 2, 2005, 11:19 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-662 WAC, Weights and measures—National handbooks, this chapter establishes requirements for the state of Washington that are reasonably consistent with the uniform rules adopted by the National Conference on Weights and Measures and that are in effect in other states.

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 George Huffman, Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY May 3, 2005.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal adopts the National Institute of Standards and Technology (NIST) handbooks as follows:

(1) The 2005 edition of NIST Handbook 44 (Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices) as required by RCW 19.94.195;

(2) The 2005 edition of NIST Handbook 130 (Uniform Laws and Regulations in the area of legal metrology and engine fuel quality);

(3) The fourth edition (January 2005) of NIST Handbook 133 (Checking the Net Contents of Packaged Goods); and

(4) Modifications to NIST Handbook 44 and NIST Handbook 130.

In addition, this proposal:

(1) Outlines the process for conducting inspections of the net contents of packaged goods under NIST Handbook 133;

(2) Describes when the department will take enforcement action when conducting price verification inspections under NIST Handbook 130; and

(3) Rewrites the entire chapter to increase its clarity and readability.

Reasons Supporting Proposal: RCW 19.94.195 requires that the most current version of NIST Handbook 44 be adopted every year. The department also adopts the current version of NIST Handbook 130 and NIST Handbook 133 in order to maintain uniformity with other states. Forty-eight of the fifty states use NIST Handbook 130 and the majority of the states use NIST Handbook 44 and NIST Handbook 133.

Statutory Authority for Adoption: Chapters 19.94 and 34.05 RCW.

Statute Being Implemented: Chapter 19.94 RCW.

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

Name of Proponent: Washington State Department of Agriculture, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jerry Buendel, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1856.

March 2, 2005

Mary A. Martin Toohey
Assistant Director

AMENDATORY SECTION (Amending WSR 03-08-017, filed 3/25/03, effective 4/25/03)

WAC 16-662-100 What is the purpose((s)) of this chapter? ~~((The purpose of this rule is to establish))~~ (1) This chapter establishes requirements for the state of Washington that are reasonably consistent with the uniform ((state)) rules ((that have been)) adopted by the National Conference on Weights and Measures and that are in effect in other states.

(2) This chapter applies specifically to ((subject areas for)) the:

~~((1))~~ (a) Uniform specifications, tolerances and other technical requirements for weighing and measuring devices addressed in the *National Institute of Standards and Technology (NIST) NIST Handbook 44*;

~~((2))~~ (b) Uniform procedures for checking the net contents of packaged goods addressed in ((the National Institute of Standards and Technology)) *NIST Handbook 133*;

~~((3))~~ (c) Uniform packaging and labeling ((requirements)) regulation addressed in *NIST Handbook 130*;

~~((4))~~ (d) Uniform regulation for the method of sale of commodities ((requirements)) addressed in *NIST Handbook 130*; and

~~((5))~~ (e) Uniform examination procedure((s)) for price verification addressed in ((the National Institute of Standards and Technology)) *NIST Handbook 130*.

~~((The publications cited in this chapter.))~~ (3)(a) *NIST Handbook 44, NIST Handbook 130 and NIST Handbook 133,*

may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. ((The handbooks)) They are also available on the National Institute of Standards and Technology website at <http://ts.nist.gov/ts/htdocs/230/235/owmhome.htm>.

(b) For information regarding the contents and application of these publications, contact the weights and measures ((in)) program at the Washington State Department of Agriculture, P.O. Box 42560, Olympia, Washington 98504-2560, telephone number 360-902-1857, or e-mail wts&measures@agr.wa.gov.

AMENDATORY SECTION (Amending WSR 04-12-025, filed 5/26/04, effective 6/26/04)

~~WAC 16-662-105 ((Adoption Weighing and measuring equipment requirements Package checking Packaging and labeling Method of sale Price verification)) What national weights and measures standards are adopted by the Washington state department of agriculture (WSDA)?~~ ((1) The specifications, tolerances, and other technical requirements for the design, manufacture, installation, performance test, and use of weighing and measuring equipment shall be those contained in the 2004 Edition of the National Institute of Standards and Technology (NIST) Handbook 44, published by the U.S. Department of Commerce, entitled the National Institute of Standards and Technology Handbook 44—Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices.

~~(2) The procedures for checking the accuracy of the net contents of packaged goods shall be those contained in the Fourth Edition of National Institute of Standards and Technology (NIST) Handbook 133 published by the United States Department of Commerce, entitled NIST Handbook 133—Fourth Edition—Checking the Net Contents of Packaged Goods—Fourth Edition, 2003 Edition.~~

~~(3) The requirements for packaging and labeling, method of sale of commodities, and the examination procedures for price verification shall be those contained in the 2004 Edition of National Institute of Standards and Technology Handbook 130, entitled the NIST Handbook 130—Uniform Laws And Regulations in the areas of legal metrology and motor fuel quality, specifically:~~

~~(a) Weights and measures requirements for all food and nonfood commodities in package form shall be the Uniform Packaging and Labeling Regulation requirements as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, 2004 Edition.~~

~~(b) Weights and measures requirements for the method of sale of food and nonfood commodities shall be those found in the Uniform Regulation for the Method of Sale of Commodities as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Standards and Technology) Handbook 130, 2004 Edition.~~

~~(c) Weights and measures requirements for price verification shall be the Examination Procedures for Price Verification as adopted by the National Conference on Weights and Measures and published in NIST (National Institute of Stan-~~

~~dards and Technology) Handbook 130, 2004 Edition.)) The WSDA adopts the following national standards:~~

<u>National standard for:</u>	<u>Contained in the:</u>
<u>(1) The specifications, tolerances, and other technical requirements for the design, manufacture, installation, performance test, and use of weighing and measuring equipment</u>	<u>2005 Edition of NIST Handbook 44 - Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices</u>
<u>(2) The procedures for checking the accuracy of the net contents of packaged goods</u>	<u>Fourth Edition (January 2005) of NIST Handbook 133 - Checking the Net Contents of Packaged Goods</u>
<u>(3) The requirements for packaging and labeling, method of sale of commodities, and the examination procedures for price verification</u>	<u>2005 Edition of NIST Handbook 130 - Uniform Laws and Regulations in the area of legal metrology and engine fuel quality, specifically:</u>
<u>(a) Weights and measures requirements for all food and nonfood commodities in package form</u>	<u>Uniform Packaging and Labeling Regulation as adopted by the National Conference on Weights and Measures and published in NIST Handbook 130, 2005 Edition</u>
<u>(b) Weights and measures requirements for the method of sale of food and nonfood commodities</u>	<u>Uniform Regulation for the Method of Sale of Commodities as adopted by the National Conference on Weights and Measures and published in NIST Handbook 130, 2005 Edition</u>
<u>(c) Weights and measures requirements for price verification</u>	<u>Examination Procedure for Price Verification as adopted by the National Conference on Weights and Measures and published in NIST Handbook 130, 2005 Edition</u>

AMENDATORY SECTION (Amending WSR 03-08-017, filed 3/25/03, effective 4/25/03)

~~WAC 16-662-110 ((Modifications to)) Does the WSDA modify NIST Handbook 44((s))?~~ ((The following modifications are made to Handbook 44, identified in WAC 16-662-105:

~~(1) General Code: Section G UR. User Requirements. In the last sentence of subsection G UR.4.1. "Maintenance of Equipment," change "device user" to "device owner or operator."~~

~~(2) Scale Code: Section UR.3. Use Requirements. At the end of subsection UR.3.7.(a) add "and homeowner~~

EXPEDITED

refuse.") The WSDA adopts the following modifications to NIST Handbook 44, which is identified in WAC 16-662-105(1):

<u>Modified Section:</u>	<u>Modification:</u>
<u>(1) General Code: Section G-UR.4.1. Maintenance of Equipment</u>	In the last sentence of G-UR.4.1., Maintenance of Equipment, change the words "device user" to "device owner or operator." As a result of this modification, the last sentence of G-UR.4.1. will read: "Equipment in service at a single place of business found to be in error predominantly in a direction favorable to the device owner or operator shall not be considered "maintained in a proper operating condition."
<u>(2) Scales: Section UR.3.7. Minimum Load on a Vehicle Scale</u>	At the end of UR.3.7.(a) add "and homeowner refuse." As a result of this modification, UR.3.7.(a) will read: "10 d when weighing scrap material for recycling and homeowner refuse:"

AMENDATORY SECTION (Amending WSR 03-08-017, filed 3/25/03, effective 4/25/03)

WAC 16-662-115 ((Modifications to)) Does the WSDA modify NIST Handbook 130((*)?) The WSDA adopts the following modifications ((are made)) to the *Uniform Regulation for the Method of Sale of Commodities* requirements published in *NIST Handbook 130*, identified in WAC 16-662-105 (3)(b):

~~((1) Section 2.20. Gasoline-Oxygenate Blends. Delete Section 2.20. The requirements for this subject are addressed in RCW 19.94.505 and chapter 16-657 WAC.~~

~~((2) Section 2.23. Animal Bedding. Add a new subsection 2.23.1. Sawdust, Barkdust, Decorative Wood Particles, and Similar Products. As used in this subsection, "unit" means a standard volume equal to 200 cubic feet. Quantity representations for sawdust, barkdust, decorative wood particles, and similar loose bulk materials when advertised, offered for sale, or sold within the state of Washington shall be in terms of cubic measure or units and fractions thereof.))~~

<u>Modified Section:</u>	<u>Modification:</u>
<u>(1) Section 2.20 Gasoline-Oxygenate Blends</u>	Delete Section 2.20 because the requirements for this subject are addressed in RCW 19.94.505 and chapter 16-657 WAC

<u>Modified Section:</u>	<u>Modification:</u>
<u>(2) Section 2.23 Animal Bedding</u>	Add a new subsection, which reads as follows: <u>2.23.1 Sawdust, Barkdust, Decorative Wood Particles, and Similar Products. — As used in this subsection, "unit" means a standard volume equal to 200 cubic feet. When advertised, offered for sale, or sold within Washington state, quantity representations for sawdust, barkdust, decorative wood particles, and similar loose bulk materials must be in cubic measures or units and fractions thereof.</u>

NEW SECTION

WAC 16-662-120 How does the WSDA conduct inspections of the net contents of packaged goods under NIST Handbook 133? WSDA inspects packages using the Used Dry Tare procedures outlined in *NIST Handbook 133*.

NEW SECTION

WAC 16-662-125 When does WSDA take enforcement action when conducting price verification inspections under NIST Handbook 130? WSDA uses *NIST Handbook 130*, Examination Procedure For Price Verification, Paragraph 11.2., Model Enforcement Levels. Overcharges will be used to determine price accuracy for enforcement actions under chapter 19.94 RCW. WSDA may issue a civil penalty after failure of the third price accuracy inspection.

EXPEDITED



WSR 05-06-003

PERMANENT RULES

CASCADIA COMMUNITY COLLEGE

[Filed February 17, 2005, 9:23 a.m., effective March 20, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend for compliance purposes WAC 132Z-104-010 Board of trustees meetings; 132Z-108-040 Application for adjudicative proceeding, 132Z-112-101 [132Z-112-010] - 132Z-112-230, values pursuant to students rights and responsibilities; 132Z-115-010 - 132Z-115-240, student code of conduct; 132Z-133-010 Organization, operation, information; 132Z-134-010 Rules coordinator; and 132Z-276-101 - 132Z-276-120, public records.

Citation of Existing Rules Affected by this Order: Amending WAC 132Z-104-010, 132Z-108-040, 132Z-112-010 - 132Z-112-050, 132Z-115-010, 132Z-115-020, 132Z-115-060, 132Z-115-080 - 132Z-115-180, and 132Z-115-190 - 132Z-115-200.

Statutory Authority for Adoption: Executive Order 97-02 and RCW 28B.10.902 and 28B.20.903.

Adopted under notice filed as WSR 05-01-178 on December 21, 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 9, Amended 27, 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: February 16, 2005.

Dede Gonzales
Executive Assistant
to the President
Rules Coordinator

AMENDATORY SECTION (Amending WSR 96-14-098, filed 7/2/96, effective 8/2/96)

WAC 132Z-104-010 Time and place of board meetings. The board of trustees shall hold one regular meeting on the ~~((second Monday))~~ third Wednesday of each month and such special meetings as may be requested by the chair of the board or by a majority of the members of the board and announced in accordance with law.

~~((All regular and special meetings of the board of trustees shall be held at the Shoreline Community College Northshore Center, 22002 26th Ave. SE, Suite 101, Bothell, WA 98021, unless scheduled elsewhere, and are open to the general public, except for lawful executive sessions.~~

~~No official business may be conducted by the board of trustees except during a regular or special meeting.))~~ Place

and time will be published annually with the Code Revisers Office.

AMENDATORY SECTION (Amending WSR 96-14-098, filed 7/2/96, effective 8/2/96)

WAC 132Z-108-040 Application for adjudicative proceeding. An application for adjudicative proceeding shall be in writing. An application shall include the signature of the applicant, the nature of the matter for which an adjudicative proceeding is sought, and an explanation of the facts involved.

Application forms are available at the following address:

Cascadia Community College
~~((c/o Shoreline Community College Northshore Center
22002 26th Ave. SE, Suite 101))~~
18345 Campus Way N.E.
Bothell, WA ~~((98021))~~ 98011

Written application for an adjudicative proceeding should be submitted to the above address within twenty calendar days of the agency action giving rise to the application, unless provided for otherwise by statute or rule.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-112-010 Values pursuant to student rights and responsibilities. Cascadia Community College, a state supported institution of higher education is a learning-centered college, maintained for the purpose of providing ~~((to))~~ all learners knowledge and skills for the achievement of their academic, professional, technical, and personal goals. As a public institution of higher education, the college also exists to provide students with the capacity for critical judgment and an independent search for truth toward both optimal individual development and the well being of the entire learning community.

Inherent in the college's mission, vision, and goals are certain rights and freedoms which provide to students the support and respect needed for learning and personal development. Admission to Cascadia Community College provides these rights to students but also assumes that students accept the responsibility to conduct themselves in a manner that does not interfere with the purposes of the college in providing education for all of its learners.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-112-020 Freedom of inquiry and expression. As a public institution of higher education in the state of Washington, Cascadia Community College recognizes and supports the following principles regarding freedom of expression.

((*) Individual freedom of expression is a fundamental tenet of any free and democratic society.

((*) Freedom of expression shall be interpreted to include all forms of written and oral expression, and all forms of dramatic and artistic expression.

((*)) The college is dedicated to upholding the individual freedom of expression as it is protected by the First Amendment to the Constitution of the United States and that no act shall be undertaken by the college to abridge that freedom.

((*)) As an institution dedicated to freedom of thought and expression, the college shall support expression of divergent viewpoints in order to foster broad-mindedness and a willingness to learn from others.

In keeping with these principles and the college's right to place reasonable restraints on the time, place and manner of expression, the college shall observe the following general guidelines and appropriate general procedures to ensure the responsible exercise of freedom of expression.

(1) **Freedom of expression.** It is the right of any member of the college community to express any point of view and to be free from harassment in such expression((;)). It is the responsibility of those expressing opinions to respect the rights and property of others, to refrain from disrupting the normal operations of the college and to maintain lawful conduct.

The right of free speech and expression does not include activity that may endanger the safety of any member of this college community or visitors, or damage any of the facilities. Moreover, modes of expression (including electronic transmissions) that are unlawful or indecent or that are grossly offensive on matters such as race, color, national and ethnic origin, religion, sexual orientation, ((sex)) gender, age, disability, or veteran status are inconsistent with accepted norms of conduct of the college and are subject to the sanctions described in the Code of student conduct and disciplinary procedures (chapter 132Z-115 WAC).

(2) **Sponsoring organizations.** It is the right of all recognized college organizations and units to sponsor lecturers, entertainers, or exhibitions of their choice as approved by the college((;)). It is the responsibility of the sponsoring organization or unit to make adequate preparation as deemed necessary by the college for the orderly conduct of such events.

(3) **Campus speakers.** Student organizations officially recognized by the college may invite speakers to the campus to address their own membership and other interested students and ((faculty)) employees if suitable space is available and there is no interference with the regularly scheduled program of the college. Although properly allowed by the college, the appearance of such speakers on the campus implies neither approval nor disapproval of them or their viewpoints. In the case of speakers who are candidates for political office, equal opportunities shall be available to opposing candidates if desired by them. Political candidates seeking to use facilities to discuss campaign issues with nonstudents shall pay normal facility rental fees. Speakers are subject to the normal considerations for law and order and to the specific limitations imposed by the state constitution, which prohibits state support for religious worship, exercise or instruction.

In order to ((insure)) ensure an atmosphere of open exchange and to ((insure)) ensure that the educational objectives of the college are not obscured, the president, in a case attended by strong emotional feeling, may prescribe conditions for the conduct of the meeting, such as requiring that a designated member of the faculty serve as chair, or requiring permission for comments and questions from the floor. Like-

wise, the president may encourage the appearance of one or more additional speakers at any meeting or at a subsequent meeting so that other points of view may be expressed. The president may designate representatives to recommend conditions such as time, manner, and place for the conduct of particular meetings.

(4) **Audiences.** It is the right of all members of the college community to attend any public event sponsored by any recognized campus organization or unit, once applicable admission fees have been paid((;)). It is the responsibility of all who attend such events to respect the rights and property of others.

(5) **Facilities.** It is the right of any recognized campus organization or unit to schedule the use of appropriate college facilities free from discrimination on the basis of viewpoints to be expressed at the event; it is the responsibility of such an organization or unit to provide sufficient evidence to the college administration that adequate provision has been made for the health, safety and welfare of the general public.

(6) **Distribution of information.** Handbills, leaflets, newspapers and similar materials may be sold or distributed free of charge by any student or students, or by members of recognized student organizations, or by college employees during their off-work hours on or in college facilities at locations specifically designated by the ((vice-president for student learning)) director of communications and marketing provided such distribution or sale does not interfere with the ingress or egress of persons or interfere with the free flow of vehicular or pedestrian traffic.

Such handbills, leaflets, newspapers and related matter must bear identification as to the publishing agency and distributing organization or individual.

All nonstudents shall register with the ((vice-president of student learning)) director of communications and marketing prior to the distribution of any handbill, leaflet, newspaper or related matter. Such distribution or sale must not interfere with the free flow of vehicular or pedestrian traffic.

Any person or persons who violates these provisions will be subject to disciplinary action.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-112-030 Student records—Family educational rights and privacy. Cascadia Community College implements this policy in compliance with the Family Educational Rights and Privacy Act (20 U.S.C. & 1232g) and its implementing regulation (34 C.F.R. § 99). The act requires Cascadia Community College to provide students with access to their own education records, to permit students to challenge their records on the grounds that they are inaccurate, misleading, or otherwise in violation of the student's privacy or other right, to obtain written consent before releasing certain information and to notify the student of these rights.

(1) **Definitions.** For the purposes of this policy, the following definitions of terms apply:

(a) "Student" means any individual who is or has been in attendance at Cascadia Community College and for whom the college maintains education records.

(b) "Education records" are defined as those records, files and documents (in handwriting, print, tapes, film, microfiche or other medium) maintained by Cascadia Community College, which contain information directly related to the individual student. Education records include only the following:

(i) Records pertaining to admission, advisement, registration, grading, and progress toward a degree.

(ii) Assessment information used for advisement purposes.

(iii) Information concerning payment of fees.

(iv) Financial aid information.

(v) Information regarding students participating in student government or athletics.

(c) "Directory Information" means the student's name, address, telephone number, date and place of birth, major field of study, eligibility for and participation in officially recognized activities, organizations, and sports, weight and height of members of athletic teams, dates of attendance, honor roll, degrees and awards received, and the most recent previous educational agency or institution attended by the student. Directory information may be disclosed at the discretion of the college and without the consent of the student unless he or she elects to prevent disclosure as provided for in this chapter.

(d) "Written consent" means a written authorization for disclosure of student education records which:

(i) Is signed;

(ii) Is dated;

(iii) Specifies the records to be disclosed; and

(iv) Specifies to whom disclosure is authorized.

(e) "Personally identifiable" means data or information which includes: The name of the student, the student's parent(s), or other family members; a personal identifier such as the student's Social Security number or student number; or a list of personal characteristics which would make the student's identity easily traceable.

(2) Annual notification of rights. Cascadia Community College will notify students of their rights under the Family Educational Rights and Privacy Act of 1974 by publication in the college catalog and schedule of classes. The college shall make available upon request a copy of the policy governing release of student records.

(3) Procedure to inspect education records.

(a) Students may inspect and review their education records upon request to the vice-president for student success.

(b) Students must submit to the vice-president a written request which identifies as precisely as possible the record or records he or she wishes to inspect.

(c) The vice-president for student success or designee will make the needed arrangements for access as promptly as possible and notify the student of the time and place where the records may be inspected. Access must be given within forty-five days or less from the receipt of the request.

(4) Disclosure of education records.

(a) In addition to "directory information," the college may, at its discretion, make disclosures from education records of students to the following listed parties:

(i) College officials, including administrative, clerical staff and faculty. Access or release of records to the above is permissible only when the information is required for advisement, counseling, recordkeeping, reporting, or other legitimate educational interest consistent with their specific duties and responsibilities;

(ii) Officials of another school in which the student seeks or intends to enroll;

(iii) Authorized federal, state, or local officials as required by law;

(iv) Authorized parties in connection with financial aid for which the student has applied or received;

(v) Appropriate parties in a health or safety emergency;

(vi) Accrediting organizations to carry out their functions; and

(vii) To comply with a judicial order or a lawfully issued subpoena.

(b) The college shall not permit access to or the release of education records or personally identifiable information contained therein, other than "directory information," without the written consent of the student, to any party other than the above.

(c) Education records released to third parties shall be accompanied by a statement indicating that the information cannot be subsequently released in a personally identifiable form to other parties without obtaining the consent of the student. The college is not precluded from permitting third-party disclosure to other parties listed in (a)(i) through (vii) of this subsection.

(5) Limits on rights to review and inspect and obtain copies of education records.

(a) When a record contains information about more than one student, the student may inspect and review only the records which relate to him or her.

(b) Cascadia Community College reserves the right to refuse to permit a student to inspect the following records:

(i) The financial statement of the student's parents;

(ii) Letters and statements of recommendation for which the student has waived his or her right of access, or which were placed in file before January 1, 1975;

(iii) Records connected with an application to attend Cascadia Community College if that application was denied; and

(iv) Those records which are excluded from the Federal Rights and Privacy Act definition of education records.

(c) Cascadia Community College reserves the right to deny transcripts or copies of records not required to be made available by the Federal Educational Rights and Privacy Act in any of the following situations:

(i) The student has an unpaid financial obligation to the college;

(ii) There is an unresolved disciplinary action against the student.

(6) Record of request and disclosures.

(a) The college shall maintain a record of requests for and disclosures of personally identifiable information in the education records of each student. The record maintained under this section shall be available for inspection and review.

PERMANENT

(b) The college shall maintain the record with the education records of the student as long as the records are maintained.

(c) The disclosure record must include:

(i) The names of parties who have received personally identifiable information;

(ii) The interest the parties had in requesting or obtaining the information; and

(iii) The names and interests of additional parties to which the reviewing educational agency or institution may disclose or redisclose the information.

(d) The following parties may inspect the record of requests and disclosures relating to a student:

(i) The student;

(ii) The college officials who are responsible for the custody of the records; and

(iii) Persons authorized to audit the recordkeeping procedures of the college.

(e) The college is not required to maintain a record if the request was from, or the disclosure was to:

(i) The student;

(ii) A school official;

(iii) A party with written consent from the student; or

(iv) A party seeking directory information.

(7) Disclosure of directory information. Directory information may be disclosed at the discretion of the college and without the consent of the student unless the student elects to prevent disclosure by filing a written request to prevent disclosure. The request continues in effect according to its terms unless it is revoked in writing by the student.

(8) Requests for corrections, hearings, adding statements to education records. Students have the right to request to have records corrected that they believe are inaccurate, misleading, or in violation of their privacy rights. Following are the procedures for the correction of records:

(a) A student must submit a written request to amend his or her education record to the vice-president for student success or designee. The request must identify the part of the record he/she wants changed and specify why the record is believed to be inaccurate, misleading or in violation of his or her privacy or other rights.

(b) The vice-president for student success or designee will forward the request to the appropriate college official for determination.

(c) A student whose request for amendment of his or her education record has been denied may request a hearing by submitting a written request to the vice-president for student success within ten days following the denial. The written request must be signed by the student and shall indicate the reasons why the records should be amended. The vice-president for student success or designee shall convene a hearing to include the student and the appropriate college official, and shall notify the student of the hearing within thirty days after receipt of a properly filed request. In no case will the notification be less than ten days in advance of the date, time and place of the hearing.

(d) The hearing shall be a brief adjudicative proceeding as provided in RCW 34.05.482 and 34.05.485 through RCW 34.05.494 and shall be conducted by the vice-president for student success or designee. At the hearing, the student shall

be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's education records.

(e) The vice-president for student success or designee will prepare a written decision, within thirty days after the conclusion of the hearing, based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reasons for the decision. A copy of the decision shall be made available to the student.

(f) If the vice-president for student success or designee decides the information is inaccurate, misleading, or in violation of the student's right of privacy, the custodian of the record will amend the record and notify the student, in writing, that the record has been amended.

(g) If the vice-president for student success or designee decides that the challenged information is not inaccurate, misleading, or in violation of the student's right of privacy, he/she will notify the student in writing that the student has a right to place in the record a rebuttal statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision.

(h) The student's rebuttal statement will be maintained as part of the student's education records as long as the contested portion is maintained. If the contested portion of the education record is disclosed, the statement will also be disclosed.

(9) Fees for copies. Copies of student records shall be made at the expense of the requesting party at actual cost for copying as posted at the admissions/records office.

(10) Waiver. A student may waive any of his or her rights under this chapter by submitting a written, signed, and dated waiver to the office of the vice-president for student success. Such a waiver shall be specific as to the records and persons or institutions covered. A waiver continues in effect according to its terms unless revoked in writing which is signed and dated.

(11) Type and location of education records.

Types	Custodian
Admission records	Vice-president for student success or designee
Cumulative academic records, testing records, registration and payment of tuition records	Vice-president for student success or designee
Student government	Vice-president for student learning or designee
Participation records in student government	Vice-president for student learning or designee
Financial aid records	Vice-president for student success or designee
Student employment records	Director of human resources
Athletic participation records	Vice-president for student ((learning)) <u>success</u> or designee

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-112-040 Financial assistance for students—Scholarships. Detailed information concerning the criteria, eligibility, procedures for application, and other information regarding scholarships at Cascadia Community College is located in the office of ~~((the vice president for student success))~~ student financial services on the Cascadia Community College campus.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-112-050 Financial assistance for students—Financial aid. Federal, state, and private financial aid applications and information may be obtained at the following address:

~~((Office of Financial Aid))~~

Student Financial Services Office

Cascadia Community College

~~((19017 120th Avenue NE, Suite 102))~~

18345 Campus Way N.E.

Bothell, WA 98011~~((9510))~~

NEW SECTION

WAC 132Z-112-060 Student rights. Cascadia Community College endorses the following rights for each student within the limitations of statutory law and college policy, which are deemed necessary to achieve the mission, values and learning outcomes of the college.

NEW SECTION

WAC 132Z-112-070 Academic freedom. Students are guaranteed rights of free inquiry, expression and peaceful assembly upon and within college facilities that are generally open and available to the public.

Students are free to pursue appropriate learning objectives from among the college's curricula, programs and services, subject to the limitations of RCW 28B.50.090 (3)(b).

Students have the right to a learning environment, which is free from unlawful discrimination and sexual harassment.

Students are protected from academic evaluation, which is arbitrary, prejudice or capricious, and are responsible for meeting the standards of academic performance established by each of their instructions.

NEW SECTION

WAC 132Z-112-080 Nondiscrimination. Students have the right not to be discriminated against on the basis of age, color, creed, disability, gender, marital status, national origin or ancestry, race, religion, sexual orientation or veteran status.

Students who believe they have been discriminated against are encouraged to follow the Cascadia conflict resolution procedure described herein.

NEW SECTION

WAC 132Z-112-090 Due process. Students have the right to due process. No disciplinary action may be imposed without notice to the accused of the nature of the charges. A student accused of violating code of conduct is entitled to procedural due process as set forth in these provisions.

NEW SECTION

WAC 132Z-112-100 Right of assembly. Students have the right of assembly upon college facilities that are generally available to the public provided such assemblies:

- (1) Are conducted in an orderly manner;
- (2) Do not unreasonably interfere with vehicular or pedestrian traffic;
- (3) Do not unreasonably interfere with classes, scheduled meetings or ceremonies, or regular functions of the college;
- (4) Do not cause destruction or damage to college property.

NEW SECTION

WAC 132Z-112-110 Conflict resolution. Students have the right to express and resolve misunderstandings, alleged violation of a college policy, procedure or regulation or alleged inequitable treatment, or retaliation according to the stated conflict resolution procedures set forth in these provisions.

Conflict resolution procedure.

The purpose of the student conflict resolution procedure is to provide each student with an informal or formal option to express and resolve any misunderstanding and to address the perception of unfair treatment by a faculty member, or member of the college staff. First, the student may follow an informal procedure. Second, if the informal procedure does not resolve the issue/concern, the student may initiate a formal procedure and request a hearing before the conflict resolution council.

The student may waive his or her right to have the matter resolved informally. In either case, the student must initiate proceedings with the college within twenty days of the occurrence which gave rise to the concern/issue. The conflict resolution procedure promotes constructive dialogue and understanding. Most concerns/issues are resolved by direct, courteous and respectful communication.

Concerns/issues excluded: Students may not use this process for resolving disciplinary outcomes of summary suspension or other disciplinary procedures; grade appeals; for challenging federal and state laws; or those rules and regulations, policies and procedures adopted by the college, and/or the state board for community and technical colleges.

Students should follow the following conflict resolution procedure to resolve concerns/issues as described in the purpose section:

Informal conflict resolution procedure.

A student who believes a college faculty or staff member has treated him or her unfairly or has a concern/issue shall first discuss it directly with the individual. The purpose of

this discussion should be to clarify the perceived concern/issue and request specific action.

If the concern/issue is not resolved or if the student is apprehensive about talking directly with the staff or faculty member involved, the student may request an appointment with the appropriate dean for student learning for issues relating to classroom instruction, or administrator or designee for issues relating to staff. The dean or administrator may act as a mediator to resolve the concern/issue in a prompt and fair manner.

Formal conflict resolution procedure.

(1) In the event resolution is not achieved through the informal procedure, the student may initiate a formal procedure by writing a letter to the appropriate dean for student learning for issues related to classroom instruction or the appropriate unit administrator or designee for issues related to staff within twenty working days after the incident. The letter must include a:

- Detailed description of the issue/concern, including dates and times;
- Summary of the actions taken by the student to resolve the concern/issue; and
- Proposed solution.

(2) The appropriate unit administrator or designee shall attempt to resolve the concern/issue by:

Serving as an intermediary between the student and the faculty or staff member and after a review of the facts of the situation and talking with the appropriate faculty or staff involved, the unit administrator or designee will decide how to best resolve the issue/concern promptly and fairly.

The unit administrator or designee handling the case will notify the student in writing of the decision within ten working days.

NEW SECTION

WAC 132Z-112-120 Student responsibilities. Students who choose to attend Cascadia Community College also choose to actively participate in the learning process offered by the college. The college is responsible for providing an educational environment rich in the high quality resources needed by students to attain their learning outcomes and achieve their educational goals. In return, the college has the expectation that each student will assume the responsibility to:

- Become knowledgeable of the college's mission, values and vision; adhere to policies, practices, procedures, and rules of the college and its departments;
- Practice personal and academic integrity;
- Respect the dignity, rights and property of all persons;
- Strive to learn from difference in people, ideas and opinions;
- Participate actively in the learning process, both in and out of the classroom;
- Participate actively in the advising process;
- Refrain from and discourage behaviors that undermine the respect all Cascadia community members deserve;
- Abide by the standards set forth in the student right and responsibilities.

NEW SECTION

WAC 132Z-115-005 Student code of conduct. Introduction and overview.

Admission to Cascadia Community College carries with it the expectation that students will conduct themselves as responsible members of the college community. Cascadia has adopted policies governing student conduct, including disciplinary procedures and procedures for resolving conflicts related to student discipline. The student conduct system is designed to protect the rights of each individual to support the community values and to assist students in conducting themselves as responsible members of the college community.

Students are strongly encouraged to become familiar with the code of conduct to enhance understanding of disciplinary procedures and appeal processes. Violations of the code of conduct are treated seriously and may result in disciplinary actions that may include suspension and/or dismissal. Details of the disciplinary process are provided in the sections that follow and students should read those sections carefully. To assist in understanding the process, the following overview is provided:

Violation or alleged violation of code of conduct.

- If a student is found to have violated, or alleged to have violated, the college's code of conduct, the matter is normally referred to the vice-president for student success or designee. In some cases, a matter will not be referred to the vice-president if another staff member has successfully addressed the violation with the student in question.

- If a matter is referred to the vice-president or designee, he/she investigates the allegation, meets with the student, and makes a determination about the validity of the complaint and the severity of the offense. The vice-president may dismiss the charge or impose a sanction which may result in a warning, reprimand, probation, suspension, summary suspension or expulsion.

Appeals process.

- If a student wishes to appeal the decision of the vice-president or designee, he/she must submit a written request for an appeal within ten calendar days of the notice of the disciplinary action.

- Appeals are heard by the conflict resolution council (CRC), a body consisting of one administrator, one faculty member, and one student. The CRC will arrange for a hearing as soon as possible. Students may bring witnesses to this hearing.

- After hearing the appeal, the CRC makes a recommendation to the college president. The president may uphold the recommendation of the CRC or change the decision. The president's decision is not subject to appeal.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-115-010 Purpose of the disciplinary system. ~~((Human beings grow and mature in communities.))~~ Participating in a community requires that individuals depend upon the knowledge, integrity, and decency of others. In turn, the best communities help individuals mold habits and values that will enable them to achieve the highest personal satisfac-

tion, including the satisfaction associated with helping to ~~((make))~~ create a better global community. Cascadia Community College is maintained by the state of Washington for the provision of programs of instruction in higher education and related community services. Like any other institution having its own special purposes, the college must maintain conditions conducive to the effective performance of its functions. Consequently, it has special expectations regarding the conduct of the various participants in the college community.

This *Code of Student Conduct* protects ~~((the unique, diverse community of Cascadia Community College. It fosters))~~ the college's commitment to excellence and equity, and affirms institutional values.

The student conduct system was created to protect the rights of each individual, to support the community values and to assist students in modifying their behavior to become responsible members of the community. Admission to the college carries with it the ~~((prescription))~~ expectation that the student will ~~((conduct himself or herself as a responsible member of the college community. This includes an expectation that the student will))~~ obey appropriate laws, will comply with the rules of the college and its departments, and will maintain a high standard of integrity and honesty. If a student does not accept her/his responsibilities within the college community, corrective action must be taken. This is accomplished through an educational process, ~~((whose goal is to provide))~~ with the goal of providing a learning environment ~~((for))~~ where students ~~((to))~~ can grow and learn respect for others, to understand how their behaviors affect the community and to change inappropriate behaviors. Sanctions for violations of college rules or conduct that interferes with the operation of college affairs will be dealt with by the college ~~((; and the college may impose sanctions independently of any action taken by civil or criminal authorities))~~. In the case of minors, misconduct may be referred to parents or legal guardians.

Students registered via the Washington on-line virtual campus will follow the policies and procedures that govern student conduct, disciplinary policies and procedures for resolving conflicts regarding student conduct which are in place at the enrolling college. Washington on-line virtual campus students are responsible for being familiar with the student rights and responsibilities and code of conduct at the enrolling college(s).

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-115-020 Jurisdiction and authority for student discipline. All rules in this chapter concerning student rights and responsibilities, conduct and discipline apply to every student enrolled at the college whenever the student is engaged in or present at a college-related activity whether occurring on or off college facilities, and to an enrolled student whose behavior is detrimental to the college wherever occurring.

The board of trustees, acting pursuant to RCW 28B.50.140(14), has delegated by written order to the president of the college the authority to administer disciplinary action. Pursuant to this authority, the president, or designee,

shall be responsible for the administration of the disciplinary procedures provided for herein. However, all disciplinary action in which there is a recommendation that a student be suspended shall be reviewed by the president or ~~((acting president))~~ his/her designee.

Jurisdiction and authority for discipline of students registered through the Washington on-line virtual campus will rest with the enrolling college; however, administrators and faculty of the teaching college and/or Washington on-line virtual campus staff may be included in investigations prior to final decisions regarding a discipline situation. All appeals will be handled according to the policies of the enrolling college.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-115-050 Free movement on campus. The president or designee is authorized in the instance of any event that he or she deems impedes the movement of persons or vehicles or which ~~((he or she))~~ he/she deems to disrupt the ingress or egress of persons from the college facilities, to prohibit the entry of, or withdraw the license of, or privileges of, a person or persons or any group of persons to enter onto or remain upon any portion of the college facility.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-115-060 Standards of classroom behavior. ~~((Cascadia Community College is an institution of learning and predicated on the existence of an environment of honesty and integrity. As members of the academic community, faculty, students, and administrative officials share responsibility for maintaining this environment. It is essential that all members of the academic community subscribe to the ideal of academic honesty and integrity and accept individual responsibility for their work. This statement on academic honesty has been developed to promote and ensure a climate of academic honesty and personal integrity among students and other members of the college community.~~

Academic honesty is vital to the very fabric and integrity of the college. All students must comply with an appropriate and sound academic honesty policy and code of honest behavior. All members of the college community are responsible for knowing and understanding the statement on academic honesty. The statement and procedures will be made readily available to all students and faculty to ensure understanding of the academic honesty system and its proper functioning.

The entire college community works together to operate the academic honesty system. Where suspected violations of the academic honesty system occur, appropriate procedures are designed to protect the academic process and integrity while ensuring due process. The academic honesty system is an academic process, not a court of law.

(1) ~~Academic dishonesty:~~ Honest assessment of student performance is of crucial importance to all members of the academic community. Acts of dishonesty are serious breaches of honor and shall be dealt with in the following manner:

~~(a) It is the responsibility of the college administration and teaching faculty to provide reasonable and prudent security measures designed to minimize opportunities for acts of academic dishonesty which occur at the college.~~

~~(b) Any student who, for the purpose of fulfilling any assignment or task required by a faculty member as part of the student's program of instruction, shall knowingly tender any work product that the student fraudulently represents to the faculty member as the student's work product, shall be deemed to have committed an act of academic dishonesty. Acts of academic dishonesty shall be cause for disciplinary action.~~

~~(c) Any student who aids or abets the accomplishment of an act of academic dishonesty, as described in (b) of this subsection, shall be subject to disciplinary action.~~

~~(d) This section shall not be construed as preventing an instructor from taking immediate disciplinary action when the instructor is required to act upon such breach of academic dishonesty in order to preserve order and prevent disruptive conduct in the classroom. This action shall also not be construed as preventing an instructor from adjusting the student's grade on a particular project, paper, test, or class grade for academic dishonesty.) (1) Admission to Cascadia Community College carries with it the presumption that students will conduct themselves with high standards of academic honesty and integrity.~~

Hallmarks of academic integrity include:

Submitting work that reflects original thoughts and ideas;

Clearly citing other people's work when using it to inform your own;

Seeking permission to use other people's creative work;

Fully contributing to group work and projects.

Students who choose not to uphold the hallmarks of integrity are therefore considered engaging in academic dishonesty.

Academic dishonesty is defined as any act of course-related dishonesty including, but not limited to, cheating or plagiarism.

(a) Cheating includes, but is not limited to, using, or attempting to use, any material, assistance, or source which has not been authorized by the instructor to satisfy any expectation or requirements in an instructional course, or obtaining, without authorization, test questions or answers or other academic material that belong to another.

(b) Plagiarism includes, but is not limited to, using another person's ideas, words or other work in an instructional course without properly crediting that person.

(c) Academic dishonesty also includes, but is not limited to, submitting in an instructional course either information that is known to be false (while concealing that falsity) or work that is substantially the same as that previously submitted in another course (without the current instructor's approval).

(d) Academic dishonesty also includes taking credit for the work of others when working in groups or otherwise.

Any act of cheating and/or plagiarism is strictly prohibited and will be subject to disciplinary action. Where suspected violations of the academic honesty policy occur, appropriate procedures are designed to protect the academic

process and integrity while ensuring due process. Students are expected to adhere to guidelines on academic honesty as stated by individual instructors in their course syllabi, provided those guidelines do not contradict policies and procedures established in the student code of conduct. All documented violations of the academic honesty policy will be reported to the vice-president for student success, who shall maintain a record of violations. Students who violate the academic honesty policy twice will be placed on disciplinary probation. Students who violate the academic honesty policy subsequently (a third time) will be placed on disciplinary suspension.

(2) Classroom conduct: Instructors have the authority to take whatever summary actions may be necessary to maintain order and proper conduct in the classroom and to maintain the effective cooperation of the class in fulfilling the objectives of the course.

(a) Any student who, by any act of misconduct, substantially disrupts any college class by engaging in any conduct that renders it difficult or impossible to maintain the decorum of the faculty member's class shall be subject to disciplinary action.

(b) The instructor of each course offered by the college is authorized to take such steps as may be necessary to preserve order and to maintain the effective cooperation of the class in fulfilling the objectives of the course; provided that a student shall have the right to appeal such disciplinary action to the vice-president for student success; provided further that, in the event a student appeals to the vice-president for student success the decision by the instructor to remove a student from a single class session, the decision of the vice-president on the appeal shall be final and not subject to appeal to the conflict resolution council.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-115-080 Definitions. (~~When used in the code:~~) The definitions set forth in this section shall apply throughout this chapter. The following words and phrases shall mean:

(1) (~~The term~~) "Academic dishonesty" means any course-related dishonesty including, but not limited to, cheating or plagiarism.

(2) "Aggravated violation" means a violation that resulted or foreseeably could have resulted in significant damage to persons or property or which otherwise posed a substantial threat to the stability and continuance of normal college or college-sponsored activities.

(~~(2) The term "group" means persons who are associated with each other but who have not complied with college requirements for registration or organization.~~

(~~3) The terms "institution" and~~) (3) "Assembly" means any activity engaged in by two or more persons the object of which is to gain publicity, advocate a view, petition for a cause, or disseminate information to any persons or group of persons.

(4) "Board of trustees" means the five member trustees of Cascadia Community College appointed by the governor of the state of Washington, District No. 30.

(5) "College" means Cascadia Community College which includes the main campus, off-campus classes, and all of its areas, elements, and programs.

~~((4) The term "reckless" means conduct that one should reasonably be expected to know would create a substantial risk of harm to persons or property or that would otherwise be likely to result in interference with normal college operations and/or college-sponsored activities.~~

~~(5) The term "student" means any person who is enrolled at the college and for whom the college maintains current educational records, as defined by the Family Rights and Privacy Act of 1974, and related regulations.~~

~~(6) The terms "college premises" and~~ (6) "College community" means all college employees designated as members of the administration by the board of trustees and students.

(7) "College facilities or premises" means buildings or grounds owned, leased, operated, controlled, or supervised by the college, including all appurtenances affixed thereon or attached thereto.

~~((7) "Board" means the board of trustees of Cascadia Community College.~~

~~(8) "Liquor" means the definition of liquor as contained within RCW 66.04.010.~~

(9) "Drugs" means a narcotic drug as defined in RCW 69.50.101, a controlled substance as defined in RCW 69.50.201 through 69.50.212, or a legend drug as defined in RCW 69.41.010.

(10) "President" means the chief executive officer of the college appointed by the board of trustees.

~~(11) "Disciplinary action" means the warning, reprimand, summary suspension, suspension and/or expulsion, probation, of a student for the violation of a rule adopted under this policy.~~ (8) "College president" means the chief executive officer of the college appointed by the board of trustees.

(9) "Controlled substances" means the definition of controlled substances as defined in RCW 69.50.201 as now law or hereafter amended.

(10) "Disciplinary action" means an oral or written warning, reprimand, probation, summary suspension, suspension and/or expulsion, of a student for the violation of a rule adopted under this policy.

(11) "Disciplinary official" means the president, Cascadia student conflict resolution council, the vice-president for student success or designee.

(12) "Disciplinary warning" means oral or written notice of violation of college rules.

(13) "Disciplinary probation" means formal action placing conditions upon the student's continued attendance because of violation of college rules or failure to satisfy the college's expectations regarding conduct.

(14) "Drugs" means a narcotic drug as defined in RCW 69.50.101, a controlled substance as defined in RCW 69.50.201 through 69.50.212, or a legend drug as defined in RCW 69.41.010.

(15) "Employee" means any classified or exempt staff, faculty, administrator, student worker or volunteer.

(16) "Expulsion" means dismissal from the college and termination of student status, for an indefinite period of time

or permanently, for violation of college rules or for failure to meet the college standards of conduct.

(17) "Group" means persons who are associated with each other but who have not complied with college requirements for registration or organization.

(18) "Harassment" means any malicious act, which causes harm to any person's physical or mental well-being.

(19) "Hazing" means any method of initiation into a student organization, association, or living group, or any pastime or amusement engaged in with respect to an organization or living group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm to any student or other person attending Cascadia Community College.

(20) "Liquor" means the definition of liquor as contained within RCW 66.04.010.

(21) "Reprimand" means formal action after censoring a student for violation of college rules for failure to satisfy the college's expectations regarding conduct.

(22) "Restitution" means repayment to the college or to an affected party for damages resulting from a violation of this code.

(23) "Sexual harassment" means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct directed at persons because of his/her sex where:

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic standing or employment; or

(b) Submission to or rejection of such conduct by an individual is used as the basis for academic decisions or employment affecting such individual; or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or learning environment. Examples of behaviors that may constitute harassment include, but are not limited to:

(i) Unwelcome verbal harassment of a sexual nature or abuse;

(ii) Unwelcome pressure for sexual activity;

(iii) Unwelcome sexually motivated or inappropriate patting, pinching or physical contact;

(iv) Unwelcome sexual behavior or words, including demands for sexual favors accompanied by implied or overt threats concerning an individual's educational status;

(v) Unwelcome behavior, verbal or written words or symbols directed at an individual because of gender;

(vi) The use of authority to emphasize the sexuality of a student in a manner that prevents or impairs the student's full enjoyment of educational benefits, climate or opportunities.

(24) "Student" means any person who is enrolled at the college and for whom the college maintains current educational records, as defined by the Family Rights and Privacy Act of 1974, and related regulations.

(25) "Summary suspension" means temporary dismissal from the college and temporary termination of a student's status for a period of time not to exceed ten days.

(26) "Suspension" means temporary dismissal from the college and temporary termination of student status for violation of college rules or regulations or for failure to meet college standards of conduct.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-115-090 Code of conduct. Cascadia Community College expects that its students while within college facilities or attending a college-sponsored activity, will adhere to high standards of honor and good citizenship and that they will conduct themselves in a responsible manner that reflects credit on themselves and the college. The following misconduct is subject to disciplinary action:

(1) Intentionally or recklessly endangering, threatening, or causing physical harm to any person or oneself, or intentionally or recklessly causing reasonable apprehension of such harm.

(2) Assault, physical abuse, verbal abuse, threat(s), intimidation, harassment, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of any student, any college officer or employee, or any other person who is on college property or is participating in a college activity.

(3) Sexual assault or sexual harassment as defined in college policy under Article ((8)) 6, "Equal Opportunity, Non-discrimination and Nonharassment."

((3)) (4) Intentionally or recklessly interfering with normal college or college-sponsored activities including, but not limited to, studying, teaching, research, college administration, or fire, police, or emergency services.

((4)) (5) Unauthorized entry or use of college facilities.

((5)) (6) Knowingly violating the term of any disciplinary sanction imposed in accordance with the code.

((6)) (7) Intentionally and substantially interfering with the freedom of expression of others.

((7) Theft of property or services; knowing possession of stolen property-) (8) Intentional violations of college ((regulations,)) rules ((or)), policies, and procedures or any action listed above, or prohibited conduct by a student's guest.

(9) ~~((Actions violating college rules, policies and procedures or any actions listed above or prohibited conduct by a student's guest.~~

((10)) Smoking in classrooms, the library and other areas so posted by college officials.

((11)) (10) The possession, use, sale or distribution of any alcoholic beverage or illegal drug on the college campus; ~~((the use of illegal drugs by any student attending a college-sponsored event, even though the event does not take place at the college; the use of alcohol by any student attending such events on noncollege property when that use does not conform to state law))~~ or while attending a college-sponsored event on noncollege property.

((12)) (11) Engaging in lewd, indecent, or obscene behavior.

((13)) (12) Where the student presents an imminent danger to college property or to himself or herself or other students or persons in college facilities on or off campus, or to the education process of the college.

((14)) (13) Academic dishonesty, including cheating, plagiarism, or knowingly furnishing false information to the college.

~~((15))~~ (14) The intentional making of false statements or filing of false charges against the college and members of the college community.

~~((16))~~ (15) Forgery, alteration, or misuse of college documents, records, funds, or instruments of identification.

~~((17) Theft from or damage to college premises or property, or theft of or damage to property of a member of the college community or college premises.~~

((18)) (16) Attempted or actual damage to, or theft or misuse of, real or personal property or money of:

(a) The college or state;

(b) Any student or college officer, employee, or organization; or

(c) Any other person or organization lawfully present on college property, or in possession of such property or money after it has been stolen.

(17) Failure to comply with the direction of college officials acting in the legitimate performance of their duties.

~~((19))~~ (18) Possession of firearms, licensed or unlicensed, (except where possessed by commissioned police officers as prescribed by law(-

~~(20) Failure to comply with the college's Systems and Technology Acceptable Use Policy (BP9: 1.101), and/or misuse of computing equipment and services and facilities, including use of electronic mail and the internet))~~ explosives, dangerous chemicals or other dangerous weapons or instrumentalities on campus, except for authorized purposes.

(19) Falsely setting off or otherwise tampering with any emergency safety equipment, alarm or other device established for the safety of individuals and/or college facilities.

(20) Hazing in any form as described in WAC 132Z-115-240 and RCW 28B.10.900.

(21) Refusal to provide positive identification and evidence of student enrollment to any college employee in the lawful discharge of his/her duties.

(22) Failure to comply with the college's Information Technology Acceptable Use Policy (BP1: 4.10 through 4.16), and/or misuse of computing equipment and services and facilities, including use of electronic mail and the internet.

(23) Violation of parking regulations.

(24) Behavior that disrupts classes, laboratories, offices, services, meetings or ceremonies including:

(a) Threats of disruption and bomb threats;

(b) Damaging, defacing or abusing college facilities, equipment or property.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-115-110 Disciplinary ((process)) terms.
~~((1) Any infractions of college rules, policies or regulations may be referred by any college faculty or staff member to the vice president for student success or designee. That official shall then follow the appropriate procedures for any disciplinary action which he or she deems necessary relative to the alleged misconduct. In addition, a student may appeal disciplinary action taken by an instructor or faculty member pursuant to the provisions in this code.~~

~~(2) The disciplinary official may take whatever action deemed appropriate within the framework of these rules. If the student concludes that any sanctions imposed are inappropriate, the student may appeal to the conflict resolution council.~~

~~(3) If a referral or an appeal is made to the conflict resolution council, the committee shall hold a hearing, reach conclusion, and recommend sanctions to the vice president for student success. The student may appeal the matter to the president of the college.~~

~~(4) The president of the college or his/her designee, after reviewing the case, may reverse, sustain or modify any sanctions. The decision of the president is final.)) The definitions set forth in this section apply throughout.~~

(1) **Disciplinary warning** means oral or written notice of violation of college rules.

(2) **Reprimand** means formal action after censuring a student for violation of college rules for failure to satisfy the college's expectations regarding conduct. Reprimands are made in writing to the student by the disciplinary official. A reprimand indicates to the student that continuation or repetition of the specific conduct involved or other misconduct will result in one or more serious disciplinary actions described below.

(3) **Disciplinary probation** means formal action placing conditions upon the student's continued attendance because of violation of college rules or failure to satisfy the college's expectations regarding conduct. The disciplinary official placing the student on probation will specify, in writing, the period of probation and the conditions, such as limiting the student's participation in extracurricular activities. Disciplinary probation warns the student that any further misconduct will automatically raise the question of dismissal from the college. Disciplinary probation may be for a specified term or for an indefinite period which may extend to graduation or other termination of the student's enrollment in the college.

(4) **Summary suspension** means temporary dismissal from the college and temporary termination of a student's status for a period of time not to exceed ten days which occurs prior to invocation of the formal hearing procedures specified in these rules due to a necessity to take immediate disciplinary action, where a student presents an imminent danger to the college property, or to himself or herself or other students or persons in college facilities on or off campus, or to the educational process of the college. (Pursuant to the summary suspension procedures set forth in WAC 132Z-115-120 (6) through (13).)

(5) **Suspension** means temporary dismissal from the college and temporary termination of student status for violation of college rules or for failure to meet college standards of conduct.

(6) **Expulsion** means dismissal from the college and termination of student status for violation of college rules or for failure to meet the college standards of conduct for an indefinite period of time or permanently.

(7) **Restitution** means repayment to the college or to an affected party for damages resulting from a violation of this code.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-115-120 Procedures for resolving disciplinary violations. (1) ~~((The vice president for student success is responsible for initiating disciplinary proceedings. The vice president for student success may delegate this responsibility to members of his/her staff, and he/she may also establish committees or other hearing bodies to advise or act for him/her in disciplinary matters.~~

~~(2) In order that any informality in disciplinary proceedings not mislead a student as to the seriousness of the matter under consideration, the student involved shall be informed at the initial conference or hearing of the sanctions that may be involved.~~

~~(3) Upon initiation of disciplinary proceedings, the vice president for student success or designee shall provide written notification to the student, either in person or by delivery via regular mail to the student's last known address, specifying the violations with which the student is charged. The vice president for student success or designee shall set a time and place for meeting with the student to inform the student of the charges, the evidence supporting the charges, and to allow the student an opportunity to be heard regarding the charges and evidence.~~

~~(4) After considering the evidence in a case and interviewing the student or students involved, the vice president for student success or designee may take any of the following actions:~~

~~(a) Terminate the proceeding, exonerating the student or students;~~

~~(b) Dismiss the case after whatever counseling and advice may be appropriate; not subject to the appeal rights provided in this code;~~

~~(c) Dismiss the case after verbally admonishing the student, not subject to the appeal rights provided in this code;~~

~~(d) Direct the parties to make a reasonable attempt to achieve a mediated settlement;~~

~~(e) Impose disciplinary sanctions directly, subject to the student's right of appeal as described in this chapter. The student shall be notified in writing of the action taken except that disciplinary warnings may be given verbally;~~

~~(f) Refer the matter to the conflict resolution council requesting their recommendation for appropriate action. The student shall be notified in writing that the matter has been referred to the conflict resolution council.~~

~~(5) This section shall not be construed as preventing the appropriate official from summarily suspending a student.~~

~~(6) If the vice president for student success or his or her designee(s) has cause to believe that any student:~~

~~(a) Has committed a felony; or~~

~~(b) Has violated any provision of this chapter; and~~

~~(c) Presents an imminent danger either to himself or herself, other persons on the college campus or to the educational process; that student shall be summarily suspended and shall be notified by certified and regular mail at the student's last known address, or shall be personally served.~~

~~Summary suspension is appropriate only where (c) of this subsection can be shown, either alone or in conjunction with (a) or (b) of this subsection.~~

(7) ~~During the summary suspension period, the suspended student shall not enter campus other than to meet with the vice president of student success or to attend the hearing. However, the vice president of student success or the college president may grant the student special permission to enter a campus for the express purpose of meeting with faculty, staff, or students in preparation for a probable cause hearing.~~

(8) When the president or his/her designee exercises the authority to summarily suspend a student, he/she shall cause notice thereof to be served upon that student by registered or certified mail at the student's last known address, or by causing personal service of such notice upon that student. The notice shall be entitled "notice of summary suspension proceedings" and shall state:

(a) The charges against the student including reference to the provisions of the student code or the law involved; and

(b) That the student charged must appear before the designated disciplinary officer at a time specified in the notice for a hearing as to whether probable cause exists to continue the summary suspension.

The hearing shall be held as soon as practicable after the summary suspension.

(9) The summary suspension hearing shall be considered an emergency adjudicative proceeding. The proceeding must be conducted as soon as practicable with the vice president for student success presiding. At the summary suspension hearing, the vice president shall determine whether there is probable cause to believe that continued suspension is necessary and/or whether some other disciplinary action is appropriate.

(10) If the vice president for student success, following the conclusion of the summary suspension proceedings, finds that there is probable cause to believe that:

(a) The student against whom specific violations of law or of provisions of this chapter are alleged has committed one or more of such violations; and

(b) That summary suspension of said student is necessary for the protection of the student, other students or persons on college facilities, college property, the educational process, or to restore order to the campus; and

(c) Such violation or violations of the law or of provisions of this chapter constitute grounds for disciplinary action, then the vice president may, with the written approval of the president, continue to suspend such student from the college and may impose any other disciplinary action as appropriate.

(11) A student who is suspended or otherwise disciplined pursuant to the above rules shall be provided with a written copy of the vice president for student success' findings of fact and conclusions, as expressly concurred in by the president, which constituted probable cause to believe that the conditions for summary suspension existed. The student suspended pursuant to the authority of this rule shall be served a copy of the notice of suspension by personal service or by registered mail to said student's last known address within three working days following the conclusion of the summary suspension hearing. The notice of suspension shall state the duration of the suspension or nature of other disciplinary action and the conditions under which the suspension may be terminated.

(12) The vice president for student success is authorized to enforce the suspension of the summarily suspended student in the event the student has been served pursuant to the notice requirement and fails to appear at the time designated for the summary suspension proceeding.

(13) Any student aggrieved by an order issued at the summary suspension proceeding may appeal to the conflict resolution council. No such appeal shall be entertained, however, unless:

(a) The student has first appeared at the student hearing in accordance with subsection (9) of this section;

(b) The student has been officially notified of the outcome of the hearing;

(c) Summary suspension or other disciplinary sanction has been upheld; and

(d) The appeal conforms to the standards set forth in WAC 132Z-115-220.

The conflict resolution council shall, within five working days, conduct a formal hearing in the manner described in WAC 132Z-115-140.) Any infractions of college rules, policies or regulations may be referred by any college faculty or staff member to the vice president for student success or designee. The vice president for student success may delegate this responsibility to a member of his/her staff, and he/she may also establish committees or other hearing bodies to advise or act for him/her in disciplinary matters.

(2) In order that any informality in disciplinary proceedings not mislead a student as to the seriousness of the matter under consideration, the student involved shall be informed at the initial conference or hearing of the sanctions that may be involved.

(3) Upon initiation of disciplinary proceedings, the vice president for student success or designee shall provide written notification to the student, either in person or by delivery via certified mail to the student's last known address, specifying the violations with which the student is charged. The vice president for student success or designee shall set a time and place for meeting with the student to inform the student of the charges, the evidence supporting the charges, and to allow the student an opportunity to be heard regarding the charges and evidence.

(4) After considering the evidence in a case and interviewing the student or students involved, the vice president for student success or designee may take any of the following actions:

(a) Terminate the proceeding, exonerating the student or students;

(b) Dismiss the case after whatever counseling and advice may be appropriate (not subject to the appeals rights provided in this code);

(c) Dismiss the case after verbally admonishing the student (not subject to the appeals rights provided in this code);

(d) Direct the parties to make a reasonable attempt to achieve a mediated settlement;

(e) Impose other disciplinary sanctions directly, subject to the student's right of appeal as described in this chapter. The student shall be notified in writing of the action taken except that disciplinary warnings may be given verbally;

(f) Refer the matter to the conflict resolution council requesting their recommendation to the president for appro-

appropriate action. The student shall be notified in writing that the matter has been referred to the conflict resolution council.

(5) This section shall not be construed as preventing the appropriate official from summarily suspending a student.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-115-130 (~~Cascadia conflict resolution council~~) **Summary suspension.** (~~The Cascadia conflict resolution council will hear cases referred under this code.~~)

(1) ~~The Cascadia conflict resolution council, convened by the vice-president for student success or designee for disciplinary action, will hear and make recommendations on all disciplinary cases referred to it or appealed to it by students. The conflict resolution council will be composed of the following persons:~~

(a) ~~A member appointed by the president of the college who shall serve as the chair;~~

(b) ~~A member of the faculty, appointed by faculty;~~

(c) ~~A student, appointed by the student body president.~~

(2) ~~None of the above named persons shall sit on any case in which he or she has been or will be a complainant or witness, in which he or she has a direct or personal interest, or in which he or she has acted previously in an advisory or official capacity. Decisions in this regard, including the selection of alternates, shall be made by the conflict resolution council as a whole. The conflict resolution council chairperson will be elected by the members of the conflict resolution council.~~

(3) ~~The conflict resolution council may recommend to the vice-president for student success that the student involved:~~

(a) ~~Be exonerated with all proceedings terminated and with no sanctions imposed;~~

(b) ~~Be disqualified from participation in any school-sponsored athletic events or activities;~~

(c) ~~Be given a disciplinary warning;~~

(d) ~~Be given a reprimand;~~

(e) ~~Be placed on disciplinary probation;~~

(f) ~~Be responsible for restitution for damages resulting from the violation;~~

(g) ~~Be given a suspension;~~

(h) ~~Be expelled.~~) (1) If the vice-president for student success or his/her designee(s) has cause to believe that any student:

(a) Has committed a felony; or

(b) Has violated any provision of this chapter; and

(c) Presents an imminent danger either to himself or herself or other persons on the college campus or to the educational process, that student shall be summarily suspended and shall be notified by certified mail at the student's last known address, or shall be personally served. Summary suspension is appropriate only where (c) of this subsection can be shown, either alone or in conjunction with (a) or (b) of this subsection.

(2) If the vice-president for student success, following the conclusion of the summary suspension proceedings, finds that there is probable cause to believe that:

The student against whom specific violations of law or of provisions of this chapter are alleged has committed one or more of such violations; and

That summary suspension of said student is necessary for the protection of the student, other students or persons on college facilities, college property, the educational process, or to restore order to the campus; and

Such violation or violations of the law or of provisions of this chapter constitute grounds for disciplinary action, then the vice-president may, with the written approval of the president, continue to suspend such student from the college and may impose any other disciplinary action as appropriate.

(3) A student who is suspended or otherwise disciplined pursuant to the above rules shall be provided with a written copy of the vice-president for student success' findings of fact and conclusions, as expressly concurred to by the president, which constituted probable cause to believe that the conditions for summary suspension existed. The student suspended pursuant to the authority of this rule shall be served a copy of the notice of suspension by personal service or by certified mail to the student's last known address within three working days following the conclusion of the summary suspension hearing. The notice of suspension shall state the duration of the suspension or nature of other disciplinary action and the conditions under which the suspension may be terminated.

(4) The vice-president for student success is authorized to enforce the suspension of the summarily suspended student in the event the student has been served pursuant to the notice requirement and fails to appear at the time designated for the summary suspension proceeding.

(5) Any student aggrieved by an order issued at the summary suspension proceeding may appeal to the conflict resolution council. No such appeal shall be entertained, however, unless:

The student has first appeared at the student hearing in accordance with WAC 132Z-115-110(4);

(a) The student has been officially notified of the outcome of the hearing;

(b) Summary suspension or other disciplinary sanction has been upheld; and

(c) The appeal conforms to the standards set forth in WAC 132Z-115-180. The conflict resolution council shall, within five working days, conduct a formal hearing in the manner described in WAC 132Z-115-150.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-115-140 **Cascadia conflict resolution council** (~~procedural guidelines~~). (~~(1) The chair of the conflict resolution council shall set the time, place and available seating capacity for a hearing.~~)

(2) ~~All proceedings of the conflict resolution council will be conducted with reasonable dispatch and terminated as soon as fairness to all parties involved permits.~~

(3) ~~The conflict resolution council chairperson shall enforce general rules of procedures for conducting hearings consistent with these procedural guidelines.~~

(4) The student shall be given notice of the date, time and place of the hearing, the charges, a list of witnesses who will appear, and a description of any documentary or other physical evidence that will be presented at the hearing. This notice shall be given to the student in writing and shall be provided in sufficient time to permit him/her to prepare a defense.

(5) The student or his/her representative shall be entitled to hear and examine the evidence against him or her and be informed of the identity of its sources; and shall be entitled to present evidence in his or her own behalf and question witnesses as to factual matters. The student shall be able to obtain information or to request the presence of witnesses or the production of other evidence relevant to the issues at the hearing.

(6) Hearings conducted by the conflict resolution council may be held in closed session at the discretion of the council, the only exception being when the student involved invites particular persons or requests an open hearing. If at any time during the conduct of the hearing invited persons are disruptive of the proceedings, the chairperson of the conflict resolution council may exclude such persons from the hearing room.

(7) Only those matters presented at the hearing, in the presence of the student involved, will be considered in determining whether the student is guilty of the misconduct charged, but the student's past record of conduct may be taken into account in formulating the conflict resolution council's recommendation for disciplinary action.

(8) The failure of a student to cooperate with the hearing procedures, however, shall not preclude the conflict resolution council from making its findings of fact, reaching conclusions and imposing sanctions. Failure of the student to cooperate may be taken into consideration by the conflict resolution council in recommending penalties.

(9) The student may be represented by counsel and/or accompanied by an advisor of his/her choice. If counsel is present for the student, the college may also have counsel present to assist the council.

(10) An adequate summary of the proceedings will be kept. As a minimum, such summary would include a tape recording of testimony. Such record will be available for inspections and copying in the office of the vice president for student success during regular business hours.

(11) The student will be provided with a copy of the findings of fact and the conclusions of the conflict resolution council.

(12) If the council's proceedings were to hear a disciplinary matter pursuant to the request of the vice president for student services, the council's recommendation shall be forwarded to the vice president for student success for disposition of the matter.

(13) The vice president for student success or designee shall notify the student of his or her decision.

(14) The student will also be advised of his/her right to present, within ten calendar days, a written statement of appeal to the president of the college before action is taken on the decision of the conflict resolution council.

(15) If the council's proceedings were to hear a student's appeal, the council's recommendation shall be forwarded to the vice president for student success.

(16) The vice president for student success or designee shall notify the student of his or her decision.

(17) The student will also be advised of his/her right to present, within ten calendar days, a written statement of appeal to the president of the college before action is taken on the decision of the conflict resolution council.

(18) The president of the college or his/her designated representative, after reviewing the case, including the decision by the vice president for student success, the report and recommendation of the conflict resolution council and any statement filed by the student, shall either indicate his/her approval of the decision by the vice president for student success by sustaining the decision, shall give directions as to what other disciplinary action shall be taken by modifying its decision, or shall nullify previous sanctions imposed by reversing the decision. The president or designee shall then notify the vice president for student success, the student, and the conflict resolution council. The president's decision shall be final.) The Cascadia conflict resolution council will hear cases referred under this code.

(1) The Cascadia conflict resolution council, convened by the vice president for student success or designee for disciplinary action, will hear and make recommendations to the president on all disciplinary cases referred to it or appealed to it by students. The conflict resolution council will be composed of the following persons:

(a) A member appointed by the president of the college who shall serve as the chair;

(b) A member of the faculty, appointed by faculty;

(c) A student, appointed by the student body president.

(2) None of the above-named persons shall sit on any case in which he or she has been or will be a complainant or witness, in which he or she has a direct or personal interest, or in which he or she has acted previously in an advisory or official capacity. Decisions in this regard, including the selection of alternates, shall be made by the conflict resolution council as a whole. The conflict resolution council chairperson will be elected by the members of the conflict resolution council.

(3) The conflict resolution council may recommend to the president that the student involved:

(a) Be exonerated with all proceedings terminated and with no sanctions imposed;

(b) Be disqualified from participation in any school-sponsored events or activities;

(c) Be given a disciplinary warning;

(d) Be given a reprimand;

(e) Be placed on disciplinary probation;

(f) Be responsible for restitution for damages resulting from the violation;

(g) Be given a suspension;

(h) Be expelled.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-115-150 ((Disciplinary terms.)) Conflict resolution council procedural guidelines. ((The definitions set forth in this section apply throughout.

(1) Disciplinary warning means oral or written notice of violation of college rules.

(2) Reprimand means formal action after censuring a student for violation of college rules for failure to satisfy the college's expectations regarding conduct. Reprimands are made in writing to the student by the disciplinary official. A reprimand indicates to the student that continuation or repetition of the specific conduct involved or other misconduct will result in one or more serious disciplinary actions described below.

(3) Disciplinary probation means formal action placing conditions upon the student's continued attendance because of violation of college rules or failure to satisfy the college's expectations regarding conduct. The disciplinary official placing the student on probation will specify, in writing, the period of probation and the conditions, such as limiting the student's participation in extracurricular activities. Disciplinary probation warns the student that any further misconduct will automatically raise the question of dismissal from the college. Disciplinary probation may be for a specified term or for an indefinite period which may extend to graduation or other termination of the student's enrollment in the college.

(4) Summary suspension means temporary dismissal from the college and temporary termination of a student's status for a period of time not to exceed ten days which occurs prior to invocation of the formal hearing procedures specified in these rules due to a necessity to take immediate disciplinary action, where a student presents an imminent danger to the college property, or to himself or herself or other students or persons in college facilities on or off campus, or to the educational process of the college. (Pursuant to the summary suspension procedures set forth in WAC 132Z 115 120 (6) through (13).)

(5) Suspension means temporary dismissal from the college and temporary termination of student status for violation of college rules or for failure to meet college standards of conduct.

(6) Expulsion means dismissal from the college and termination of student status for violation of college rules or for failure to meet the college standards of conduct for an indefinite period of time or permanently.

(7) Restitution means repayment to the college or to an affected party for damages resulting from a violation of this code.) The chair of the conflict resolution council shall set the time, place and available seating capacity for a hearing.

All proceedings of the conflict resolution council will be conducted with reasonable dispatch and terminated as soon as fairness to all parties involved permits.

The conflict resolution council chairperson shall enforce general rules of procedures for conducting hearings consistent with these procedural guidelines.

The student shall be given notice of the date, time and place of the hearing, the charges, a list of witnesses who will appear, and a description of any documentary or other physical evidence that will be presented at the hearing. This notice shall be given to the student in writing and shall be provided in sufficient time to permit him/her to prepare a defense.

The student or his/her representative shall be entitled to hear and examine the evidence against him or her and be informed of the identity of its sources; and shall be entitled to

present evidence in his or her own behalf and question witnesses as to factual matters. The student shall be able to obtain information or to request the presence of witnesses or the production of other evidence relevant to the issues at the hearing.

Hearings conducted by the conflict resolution council may be held in closed session at the discretion of the council, although the student involved may request that the council allow the student to invite particular persons or requests an open hearing. If at any time during the conduct of the hearing persons allowed by the council to be invited are disruptive of the proceedings, the chairperson of the conflict resolution council may exclude such persons from the hearing room.

Only those matters presented at the hearing, in the presence of the student involved, will be considered in determining whether the student is guilty of the misconduct charged, but the student's past record of conduct may be taken into account in formulating the conflict resolution council's recommendation for disciplinary action.

The failure of a student to cooperate with the hearing procedures, however, shall not preclude the conflict resolution council from making its findings of fact, reaching conclusions and imposing sanctions. Failure of the student to cooperate may be taken into consideration by the conflict resolution council in recommending penalties.

The student may be represented by counsel and/or accompanied by an advisor of his/her choice. If counsel is present for the student, the college may also have counsel present to assist the council.

An adequate summary of the proceedings will be kept. As a minimum, such summary would include a tape recording of testimony. Such record will be available for inspections and copying in the office of the vice-president for student success during regular business hours, unless barred by state or federal law.

The student will be provided with a copy of the findings of fact and the conclusions of the conflict resolution council.

If the council's proceedings were to hear a student's appeal, the council's recommendation shall be forwarded to the president, along with findings of fact, conclusions of law and any commentary on witnesses' credibility.

The president of the college or his/her designated representative, after reviewing the case, including the decision by the vice-president for student success, the report and recommendation of the conflict resolution council and any statement filed by the student, and the whole record before the conflict resolution council or such portions of it as are cited by the parties, shall either indicate his/her approval of the original decision by the vice-president for student success by sustaining the decision, shall give directions as to what other disciplinary action shall be taken by modifying the decision, or shall nullify previous sanctions imposed by reversing the decision. The president or designee shall then notify the vice-president for student success, the student, and the conflict resolution council. The president's decision shall be final.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-115-160 Loss of eligibility in college activities ~~((and athletics))~~. Any student found to have violated the standards of student conduct or chapter 69.41 RCW shall, in lieu of or in addition to, any other disciplinary action which may be imposed, be disqualified from participation in any school-sponsored ~~((athletic))~~ events or activities.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-115-180 Appeals. Disciplinary actions subject to appeal ~~((as specified in board policy))~~ under this code may be appealed as described below. Notice of an appeal by a student shall be made in writing and addressed to the vice-president for student success within ten calendar days of the college's giving of the notice of the disciplinary action.

~~((4))~~ Disciplinary action by a faculty member or other college staff member may be appealed to, and shall be reviewed by, the vice-president for student success.

~~((2))~~ Disciplinary action by the ~~((appropriate disciplinary official))~~ vice-president for student success, the vice-president for student learning, or designee may be appealed to, and shall be reviewed by, the conflict resolution council.

~~((3))~~ Disciplinary recommendation by the conflict resolution council and subsequent action by the vice-president for student success, may be appealed to, and shall be reviewed by, the college president or his/her designee.

~~(4)~~ Disciplinary action by the president shall either indicate approval of the conclusions by sustaining the decision or shall give directions as to what other disciplinary action shall be taken by modifying the decision, or shall nullify previous sanctions imposed by reversing its decision. The president's decision shall be final. Upon reviewing conflict resolution council recommendations, the president shall either sustain the original disciplinary action, or shall give directions as to what other disciplinary action shall be taken by modifying the action, or shall nullify previous sanctions by reversing the original disciplinary action. The president's action shall be final.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-115-190 Transcript notations. A temporary encumbrance may be placed on a student's college records by the vice-president for student ~~((learning))~~ success while disciplinary proceedings are pending.

Permanent notation of disciplinary action will be made on the transcript whenever a student is expelled.

AMENDATORY SECTION (Amending WSR 00-20-037, filed 9/28/00, effective 10/29/00)

WAC 132Z-115-200 Refunds and access. ~~((1))~~ There shall be no refund of tuition and/or fees for the quarter in which disciplinary action is taken.

~~((2))~~ A student suspended on the basis of conduct which disrupted the orderly operation of the campus or any facility of the district, may be denied access to all or any part of the campus or other facility.

NEW SECTION

WAC 132Z-115-240 Hazing. Cascadia Community College hereby adopts rules to regulate hazing activities within college sponsored organizations, associations, or living groups.

(1) Hazing is prohibited. Hazing is defined as any method of initiation into a student organization, association, or living group, or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending any institution of higher education or post-secondary institution.

(2) Penalties: Any organization, association, or living group that knowingly permits hazing shall:

(a) Be liable for harm caused to persons or property resulting from hazing.

(b) Be denied recognition by Cascadia Community College as an official organization, association or student living group on the Cascadia Community College campus. If the organization, association or student living group is a corporation, whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

(c) A person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships or awards for not less than one academic quarter and up to and including permanent forfeiture, based upon the seriousness of the violation(s).

(d) Hazing violations are also misdemeanors punishable under state criminal law according to RCW 9A.20.021.

(e) The student code of Cascadia Community College may be applicable to hazing violations.

AMENDATORY SECTION (Amending WSR 96-14-098, filed 7/2/96, effective 8/2/96)

WAC 132Z-133-010 Organization—Operation—Information. (1) Organization. Cascadia Community College is established in Title 28B RCW as a public institution of higher education. The college is governed by a five-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the college. The president establishes the structure of the administration.

(2) Operation. The administrative office is located at the following address:

Cascadia Community College
~~((e Shoreline Community College Northshore Center
 22002 26th Ave. SE, Suite 101))~~
18345 Campus Way N.E.
 Bothell, WA ~~((98021))~~ 98011

PERMANENT

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.

(3) Information. Additional information about Cascadia Community College District 30 may be obtained by calling ((206) 402-3870) 425-352-8000, or by addressing a request to:

Cascadia Community College
 ((~~e/o Shoreline Community College Northshore Center~~
~~22002 26th Ave. SE, Suite 101~~))
18345 Campus Way N.E.
 Bothell, WA ((~~98021~~)) 98011

AMENDATORY SECTION (Amending WSR 96-14-098, filed 7/2/96, effective 8/2/96)

WAC 132Z-134-010 Rules coordinator. The rules coordinator for Cascadia Community College as designated by the president is:

The Executive Assistant to the President
 Cascadia Community College
 ((~~e/o Shoreline Community College Northshore Center~~
~~22002 26th Ave. SE, Suite 101~~))
18345 Campus Way N.E.
 Bothell, WA ((~~98021~~)) 98011

AMENDATORY SECTION (Amending WSR 96-14-098, filed 7/2/96, effective 8/2/96)

WAC 132Z-276-030 Description of central and field organization of Cascadia Community College District No. 30. (1) Cascadia Community College is a state agency established and organized under the authority of chapter 28B.50 RCW for the purpose of implementing the educational goals established by the legislature in RCW 28B.50.020. The administrative office of the district is located on the college campus within the county of ((~~Snohomish~~)) King, Washington. The college campus likewise comprises the central headquarters for all operations of the district.

(2) The district is operated under the supervision and control of a board of trustees. The board of trustees consists of five members appointed by the governor. The board of trustees normally meets at least once each month, as provided in WAC 132Z-104-010. The board of trustees employs a president, an administrative staff, instructors, and other employees. The board of trustees takes such actions and promulgates such rules, and policies in harmony with the rules established by the state board for community and technical colleges, as are necessary to the administration and operation of the district.

(3) The president of the district is responsible to the board of trustees for the operation and administration of the district.

AMENDATORY SECTION (Amending WSR 96-14-098, filed 7/2/96, effective 8/2/96)

WAC 132Z-276-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the district. For purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and

from 1:00 p.m. to ((5:00)) 4:00 p.m., Monday through Friday, excluding legal holidays and holidays established by the college calendar.

AMENDATORY SECTION (Amending WSR 96-14-098, filed 7/2/96, effective 8/2/96)

WAC 132Z-276-120 Protection of public records. Requests for public records shall be made at the administrative office of the district at ((~~Shoreline Community College Northshore Center, 22002 26th Ave. SE, Suite 101~~)) Cascadia Community College, 18345 Campus Way N.E., Bothell, WA ((~~98021~~)) 98011. Public records and a facility for their inspection will be provided by the public records officer. Such records shall not be removed from the place designated. Copies of such records may be arranged according to the provisions of WAC 132Z-276-090.

WSR 05-06-011

PERMANENT RULES

BATES TECHNICAL COLLEGE

[Filed February 18, 2005, 3:59 p.m., effective March 21, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To update the wording to accurately reflect job titles; locations and publications of the college; to accommodate special parking practices for carpool-permitted vehicles; and to clarify the time when a parking permit is initially required.

Citation of Existing Rules Affected by this Order: Amending X [WAC 495B-116-030, 495B-116-040, 495B-116-050, 495B-116-060, 495B-116-080, 495B-116-090, 495B-116-120, 495B-116-150, 495B-116-160, 495B-116-170, and 495B-116-210].

Statutory Authority for Adoption: RCW 28B.50.130.

Adopted under notice filed as WSR 04-24-040 on November 24, 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 [11], Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended [11], 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 [11], Repealed 0.

Date Adopted: February 17, 2005.

Gerald Pumphrey
 President

AMENDATORY SECTION (Amending WSR 93-05-018, filed 2/10/93, effective 3/13/93)

WAC 495B-116-030 Definitions. The definitions set forth in this section apply throughout this chapter.

(1) "Board" means the board of trustees of Bellingham Technical College.

(2) "Campus" means all lands and buildings devoted to, operated by, or maintained by Bellingham Technical College.

~~(3) ("Campus security officer" means an employee of the college who is responsible to the chief business officer.~~

(4)) "College" means Bellingham Technical College.

~~((5) "Safety and security supervisor" means the college's safety and security supervisor.~~

~~((6)) (4) "Chief business officer" means the vice-president of administrative services of Bellingham Technical College.~~

(5) "Employee" means an individual appointed to the faculty, staff, or administration of the college.

~~((7)) (6) "Guests or visitors" mean persons who come upon the campus as guests or persons who lawfully visit the campus.~~

~~((8)) (7) "Continuing permits" mean permits issued to full-time employees for an indefinite period of time.~~

~~((9)) (8) "Annual permits" mean permits that are valid from the date of issue until the first day of the following fall quarter.~~

~~((10)) (9) "Temporary permits" mean permits that are valid for a specific period designated on the permit.~~

~~((11)) (10) "Vehicle" means an automobile, truck, motor-driven cycle, scooter, or any vehicle otherwise powered.~~

~~((12)) (11) "Full-time student" means a person who is enrolled on campus for six hours per day or more at the college.~~

~~((13)) (12) "Part-time student" means a person who is enrolled on campus for less than six hours per day at the college.~~

AMENDATORY SECTION (Amending WSR 93-05-018, filed 2/10/93, effective 3/13/93)

WAC 495B-116-040 Authorization for issuance of permits. (1) ~~((The safety and security supervisor or a designee may issue))~~ Parking permits may be issued to students, employees, and guests upon the following conditions:

(a) When the vehicle is properly registered with the college;

(b) When a permanent or special parking permit is necessary to enhance the business or operation of the college.

(2) ~~((Additional permits are available at the current fee schedule to individuals who may be registered to drive any one of several vehicles.))~~ Only one vehicle registered to an individual under ~~((one))~~ permit ~~((fee))~~ is permitted to park on campus at any one time.

AMENDATORY SECTION (Amending WSR 93-05-018, filed 2/10/93, effective 3/13/93)

WAC 495B-116-050 Vehicle parking permits. (1) All part-time and full-time employees ~~((and students))~~ of the col-

lege shall obtain and display a currently valid parking permit on all vehicles parked or left standing unattended upon the college campus for ~~((either))~~ day ~~((or night))~~ classes, in accordance with WAC 495B-116-040.

(2) With the exception of visitor, as defined in WAC 495B-116-060, all persons parking on the campus shall secure and display a currently valid parking permit ~~((within five days from their date of registration or from their first day of employment)).~~

AMENDATORY SECTION (Amending WSR 93-05-018, filed 2/10/93, effective 3/13/93)

WAC 495B-116-060 Visitor permits. All guests or visitors (including salespersons and maintenance or service personnel) will park in appropriate parking areas after ~~((obtaining a temporary permit from))~~ signing in at the college information desk or designated location.

AMENDATORY SECTION (Amending WSR 93-05-018, filed 2/10/93, effective 3/13/93)

WAC 495B-116-080 Display of permits. The parking permit issued by the college must be ~~((visibly affixed on the rear window of))~~ visible within the vehicle for which the permit is issued ~~((, on the lower left hand corner of the window as viewed from the rear of the vehicle. If the vehicle is a convertible or has no rear window the permit must be affixed to the driver side rear bumper or driver side windshield lower corner)).~~ Motorcycle permits must be affixed in a conspicuous place.

AMENDATORY SECTION (Amending WSR 93-05-018, filed 2/10/93, effective 3/13/93)

WAC 495B-116-090 Transfer of permits. Parking permits are ~~((not transferable))~~ assigned to specifically registered vehicles. If a vehicle is sold or traded, the new vehicle must be registered with the ~~((parking supervisor and the permit will be reissued))~~ college at no additional cost to the permit holder.

AMENDATORY SECTION (Amending WSR 93-05-018, filed 2/10/93, effective 3/13/93)

WAC 495B-116-120 Appeal of permit revocation or refusal. When a parking permit has been revoked under WAC 495B-116-100 or has been refused in accordance with WAC 495B-116-110 or when a fine or penalty has been levied against a violator of this chapter, that action by the ~~((dean of administration))~~ chief business office or a designee may be appealed in accordance with WAC 495B-116-180.

AMENDATORY SECTION (Amending WSR 93-05-018, filed 2/10/93, effective 3/13/93)

WAC 495B-116-150 Violation of parking and traffic rules. (1) Operators of illegally operated or parked vehicles shall be warned or cited through an appropriate means that they are in violation of this chapter. All fines are payable at the cashier's office.

(2) ~~((In instances where violations are repeated, and)) A vehicle may be impounded if, in the judgment of the ((safety and security supervisor, with appropriate documented evidence, the vehicle may be impounded)) chief business officer or college designee, such impoundment is warranted due to the fact that violations have been repeated as evidenced by appropriate documentation.~~

AMENDATORY SECTION (Amending WSR 93-05-018, filed 2/10/93, effective 3/13/93)

WAC 495B-116-160 Issuance of traffic tickets or summons. (1) The ~~((safety and security supervisor or a)) college designee or chief business officer~~ may issue a warning or citation for a violation of these regulations. The warning or citation must set forth the date, the approximate time, permit number, license information, and the nature of violation.

(2) The warning or citation may be served by attaching or affixing a copy in some prominent place outside the vehicle or by personally serving the operator.

AMENDATORY SECTION (Amending WSR 93-05-018, filed 2/10/93, effective 3/13/93)

WAC 495B-116-170 Fines and penalties. The ~~((safety and security supervisor or a)) college designee or chief business officer~~ may impose the following fines and penalties for violation of this chapter:

(1) The college shall establish a schedule of fines. The college shall publish the schedule in the college's ~~((motor vehicle code)) Policy and Procedures manual~~ and on the traffic parking citation form.

(2) Fines will be assessed in accordance with the schedule for the following violations:

- (a) No valid permit displayed;
- (b) Visitor parking violations;
- (c) Occupying more than one parking space;
- (d) Occupying a space or area not designated for parking;
- (e) Handicapped parking violation;
- (f) Parking in an area not authorized by a permit;
- (g) Parking in reserved staff space without authorization;
- (h) Blocking or obstructing traffic (may be towed if creating a safety hazard);
- (i) Parking adjacent to a fire hydrant (may be towed if creating a safety hazard);
- (j) Parking in a fire lane (may be towed if creating a safety hazard);
- (k) Parking in a zone or area marked no parking;
- (l) Other violations of college parking traffic rules.

(3) At the discretion of the chief business officer or a designee, an accumulation of citations by a staff, administrator, or faculty member may be turned over to a private collection agency for the collection of past due fines. Other appropriate collection procedures may be initiated as deemed necessary.

(4) If a ~~((student)) person~~ fails or refuses to pay an uncontested fine that has been outstanding in excess of five days, the chief business officer or a designee may initiate the following actions:

(a) The person, if a student may not be able to obtain a transcript of credits until all fines are paid;

(b) The person, if a student may not receive a degree or certificate until all fines are paid;

(c) The ~~((student)) person~~ will not be able to register as a student for subsequent quarters until all fines are paid((;

(d) ~~The student may be denied any further parking permits until all fines are paid)).~~

(5) Vehicles parking in a manner so as to obstruct traffic, including access to and from parking spaces and areas, may be subject to a fine and may be impounded if so designated by the chief business officer or college designee and taken to a place for storage selected by the ~~((safety and security supervisor or a)) college designee~~. The expenses of the impounding and storage are the responsibility of the registered owner or driver of the vehicle.

(6) Vehicles impounded by means of an immobilizing device shall be charged a service fee according to the current fee schedule.

(7) The college is not liable for loss or damage of any kind resulting from impounding and storage of vehicles.

(8) Persons may appeal the issuance of a citation according to WAC 495B-116-180.

AMENDATORY SECTION (Amending WSR 93-05-018, filed 2/10/93, effective 3/13/93)

WAC 495B-116-210 Designation of parking. The parking spaces available on campus may be allocated and designated by the chief business officer or ~~((a)) college designee~~ in such a manner as will best achieve the objectives of this chapter.

(1) Special provisions shall be made for physically disabled employees, visitors, students, or their designees. Physically disabled individuals using handicapped parking spaces must display in that vehicle a valid state-issued disabled parking permit or license plate. ~~((The safety and security supervisor shall issue permits for temporarily handicapped persons. In addition to the disabled permit, valid college parking permits must be purchased and displayed on the vehicle.))~~

(2) Spaces specifically designated as "visitor" are to be used only by visitors driving vehicles without continuing or annual permits ~~((, for a maximum time period of thirty minutes. A temporary permit is not required. Visitors requiring parking for longer than thirty minutes may obtain a temporary permit at the college information desk, and will park in normal undesignated)).~~ Visitors are to sign at the information desk or other designated location and are to park in visitor parking spaces.

(3) The chief business officer or ~~((a)) college designee~~ may designate parking spaces for special purposes as deemed necessary.

(4) Spaces specifically designated as carpool are to be used by those individuals having obtained a valid carpool permit.

WSR 05-06-014
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Division of Child Support)

[Filed February 22, 2005, 7:33 a.m., effective March 25, 2005]

Date Adopted: February 14, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

Effective Date of Rule: Thirty-one days after filing.

Purpose: The Division of Child Support (DCS) seeks to clarify existing rules regarding distribution to make it clear that the date of collection is the date of receipt of payment. The IRS intercepts tax refunds of noncustodial parents who owe back child support; some of these refunds are from joint returns and the noncustodial parent's spouse may be entitled to some or all of the tax refund; when the IRS is required to return the intercepted refund to the "injured spouse," this can result in overpayment of support, which can create a hardship for the custodial parent. By holding onto refunds for a period not to exceed six months, DCS will be better able to determine which refunds are subject to an injured spouse claim and thus avoid overpayments.

Amending WAC 388-14A-5000 How does the division of child support distribute support payments?, 388-14A-5001 What procedures does DCS follow to distribute support payments?, 388-14A-5005 How does DCS distribute intercepted federal income tax refunds?, 388-14A-5008 Can the noncustodial parent prepay support?; and new sections WAC 388-14A-5009 What happens when an employer or other entity overcollects support from the noncustodial parent based on a DCS withholding order? and 388-14A-5010 How does the division of child support handle intercepted federal income tax refunds from a joint return?

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-5000, 388-14A-5001, 388-14A-5005, and 388-14A-5008.

Statutory Authority for Adoption: RCW 26.23.035, 74.08.090, 74.20A.310.

Other Authority: 45 C.F.R. 303.72 (h)(5).

Adopted under notice filed as WSR 05-02-063 on January 4, 2005.

Changes Other than Editing from Proposed to Adopted Version: Language was added to WAC 388-14A-5000 (1)(d) to include tribal child support programs.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 4, 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 4, Repealed 0.

AMENDATORY SECTION (Amending WSR 03-20-072, filed 9/29/03, effective 10/30/03)

WAC 388-14A-5000 How does the division of child support distribute support payments? (1) Under state and federal law, the division of child support (DCS) distributes support money it collects or receives to the:

(a) Department when the department provides or has provided public assistance payments for the support of the family;

(b) Payee under the order, or to the custodial parent (CP) of the child according to WAC 388-14A-5050;

(c) Child support enforcement agency in another state or foreign country which submitted a request for support enforcement services;

(d) Indian tribe which has a TANF program, child support program and/or a cooperative agreement regarding the delivery of child support services; or

(e) Person or entity making the payment when DCS is unable to identify the person to whom the support money is payable after making reasonable efforts to obtain identification information.

(2) DCS distributes support based on the date of collection. DCS considers the date of collection to be the date that DCS receives the payment, no matter when the payment was withheld from the noncustodial parent (NCP).

(3) If DCS is unable to distribute support money because the location of the family or person is unknown, it must exercise reasonable efforts to locate the family or person. When the family or person cannot be located, DCS handles the money in accordance with chapter 63.29 RCW, the uniform unclaimed property act.

~~((3))~~ (4) WAC 388-14A-5000 and sections WAC 388-14A-5001 through 388-14A-5008 contain the rules for distribution of support money by DCS.

~~((4))~~ (5) DCS changes the distribution rules based on changes in federal statutes and regulations.

AMENDATORY SECTION (Amending WSR 01-24-078, filed 12/3/01, effective 1/3/02)

WAC 388-14A-5001 What procedures does DCS follow to distribute support payments? When distributing support money, the division of child support (DCS) does the following:

(1) Records payments in exact amounts of dollars and cents;

(2) Distributes support money within two days of the date DCS receives the money, unless DCS is unable to distribute the payment for one or more of the following reasons:

(a) The location of the payee is unknown;

(b) DCS does not have sufficient information to identify the accounts against which or to which it should apply the money;

(c) An action is pending before a court or agency which has jurisdiction over the issue to determine whether support money is owed or how DCS should distribute the money.

(d) DCS receives prepaid support money and is holding for distribution in future months under subsection (2)(e) of this section;

(e) DCS mails a notice of intent to distribute support money to the custodial parent (CP) under WAC 388-14A-5050;

(f) DCS may hold funds and not issue a check to the family for amounts under one dollar. DCS must give credit for the payment, but may delay disbursement of that amount until a future payment is received which increases the amount of the payment to the family to at least one dollar. If no future payments are received which increase the payment to the family of at least one dollar, DCS transfers the amount to the department of revenue under RCW 63.29.130. This subsection does not apply to disbursements which can be made by electronic funds transfer (EFT), or to refunds of intercepted federal income tax refunds; or

(g) Other circumstances exist which make a proper and timely distribution of the money impossible through no fault or lack of diligence of DCS.

(3) Distribute support money based on the date DCS receives the money, except as provided under WAC 388-14A-5005. DCS distributes support based on the date of collection. DCS considers the date of collection to be the date that DCS receives the payment, no matter when the payment was withheld from the noncustodial parent (NCP).

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-5005 How does DCS distribute intercepted federal income tax refunds? (1) The division of child support (DCS) applies intercepted federal income tax refunds in accordance with 42 U.S.C. Sec. 657, as follows:

((1)) (a) First, to support debts which are permanently assigned to the department to reimburse public assistance payments; and

((2)) (b) Second, to support debts which are temporarily assigned to the department to reimburse public assistance payments; and

((3)) (c) Third, to support debts that are not assigned to the department; and

((4)) (d) To support debts only, not to current and future support obligations. DCS must refund any excess to the noncustodial parent (NCP).

(3) When the Secretary of the Treasury, through the federal Office of Child Support Enforcement (OCSE), notifies DCS that a payment on behalf of an NCP is from an intercepted refund based on a joint return, DCS follows the procedures set forth in WAC 388-14A-5010.

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 03-20-072, filed 9/29/03, effective 10/30/03)

WAC 388-14A-5008 Can the noncustodial parent prepay support? (1) If the division of child support (DCS) receives or collects support money representing payment on the required support obligation for future months, DCS must:

((1)) (a) Apply the support money to future months ~~((when))~~ only if the support debt is paid in full;

((2)) (b) Distribute the support money on a monthly basis when payments become due in the future; and

((3)) (c) Mail a notice to the last known address of the person entitled to receive support money.

(2) The notice in subsection (1)(c) above informs the person entitled to receive support money that:

(a) DCS received prepaid support money;

(b) DCS intends to distribute the prepaid money as support payments become due in the future; and

(c) The person may request a conference board under WAC 388-14A-6400 to determine if DCS should immediately distribute the prepaid support money.

(d) DCS does not mail the notice referred to in subsection ((3)) (1)(c) of this section if the prepaid support is equal to or less than one month's support obligation.

NEW SECTION

WAC 388-14A-5009 What happens when an employer or other entity overcollects support from the noncustodial parent based on a DCS withholding order?

(1) When an employer or other entity overcollects support from a noncustodial parent (NCP) based on a withholding order issued by the division of child support (DCS), DCS evaluates what to do with the overpayment on a case by case basis.

(2) Depending on the facts of the case and the wishes of the NCP, DCS may take one of the following actions:

(a) Refund the excess money to the NCP upon request;

(b) Hold the excess money in suspense to be applied to the next month's support obligation; or

(c) Any other action which comports with the requirements of this chapter and the federal regulations concerning distribution of support payments.

NEW SECTION

WAC 388-14A-5010 How does the division of child support handle intercepted federal income tax refunds from a joint return? (1) The division of child support (DCS) collects child support arrears through the interception of federal income tax refunds. This section deals with the issues that arise when the Secretary of the Treasury intercepts a refund based on a joint tax return filed by a noncustodial parent (NCP) and the NCP's spouse who does not owe child support.

(2) When the Secretary of the Treasury, through the federal Office of Child Support Enforcement (OCSE), notifies DCS that a payment on behalf of an NCP is from an intercepted refund based on a joint return, DCS may delay distri-

bution of that payment for up to six months in case the NCP's spouse is entitled to a share of the federal income tax refund.

(3) DCS distributes fifty percent of the payment according to WAC 388-14A-5005.

(4) DCS holds the other fifty percent of the payment in suspense until the earlier of the following:

(a) DCS is notified by OCSE or the Secretary of the Treasury whether DCS must pay back the unobligated spouse's portion of the refund; or

(b) For a period not to exceed six months from notification of the offset.

(5) When DCS holds part of a payment under subsection (4) of this section, DCS applies the remainder of the payment to the NCP's back support obligations if DCS is not required to return the unobligated spouse's portion of the refund. The CP may:

(a) Request that DCS apply the payment to the NCP's back support obligation sooner upon a showing of hardship to the CP; and

(b) Request a conference board if the CP disagrees with DCS' denial of a hardship claim.

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: November 16, 2004.

Sam Stockton, PT, Chair
Board of Physical Therapy

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 05-06-020

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed February 22, 2005, 3:07 p.m., effective March 25, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The proposed rules recognizes the standards of the American Physical Therapy Association's (APTA) Commission on Accreditation in Physical Therapy Education (CAPTE) for the approval of physical therapy schools. CAPTE is recognized nationwide as the accreditation body for physical therapy schools.

Citation of Existing Rules Affected by this Order: Amending WAC 246-915-100 Approved physical therapy schools.

Statutory Authority for Adoption: RCW 18.74.023.

Adopted under notice filed as WSR 04-20-053 on October 1, 2004.

A final cost-benefit analysis is available by contacting Kris Waidely, P.O. Box 47868, Tumwater, WA 98501, phone (360) 236-4847, fax (360) 664-9077, e-mail kris.waidely@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.

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.

WSR 05-06-021

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed February 22, 2005, 3:08 p.m., effective March 25, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The proposed rule establishes minimum educational standards for physical therapist assistants. The proposed rule recognizes the standards of the American Physical Therapy Association's (APTA) Commission on Accreditation in Physical Therapy Education (CAPTE) for the approval of physical therapy schools. Currently, physical therapist assistants are not regulated. The proposed rule is intended to ensure that physical therapist assistants working in Washington are appropriately educated and trained.

Citation of Existing Rules Affected by this Order: Amending [new section] WAC 246-915-105 Approved physical therapist assistant programs.

Statutory Authority for Adoption: RCW 18.74.023.

Adopted under notice filed as WSR 04-20-070 on October 4, 2004.

A final cost-benefit analysis is available by contacting Kris Waidely, P.O. Box 47868, Tumwater, WA 98501, phone (360) 236-4847, fax (360) 664-9077, e-mail kris.waidely@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.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: November 16, 2004.

Sam Stockton, PT, Chair
Board of Physical Therapy

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: November 16, 2004.

Sam Stockton, PT, Chair
Board of Physical Therapy

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 05-06-022

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed February 22, 2005, 3:09 p.m., effective March 25, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: If a practitioner 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 of a physical therapist has not worked from two years to three years. The proposed rule also changes the language for continuing education to continuing competency.

Citation of Existing Rules Affected by this Order: Amending WAC 246-915-040 Licensure by endorsement—Applicants from approved schools.

Statutory Authority for Adoption: RCW 18.74.023.

Adopted under notice filed as WSR 04-20-051 on October 1, 2004.

A final cost-benefit analysis is available by contacting Kris Waidely, P.O. Box 47868, Tumwater, WA 98501, phone (360) 236-4847, fax (360) 664-9077, e-mail kris.waidely@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.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

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 05-06-023

PERMANENT RULES

DEPARTMENT OF HEALTH

(Board of Physical Therapy)

[Filed February 22, 2005, 3:10 p.m., effective March 25, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The proposed rule prohibits physical therapists from receiving reimbursement for evaluating or treating him or herself. The proposed rule requires physical therapists to only delegate physical therapy tasks to trained supportive personnel.

Citation of Existing Rules Affected by this Order: Amending WAC 246-915-180 Professional conduct principles.

Statutory Authority for Adoption: RCW 18.74.023.

PERMANENT

Adopted under notice filed as WSR 04-20-069 on October 4, 2004.

A final cost-benefit analysis is available by contacting Kris Waidely, P.O. Box 47868, Tumwater, WA 98501, phone (360) 236-4847, fax (360) 664-9077, e-mail kris.waidely@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.

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: November 16, 2004.

Sam Stockton, PT, Chair
Board of Physical Therapy

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 05-06-035

PERMANENT RULES

SECRETARY OF STATE

[Filed February 25, 2005, 10:57 a.m., effective March 28, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The provisional ballot WACs are to assist in the implementation of the Help America Vote Act (HAVA). The ballot reconciliation WACs are to help provide consistency in ballot reconciliation among counties.

Citation of Existing Rules Affected by this Order: Amending WAC 434-253-160, 434-253-043, 434-253-045, 434-253-047, and 434-253-049.

Statutory Authority for Adoption: RCW 29A.04.210.

Adopted under notice filed as WSR 05-01-208 on December 21, 2004.

Changes Other than Editing from Proposed to Adopted Version: Changed WAC 434-253-203 and 434-253-204 to WAC 434-262-203 and 434-262-204, added a new section WAC 434-253-203, and added the oath language to WAC 434-253-045.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 4, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 5, Amended 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 6, 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: February 25, 2005.

Steve Excell
Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 02-07-029, filed 3/12/02, effective 4/12/02)

WAC 434-253-043 ((Special)) Provisional ballots—
When issued. A ((special)) provisional ballot is a regular ballot issued to a person seeking to vote ((in a polling place)) under the following circumstances:

- (1) The name of the voter does not appear in the poll book;
- (2) The voter's name is in the poll book but there is an indication that the voter was issued an absentee ballot, and the voter wishes to vote at the polls; or
- (3) The voter fails to produce identification when required;
- (4) Other circumstances as determined by the precinct election official.

In the polling place after the voter signs the poll book, the precinct election officer shall issue a ((special)) ballot ((outer envelope and a security envelope)) to the voter eligible for a ((special)) provisional ballot. The voter shall vote the ballot in secrecy and when done, place the ballot in ((the)) a security envelope, then place the security envelope with the ballot in it in ((the special)) a provisional ballot outer envelope and return it to the precinct election official. The precinct election official shall ensure that the required information is completed on the outer envelope and have the voter sign it in the appropriate space, and place it in a secure container. (See also WAC 434-240-250 for voters issued an absentee ballot.)

In the case of absentee ballots where the voter was required to produce ID; the ballot shall be considered provisional and processed in the same manner as poll-site provisional ballots.

AMENDATORY SECTION (Amending WSR 02-07-029, filed 3/12/02, effective 4/12/02)

WAC 434-253-045 ((Special)) Provisional ballots—
Required information. At a minimum, the following information will be required to be printed on the outer ((special)) provisional ballot envelope:

- (1) Name and signature of voter.
- (2) Voter's registered address both present and former if applicable.
- (3) Voter's date of birth.
- (4) Reason for the ((special)) provisional ballot.
- (5) Precinct and polling place at which voter has voted.
- (6) Sufficient space to list disposition of the ballot after review by the county auditor.

Each provisional ballot voter shall be required to sign an oath as required by the Help America Vote Act of 2002, Section 302. The oath may be located on the provisional ballot envelope or in the poll book. The voter must attest that they are:

- (a) A registered voter in the jurisdiction in which the voter desires to vote; and

(b) Eligible to vote in that election.

No ((special)) provisional ballot shall be rejected for lack of the information described in this section as long as the voter provides a valid signature and sufficient information to determine eligibility.

~~((County auditors shall be permitted to use any existing stock of special ballot envelopes in the form specified by state law or administrative rule prior to January 1, 2002. Upon exhaustion of that stock or not later than December 31, 2002, county auditors shall comply with the provision of this regulation when ordering special ballot envelopes.))~~

AMENDATORY SECTION (Amending WSR 02-07-029, filed 3/12/02, effective 4/12/02)

WAC 434-253-047 ((Special)) Provisional ballots—
Disposition. ~~((1))~~ Upon receipt of the ((special)) provisional ballot, including ((special)) provisional ballots from other counties or states, the auditor must investigate the circumstances surrounding the ((special)) provisional ballot prior to certification of the primary or election. ~~((A special ballot cannot be counted if the registered voter did not sign either the poll book or the special ballot envelope.~~

(a)) A provisional ballot cannot be counted unless the voter's name, signature and the date of birth, if available, matches a voter registration record.

Once the provisional ballot has been investigated, disposition of the ballot is as follows:

(1) If there is no record of the voter ever having been registered, the voter must be offered the opportunity to register and the ((special)) provisional ballot will not be counted.

((b)) (2) If the voter was previously registered and later canceled and the auditor determines that the cancellation was in error, the voter's registration will be immediately restored and the ((special)) provisional ballot counted.

((c)) (3) If the auditor determines that the cancellation was not in error, the voter shall be afforded the opportunity to reregister ((at the voter's correct address)), and the ((special)) provisional ballot will not be counted.

((d)) (4) If the voter is a registered voter but has voted a ballot other than the one which the voter would have received at his or her designated polling place, the auditor must ensure that only those votes for the positions or measures for which the voter was eligible to vote are counted.

((e)) (5) If the voter is a registered voter in another county or state, the auditor shall forward the ballot and a corresponding voter guide, or other means by which the ballot can be interpreted including rotation if applicable, within five working days after election day to the supervisor of elections for the county for which the voter is resident. If the ((special)) provisional ballot envelope is not signed by the voter, a copy of the poll book page shall be included. If the county is not known, it shall be forwarded to the secretary of state, or counterpart, for the state in which the voter is resident.

((f)) (6) If the auditor finds that an absentee voter who voted a ((special)) provisional ballot at the polls has also voted an absentee ballot in that primary or election, the ((special)) provisional ballot will not be counted.

PERMANENT

~~((5))~~ (7) If a provisional ballot was voted because a voter failed to produce required identification, the ballot shall be counted if the voter is otherwise eligible.

(8) Provisional ballots voted for reasons not covered by this section shall be determined by the county canvassing board. The auditor will prepare a tally displaying the number of ~~((special))~~ provisional ballots received, the number found valid and counted, the number rejected and not counted, and the reason for not counting the ballots, as part of the canvassing process and presented to the canvassing board prior to the certification of the primary or election.

NEW SECTION

WAC 434-253-048 Provisional ballots—Free access system. Each county shall establish a free access system, as described by the Help America Vote Act, 42 USC sec. 15482 (a)(5), for provisional ballot voters. The system shall include the following:

(1) The voter may determine if their provisional ballot counted and, if not, why not. This information shall be without cost to the voter. Examples of a free access system include a toll free telephone number, a website, or a letter sent to every provisional ballot voter.

(2) At the time of voting, provisional voters are given written information that states how information on their ballot will be made available to them. In the case of absentee provisional ballots, notification may be sent to the voter promptly after the county auditor determines that the ballot will be treated as a provisional ballot.

(3) The system shall employ measures to ensure the system is restricted to the individual who cast the ballot and the voter's personal information is secure and confidential.

(4) For provisional ballots sent to other counties, information as to where the ballot was sent and how to find out if their ballot was counted in the voter's home county shall be available without cost to the voter.

(5) For ballots received from another county, a provisional ballot voter shall be able to determine if their ballot was counted and, if not, why not, shall be available without cost to the voter. If needed, the county may send instructions to the voter on how to access the information.

(6) Provisional ballot information shall be available on a county's free access system within one week following the certification of a primary or election.

AMENDATORY SECTION (Amending WSR 02-07-029, filed 3/12/02, effective 4/12/02)

WAC 434-253-049 ~~((Special))~~ Provisional ballots—Processing. When the disposition of the ballot determines that the ballot is to be counted, the ballot shall be processed in a manner similar to an absentee ballot as provided in chapter 434-240 WAC except the outer ~~((special))~~ provisional ballot envelopes must be retained separately from the absentee ballot return envelopes. The manual inspection of the ballots as required in WAC 434-261-070 must also be carried out.

AMENDATORY SECTION (Amending WSR 97-21-045, filed 10/13/97, effective 11/13/97)

WAC 434-253-160 Ballot accountability~~((—))~~ form ~~((for recording))~~ poll-sites without direct recording devices. Precinct election officials shall maintain accountability for all ballots issued for each precinct. The county auditor shall provide a ballot accountability sheet with each list of registered voters for each precinct or combination of precincts, upon which shall be recorded, at a minimum, the following information:

- (1) Identification of the precinct or combination of precincts;
- (2) The number of ballots issued;
- (3) The number of signatures in the poll book;
- ~~((special))~~ (4) The number of ~~((used))~~ issued ballots which are ~~((special))~~ provisional or challenged;
- ~~((4))~~ (5) The number of issued ballots that are spoiled;
- (6) The number of unused ballots;
- (7) The number of absentees accepted at the poll-site.

At the closing of the polls, the ballots of each category enumerated in subsections (1) through ~~((4))~~ (7) of this section shall be counted and recorded on the ballot accountability sheet. The accountability sheet shall be maintained with the precinct list. The precinct election officers shall attest to the accuracy of the ballot accountability sheet by each signing in the spaces provided. The ballot accountability sheet and the precinct list, shall be placed in the appropriate container for return to the counting center or auditor's office. The inspector shall remove and retain a copy of the list of participating voters as the "inspector's copy" for the statutorily required retention period.

Whenever anything occurs at a polling place that the precinct election officers feel may create a discrepancy in accounting for all of the ballots, the election officers shall note such events. The auditor may direct that such comments be included with the ballot accountability form or may be included on a separate comments sheet. If a separate sheet is used, it shall be signed by the precinct election officers.

NEW SECTION

WAC 434-253-165 Ballot accountability form—Precincts with direct recording devices. Precinct election officials shall maintain accountability for all ballots issued for each precinct. The county auditor shall provide a ballot accountability sheet with each list of registered voters for each precinct or combination of precincts, upon which shall be recorded, at a minimum, the following information:

- (1) Identification of the precinct or combination of precincts.
- (2) The number of signatures in the poll book.
- (3) The number of optical scan ballots issued, if applicable.
- (4) The number of ballots listed on each of the individual direct recording devices. The number of optical scan ballots plus the total number of ballots from the direct recording devices should match the number of signatures in the poll book.
- (5) The number of provisional and challenged ballots issued.

- (6) The number of absentees accepted at the poll-site.
- (7) The number of unused optical scan ballots.
- (8) The number of spoiled ballots.
- (9) List any other irregularities noted throughout election day for each direct recording device.

At the closing of the polls, the ballots of each category enumerated in subsections (1) through (9) of this section shall be recorded on the ballot accountability sheet. The accountability sheet shall be maintained with the precinct list. The precinct election officers shall attest to the accuracy of the ballot accountability sheet by each signing in the spaces provided. The ballot accountability sheet and the precinct list shall be placed in the appropriate container for return to the counting center or auditor's office. The inspector shall remove and retain a copy of the list of participating voters as the "inspector's copy" for the statutorily required retention period.

Whenever anything occurs at a polling place that the precinct election officers feel may create a discrepancy in accounting for all of the ballots, the election officers shall note such events. The auditor may direct that such comments be included with the ballot accountability form or may be included on a separate comments sheet. If a separate sheet is used, it shall be signed by the precinct election officers.

NEW SECTION

WAC 434-253-203 Precinct count optical scan and direct recording devices—Poll-site reconciliation. (1) Each precinct or poll-site ballot counter shall print out results immediately following the closing of the polls. A copy of the results will be posted at the poll-site or otherwise made available for public inspection.

(2) The total of votes cast from each counter shall be reconciled with the number of signatures in the poll book(s) prior to transporting to the counting center. The total number of ballots reported on the results printout should equal the number of signatures in the poll book(s). Discrepancies shall be reported and explained by the inspector.

(3) In a sealed container, the data pack/chip of each ballot counter shall be transported to the counting center with each results printout.

NEW SECTION

WAC 434-261-110 Election results reconciliation. Immediately following the last ballots counted on election day, precinct results, showing overvotes and undervotes, shall be printed for poll-site votes. The results shall be inspected by the county canvassing board, or their designees, for anomalies that may indicate problems with the hardware or programming used to tabulate the votes. Anomalies may include, but are not limited to, an abnormal number of overvotes, undervotes, vote distribution, and voter turnout in any precinct, race, or jurisdiction. This inspection shall be completed within two days of the election.

Additionally, these results shall be used in the reconciliation process required in chapter 434-253 WAC.

NEW SECTION

WAC 434-262-203 Poll-site ballot reconciliation—Central count optical scan and punchcard. Using the poll-site ballot accountability forms, the poll books, and election night precinct results, poll-site ballots shall be reconciled in the following manner:

(1) Reconciliation must begin as soon as practical after the election.

(2) Each precinct's results shall be reconciled with the precinct's ballot accountability form. The number of ballots issued should equal the number of ballots counted plus any ballots not counted. Ballots not counted may include, but not be limited to: Provisional ballots, ballots referred to the canvassing board, ballots to be enhanced or duplicated, ballots with write-in votes, spoiled ballots.

(3) Any discrepancies must be investigated. At a minimum, the following areas must be checked until the discrepancy is resolved:

- (a) Check the accuracy of the ballot accountability form.
- (b) Recount the signatures in the poll book.
- (c) Check the spoiled ballots.
- (d) Check the provisional ballots.
- (e) Count the ballot stubs.
- (f) Check the poll-site supplies for ballots.
- (g) Manually count the number of ballots.
- (h) Call the poll workers.

(4) All steps to reconcile each precinct shall be documented, including any discrepancies that cannot be resolved. Reconciliation of all precincts shall be completed and presented to the county canvassing board before the election can be certified.

NEW SECTION

WAC 434-262-204 Poll-site ballot reconciliation—Precinct count optical scan and direct recording devices. Poll-site ballots shall be reconciled in the following manner:

(1) Compare the total number of votes cast from each counter at the poll-site and the number of signatures in the poll book(s).

(2) The number of ballots issued should equal the number of ballots counted plus any ballots not counted. Ballots not counted may include, but not be limited to: Provisional ballots, ballots referred to the canvassing board, ballots to be enhanced or duplicated, ballots with write-in votes, any out-sorted ballots, spoiled ballots.

(3) Any discrepancies must be investigated. At a minimum, the following areas must be checked until the discrepancy is resolved:

- (a) Check the accuracy of the ballot accountability form.
- (b) Recount the signatures in the poll book.
- (c) Ballot counter/direct recording device results.
- (d) Check the bins in the ballot counter(s).
- (e) Check the spoiled ballots.
- (f) Check the provisional ballots.
- (g) Count the ballot stubs.
- (h) Check the poll-site supplies for ballots.
- (i) Manually count the number of ballots.
- (j) Call the poll workers.

(4) All steps to reconcile each precinct shall be documented, including any discrepancies that cannot be resolved. Reconciliation of all precincts shall be completed and presented to the county canvassing board before the election may be certified.

WSR 05-06-036
PERMANENT RULES
SECRETARY OF STATE
 (Elections Division)

[Filed February 25, 2005, 10:58 a.m., effective March 28, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To provide additional avenues for maintaining election administrator certification.

Citation of Existing Rules Affected by this Order:
 Amending WAC 434-260-300.

Statutory Authority for Adoption: RCW 29A.04.630.

Adopted under notice filed as WSR 05-01-207 on December 21, 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: February 25, 2005.

Steve Excell
 Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 01-11-111, filed 5/21/01, effective 6/21/01)

WAC 434-260-300 Maintaining certification as an election administrator. After attaining initial certification the election administrator is responsible for maintaining his or her certification. Maintenance of certification shall consist of:

(1) Continuous service as an election administrator during the year for which maintenance is required;

(2) Participation in an annual minimum of eighteen hours of continuing education, at least six hours of which shall be on election-specific training. This training may be received at any election oriented workshop or conference sponsored by any of the organizations listed in WAC 434-260-220. In addition to receiving credit for participation in election workshops or conferences, election administrators may also receive a maximum of two hours for visiting other

county election departments for training purposes and for any other training approved by the elections administration and certification board. A maximum of six hours, of the eighteen required, may be derived from a surplus of hours earned in the previous year.

WSR 05-06-044
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

[Filed February 25, 2005, 3:52 p.m., effective July 1, 2005]

Effective Date of Rule: July 1, 2005.

Purpose: The rule allows the Medical Assistance Administration (MAA) to recalibrate the relative weights used in its diagnostic-related group (DRG) reimbursement system while maintaining budget neutrality within the system, and allows MAA to adopt current versions of the all patient DRG (AP DRG) grouper without exceeding its budget appropriation.

Citation of Existing Rules Affected by this Order:
 Amending WAC 388-550-3800.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.500.

Adopted under notice filed as WSR 04-17-114 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 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: February 13, 2005.

Andy Fernando, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-16-142, filed 7/31/01, effective 8/31/01)

WAC 388-550-3800 Rebasing and recalibration. (1) The medical assistance administration (MAA) rebases the Medicaid payment system periodically using each hospital's cost report for its fiscal year that ends during the calendar year designated by MAA to be used for each update.

(2) MAA recalibrates diagnosis-related group (DRG) relative weights periodically, as described in WAC 388-550-3100, but no less frequently than each time rebasing is con-

ducted. The department makes recalibrated relative weights effective on the rate implementation date, which can change with each rebasing.

(3) When recalibrating DRG relative weights without rebasing, MAA may apply a budget neutrality factor (BNF) to hospitals' cost based conversion factors to ensure that total DRG payments to hospitals do not exceed total DRG payments that would have been made to hospitals if the relative weights had not been recalibrated. For the purposes of this section, BNF equals the percentage change from total reimbursement calculated under a new payment system to total reimbursement calculated under the prior payment system.

WSR 05-06-050

PERMANENT RULES

PUGET SOUND CLEAN AIR AGENCY

[Filed February 28, 2005, 1:52 p.m., effective April 1, 2005]

Effective Date of Rule: April 1, 2005.

Purpose: To remove unnecessary rules and to remove the definitions that apply only to the repealed rules.

Citation of Existing Rules Affected by this Order: Repealing Regulation II, Section 3.11 and Regulation III, Section 3.05; and amending Regulation III, Section 1.08.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 05-03-102 on January 18, 2005.

Changes Other than Editing from Proposed to Adopted Version: Repeal of four definitions in Regulation III, Section 1.08 that are used only in the repealed Section 3.05.

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: February 24, 2005.

Kwame Agyei
Engineer

REPEALER

REGULATION II SECTION 3.11 COATINGS AND INK MANUFACTURING

AMENDATORY SECTION

REGULATION III SECTION 1.08 SPECIAL DEFINITIONS

(a) ACCEPTABLE SOURCE IMPACT LEVEL (ASIL) means a concentration of a toxic air contaminant in the outdoor atmosphere in any area that does not have restricted or controlled public access that is used to evaluate the air quality impacts of a single source. There are three types of acceptable source impact levels: risk-based, threshold-based, and special. Concentrations for these three types of ASILs are established by the Board after public hearing and are listed in Appendix A of this Regulation III.

~~((b) COLD SOLVENT CLEANER or COLD CLEANER means a degreasing tank in which a solvent with a true vapor pressure greater than 4.2 kPa (0.6 psia) is not heated at or above the boiling point.))~~

~~((e))~~ (b) ETHYLENE OXIDE AERATOR means any equipment, space, or room in which air is used to remove residual ethylene oxide from sterilized materials.

~~((d))~~ (c) ETHYLENE OXIDE STERILIZER means any chamber or related piece of equipment that uses ethylene oxide or an ethylene oxide mixture in any sterilization or fumigation process.

~~((e) FREEBOARD RATIO means the freeboard height (the distance from the top of the degreaser to the air/solvent vapor interface) divided by the width (lesser horizontal dimension) of the degreaser (measured at the top).))~~

~~((f) REFRIGERATED FREEBOARD CHILLER means a set of cooling coils situated above the condenser which operates at 2°C or less.))~~

~~((g))~~ (d) TOXIC AIR CONTAMINANT (TAC) means any air contaminant listed in Appendix A of this Regulation III.

~~((h) VAPOR DEGREASER means a degreasing tank in which the solvent is heated at or above the boiling point.))~~

REPEALER

REGULATION III SECTION 3.05 SOLVENT METAL CLEANERS

WSR 05-06-051

PERMANENT RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Docket No. A-021178 and TO-030288, General Order No. R-518—Filed February 28, 2005, 2:55 p.m., effective March 31, 2005]

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 05-08 issue of the Register.

WSR 05-06-070

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed March 1, 2005, 3:52 p.m., effective April 1, 2005]

Effective Date of Rule: Thirty-one days after filing.

PERMANENT

Purpose: Repeal of WAC 390-16-311 is consistent with Washington State Supreme Court ruling in *Robert Edelman v. State of Washington ex rel. Public Disclosure Commission #74152-2*; WAC 390-16-310, amendment would clean up minor errors in current rule language; WAC 390-20-0101, amendment to PDC L-1 form would remove the requirement that lobbyist photographs must be in black and white and include an e-mail address for the lobbyist employer; WAC 390-20-110, amendment to PDC L-3 form would include the year the report covers; WAC 390-16-011 and 390-16-012, amendments to PDC forms C-1pc and C-1 would eliminate the check off section requesting forms and instructions; and WAC 390-24-010 and 390-24-020, amendments to PDC forms F-1 and F-1A would include a designation for professional staff.

Citation of Existing Rules Affected by this Order: Repealing WAC 390-16-311; and amending WAC 390-16-310, 390-20-0101, 390-20-110, 390-16-011, 390-16-012, 390-24-010, and 390-24-020.

Statutory Authority for Adoption: RCW 42.17.370.

Adopted under notice filed as WSR 05-01-139 on December 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 7, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 7, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 7, Repealed 1.

Date Adopted: February 24, 2005.

Susan Harris
for Vicki Rippie
Executive Director

AMENDATORY SECTION (Amending WSR 01-10-049, filed 4/26/01, effective 6/1/01)

WAC 390-16-011 Forms—Registration statement for political committees. The official form for providing the statement of organization by political committees for designating a campaign treasurer and depository and for reporting information required to qualify for mini campaign finance reporting is designated "C-1pc," revised ((6/04)) 2/05. Copies of this form are available at the Commission Office, 711 Capitol Way, Room 206, P.O. Box 40908, Olympia, Washington 98504-0908. Any attachments shall be on 8-1/2" x 11" white paper.

((STRICKEN GRAPHIC))



Political Committee Registration

C1PC (6/01)

Committee Name (Show entire official name.) Acronym: Telephone: () Mailing Address Fax: () City County Zip + 4 E-mail:

NEW OR AMENDED REGISTRATION? COMMITTEE STATUS
NEW. Complete entire form.
AMENDS previous report. Complete entire form.
Continuing (On-going; not established in anticipation of any particular campaign election.)
election year only. Date of general or special election: (Year)

1. What is the purpose or description of the committee?
Bona Fide Political Party Committee - official state or county central committee or legislative district committee.
Ballot Committee - Initiative, Bond, Levy, Recall, etc. Name or description of ballot measure: Ballot Number FOR AGAINST
Other Political Committee - PAC, caucus committee, political club, etc. If committee is related or affiliated with a business, association, union or similar entity, specify name:

For single election-year only committees (not continuing committees): Is the committee supporting or opposing
(a) one or more candidates? Yes No If yes, attach a list of each candidate's name, office sought and political party affiliation.
(b) the entire ticket of a political party? Yes No If yes, identify the party.

2. Related or affiliated committees. List name, address and relationship.
3. How much do you plan to spend during this entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below.
MINI REPORTING FULL REPORTING

4. Campaign Manager's or Media Contact's Name and Address Telephone Number:
5. Treasurer's Name and Address (List deputy treasurers on attached sheet.) Continued on attached sheet Daytime Telephone Number:
6. Committee Officers. List name, title, and address. Continue on attached sheet if necessary. See reverse for definition of "officer." Continued on attached sheet

7. Campaign Bank or Depository Branch City
8. Campaign books must be open to the public, except on a weekend or legal holiday, during the eight days before the election: (a) on the eighth day for two consecutive hours between 8 a.m. and 8 p.m.; if the eighth day is a legal holiday - two consecutive hours on the seventh day between 8 a.m. and 8 p.m.; and (b) on the other weekdays by appointment between 8 a.m. and 8 p.m. Specify location and hours below. It is not acceptable to provide a post office box or an out-of-area address.
Street Address, Room Number, City Hours [Two consecutive hours; see 8(a)]

9. Eligibility to Give to State Office Candidates: During the 180 days prior to making a contribution to a state office candidate, your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State.
10. Signature and Certification. I certify that this statement is true, complete and correct to the best of my knowledge.
Committee Treasurer's Signature Date

Need campaign finance forms and instructions? Please check one of the following boxes.
I already have forms and instructions.
I will get forms and instructions from my county elections office.
I want the Public Disclosure Commission to mail me the proper forms and instructions.
Distribution of This Report: ORIGINAL - Public Disclosure Commission COPY - County Elections Office (Auditor) COPY - Your own records

SEE INSTRUCTIONS ON REVERSE

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Please consult PDC instruction manuals when completing this report.
Reporting requirements are contained in and governed by RCW 42.17 and WAC 390.

Who Must File Persons, committees, organizations or groups that receive contributions or make expenditures in support of or opposition to: candidates in jurisdictions of 5,000 or more registered voters as of the last general election; statewide ballot issues; or local ballot issues in jurisdictions with 1,000 or more registered voters as of the last general election.

When To File Within 2 weeks of organizing a committee or first expecting to receive contributions or make expenditures, whichever occurs first. (Committees that organize within three weeks of an election must file within three business days of forming or of expecting to receive contributions or make expenditures.)

File an amended C-1pc form within 10 calendar days of any material change to the registration information furnished previously. For single election-year only committees, a material change includes providing or modifying the list of candidates the committee is supporting or opposing.

Continuing political committees using Mini Reporting must also file a C-1pc annually in January. Reports are considered filed as of the postmark date or date hand-delivered to PDC.

Where To File Send the **original to PDC** at the above address. Send a copy to **County Auditor** (county elections office) of the county in which the committee headquarters is located. If there is no headquarters, send to the County Auditor of the county in which the treasurer resides. Keep a copy as part of the committee's records.

"Officer" of a Political Committee – Definition Officer of a political committee includes the following persons:

- the treasurer,
- any person designated as an officer on the C-1pc registration statement, and
- any person who alone or in conjunction with other persons makes contribution, expenditure, strategic or policy decisions on behalf of the committee. (WAC 390-05-245)

Contact PDC or County Elections Office for Instruction Manuals and Reporting Forms or look under the "Filer Assistance" menu category on PDC's Web Site: www.pdc.wa.gov

~~STRICKEN GRAPHIC))~~

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Political Committee Registration

C1PC (2/05)

Committee Name (Show entire official name.)
Acronym:
Telephone: ()
Mailing Address
City County Zip + 4
Fax: ()
E-mail:

NEW OR AMENDED REGISTRATION?
NEW. Complete entire form.
AMENDS previous report. Complete entire form.
COMMITTEE STATUS
Continuing (On-going; not established in anticipation of any particular campaign election.)
election year only. Date of general or special election: (Year)

1. What is the purpose or description of the committee?
Ballot Committee - Initiative, Bond, Levy, Recall, etc. Name or description of ballot measure:
Ballot Number FOR AGAINST
Other Political Committee - PAC, caucus committee, political club, etc. If committee is related or affiliated with a business, association, union or similar entity, specify name:

For single election-year only committees (not continuing committees): Is the committee supporting or opposing (a) one or more candidates? Yes No If yes, attach a list of each candidate's name, office sought and political party affiliation. (b) the entire ticket of a political party? Yes No If yes, identify the party.

2. Related or affiliated committees. List name, address and relationship.
3. How much do you plan to spend during this entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. (If your committee status is continuing, estimate spending on a calendar year basis.)
Mini Reporting selected. No more than \$3,500 will be raised or spent and no more than \$300 in the aggregate will be accepted from any one contributor.
Full Reporting selected. The frequent, detailed campaign reports mandated by law will be filed as required.

4. Campaign Manager's or Media Contact's Name and Address Telephone Number: ()
5. Treasurer's Name and Address (List deputy treasurers on attached sheet.) Continued on attached sheet Daytime Telephone Number: ()

6. Committee Officers. List name, title, and address. Continue on attached sheet if necessary. See reverse for definition of "officer." Continued on attached sheet
7. Campaign Bank or Depository Branch City

8. Campaign books must be open to the public, except on a weekend or legal holiday, during the eight days before the election: (a) on the eighth day for two consecutive hours between 8 a.m. and 8 p.m.; if the eighth day is a legal holiday - two consecutive hours on the seventh day between 8 a.m. and 8 p.m.; and (b) on the other weekdays by appointment between 8 a.m. and 8 p.m. Specify location and hours below. It is not acceptable to provide a post office box or an out-of-area address.
Street Address, Room Number, City Hours [Two consecutive hours; see 8(a)]
In order to make an appointment, contact the campaign at (telephone, fax, e-mail): ()

9. Eligibility to Give to State Office Candidates: During the 180 days prior to making a contribution to a state office candidate, your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State.
A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to state office candidates (legislative and statewide executive candidates).
10. Signature and Certification. I certify that this statement is true, complete and correct to the best of my knowledge.
Committee Treasurer's Signature Date

SEE INSTRUCTIONS ON REVERSE

PERMANENT



Please consult PDC instruction manuals when completing this report.
 Reporting requirements are contained in and governed by RCW 42.17 and WAC 390.

- | | |
|--|---|
| Who Must File | Persons, committees, organizations or groups that receive contributions or make expenditures in support of or opposition to: candidates in jurisdictions of 5,000 or more registered voters as of the last general election; statewide ballot issues; or local ballot issues in jurisdictions with 1,000 or more registered voters as of the last general election. |
| When To File | <p><u>Within 2 weeks of organizing a committee</u> or first expecting to receive contributions or make expenditures, whichever occurs first. (Committees that organize within three weeks of an election must file within three business days of forming or of expecting to receive contributions or make expenditures.)</p> <p>File an amended C-1pc form within 10 calendar days of any material change to the registration information furnished previously. <u>For single election-year only committees, a material change includes providing or modifying the list of candidates the committee is supporting or opposing.</u></p> <p>Continuing political committees using Mini Reporting must also file a C-1pc annually in January. Reports are considered filed as of the postmark date or date hand-delivered to PDC.</p> |
| Where To File | Send the original to PDC at the above address. Send a copy to County Auditor (county elections office) of the county in which the committee headquarters is located. If there is no headquarters, send to the County Auditor of the county in which the treasurer resides. Keep a copy as part of the committee's records. |
| "Officer" of a Political Committee – Definition | <p>Officer of a political committee includes the following persons:</p> <ul style="list-style-type: none"> • the treasurer, • any person designated as an officer on the C-1pc registration statement, and • any person who alone or in conjunction with other persons makes contribution, expenditure, strategic or policy decisions on behalf of the committee. (WAC 390-05-245) |

For Instruction Manuals and Reporting Forms or look under the "Filer Assistance" menu category on PDC's Web Site: www.pdc.wa.gov

PERMANENT

AMENDATORY SECTION (Amending WSR 01-10-054, filed 4/26/01, effective 6/1/01)

WAC 390-16-012 Forms—Registration statement for candidates. The official form for providing the statement of organization by candidates and candidate's committees, for designating a campaign treasurer and depository and for reporting information required to qualify for mini campaign finance reporting is designated "C-1," revised ((6/01)) 2/05. Copies of this form are available at the Commission Office, 711 Capitol Way, Room 206, P.O. Box 40908, Olympia, Washington, 98504-0908. Any attachments shall be on 8-1/2" x 11" white paper.

((STRICKEN GRAPHIC))



Candidate Registration

C1
(601)

Candidate's Name (Give candidate's full name.)		Telephone Numbers ()
Candidate's Committee Name (Do not abbreviate.)		()
Mailing Address		Fax Number ()
City	County	Zip + 4
		E-Mail Address

1. What office are you running for?	Legislative District, County or City	Position No.	Do you now hold this office? Yes <input type="checkbox"/> No <input type="checkbox"/>
2. Political party (if partisan office)		3. Date of general or special election	

4. How much do you plan to spend during your entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. If no box is checked you are obligated to use Option II, Full Reporting. See instruction manuals for information about reports required and changing reporting options.

Option I **MINI REPORTING:** In addition to my filing fee of \$_____, I will raise and spend no more than \$3,500, including any charges for inclusion in state and local voters pamphlets. I will not accept more than \$300 in the aggregate from any contributor except myself.

Option II **FULL REPORTING:** I will use the Full Reporting system. I will file the frequent, detailed campaign reports required by law.

5. Treasurer's Name and Address. Candidate may be treasurer. List deputy treasurers on attached sheet. <input type="checkbox"/> Continued on attached sheet	Daytime Telephone Number ()
---	---------------------------------

6. Committee Officers. List name, title and address. Continue on attached sheet if necessary. See reverse for definition of "officer." Continued on attached sheet

7. Campaign Bank or Depository	Branch	City
--------------------------------	--------	------

8. Related or Affiliated Political Committees. List name, address and relationship. Continued on attached sheet

9. Campaign books must be open to the public, except on a weekend or legal holiday, during the eight days before the election: (a) on the eighth day for two consecutive hours between 8 a.m. and 8 p.m.; if the eighth day is a legal holiday - two consecutive hours on the seventh day between 8 a.m. and 8 p.m.; and (b) on the other weekdays, by appointment between 8 a.m. and 8 p.m. Specify location and hours below. It is not acceptable to provide a post office box or an out-of-area address.

Street Address, Room Number, City _____ Hours [Two consecutive hours; see 9(a)] _____

In order to make an appointment, contact the campaign at (telephone, fax, e-mail): ()

10. **CERTIFICATION:**
I certify that this report is true, complete and correct to the best of my knowledge.

Candidate's Signature _____ Date _____

Please advise us about which forms and instructions you need. Remember, candidates must file a Financial Affairs Statement (F-1) unless a current one is already on file with PDC. Check all boxes that apply.

I already have financial affairs and campaign disclosure forms and instructions.

I am using Mini Reporting and, therefore, do not need the other campaign disclosure forms. In addition, I have already filed my Financial Affairs Statement and need no additional F-1 forms.

I will obtain all forms and instructions from my county elections office.

I want PDC to mail me: the F-1 instruction booklet (which includes forms) the appropriate campaign disclosure forms and instructions.

Distribution of This Report:
ORIGINAL - Public Disclosure Commission
COPY - County Elections Office (Auditor)
COPY - Your own records
(Note: City candidates contact City Clerk to see if local filing is required.)

SEE INSTRUCTIONS ON REVERSE

((STRICKEN GRAPHIC))

PERMANENT

~~((STRICKEN GRAPHIC))~~



Please consult PDC instruction manuals when completing this report. Reporting requirements are contained in and governed by RCW 42.17 and WAC 390.

Who Must File

Candidates who seek

- state office (legislative or statewide executive),
- a state supreme court or state court of appeals position,
- local office in jurisdictions having 5,000 or more registered voters as of the last general election or in jurisdictions covering an entire county.

When To File

Within 2 weeks of becoming a candidate. A person becomes a candidate for PDC purposes when he or she first does any of the following:

- receives contributions, makes expenditures, or reserves space or facilities with intent to promote his or her candidacy;
- purchases commercial advertising space or broadcast time to promote his or her candidacy;
- authorizes another person to take one of these above actions on his or her behalf;
- announces publicly that he or she is seeking office; or
- files a declaration of candidacy with the appropriate elections official.

File an amended registration within 10 days of a material change to information provided on previously filed C-1. Reports are considered filed as of the postmark date or date hand-delivered to PDC.

Where To File

Send the **original** to PDC at the above address. Send a copy to **County Auditor** (county elections office) of the county in which the candidate resides. Candidates for city offices are advised to contact their City Clerk to learn if local filing is required by local ordinance. Keep a copy as part of the campaign's records.

"Officer" of a Candidate's Committee – Definition

Officer of a candidate's authorized committee or officer of a candidate's committee includes the following persons:

- the treasurer,
- any person designated as an officer on the C-1 registration statement, and
- any person who alone or in conjunction with other persons makes contribution, expenditure, strategic or policy decisions on behalf of the committee. (WAC 390-05-245)

Contact PDC or County Elections Office for Instruction Manuals and Reporting Forms or look under the "Filer Assistance" menu category on PDC's Web Site: www.pdc.wa.gov

~~STRICKEN GRAPHIC))~~

PERMANENT



Candidate Registration

C1
(205)

Candidate's Name (Give candidate's full name.)		Telephone Numbers ()
Candidate's Committee Name (Do not abbreviate.)		()
Mailing Address		Fax Number ()
City	County	Zip + 4
		E-Mail Address

1. What office are you running for? Legislative District, County or City Position No. Do you now hold this office?
Yes No

2. Political party (if partisan office) 3. Date of general or special election

4. How much do you plan to spend during your entire election campaign, including the primary and general elections? Based on that estimate, choose one of the reporting options below. If no box is checked you are obligated to use Option II, Full Reporting. See instruction manuals for information about reports required and changing reporting options.

Option I **MINI REPORTING:** In addition to my filing fee of \$_____, I will raise and spend no more than \$3,500, including any charges for inclusion in state and local voters pamphlets. I will not accept more than \$300 in the aggregate from any contributor except myself.

Option II **FULL REPORTING:** I will use the Full Reporting system. I will file the frequent, detailed campaign reports required by law.

5. Treasurer's Name and Address. Candidate may be treasurer. List deputy treasurers on attached sheet. Continued on attached sheet Daytime Telephone Number
()

6. Committee Officers. List name, title and address. Continue on attached sheet if necessary. See reverse for definition of "officer." Continued on attached sheet

7. Campaign Bank or Depository	Branch	City
--------------------------------	--------	------

8. Related or Affiliated Political Committees. List name, address and relationship.

Continued on attached sheet

9. Campaign books must be open to the public, except on a weekend or legal holiday, during the eight days before the election: (a) on the eighth day for two consecutive hours between 8 a.m. and 8 p.m.; if the eighth day is a legal holiday - two consecutive hours on the seventh day between 8 a.m. and 8 p.m.; and (b) on the other weekdays, by appointment between 8 a.m. and 8 p.m. Specify location and hours below. It is not acceptable to provide a post office box or an out-of-area address.

Street Address, Room Number, City Hours [Two consecutive hours; see 9(a)]

In order to make an appointment, contact the campaign at (telephone, fax, e-mail): ()

10. **CERTIFICATION:**
I certify that this report is true, complete and correct to the best of my knowledge.
Candidate's Signature Date

SEE INSTRUCTIONS ON REVERSE

PERMANENT



Please consult PDC instruction manuals when completing this report.
Reporting requirements are contained in and governed by RCW 42.17 and WAC 390.

- | | |
|--|---|
| Who Must File | <p>Candidates who seek</p> <ul style="list-style-type: none"> • state office (legislative or statewide executive), • a state supreme court or state court of appeals position, • local office in jurisdictions having 5,000 or more registered voters as of the last general election or in jurisdictions covering an entire county. |
| When To File | <p><u>Within 2 weeks of becoming a candidate.</u> A person becomes a candidate for PDC purposes when he or she <u>first</u> does any of the following:</p> <ul style="list-style-type: none"> • receives contributions, makes expenditures, or reserves space or facilities with intent to promote his or her candidacy; • purchases commercial advertising space or broadcast time to promote his or her candidacy; • authorizes another person to take one of these above actions on his or her behalf; • announces publicly that he or she is seeking office; or • files a declaration of candidacy with the appropriate elections official. <p>File an amended registration within 10 days of a material change to information provided on previously filed C-1. Reports are considered filed as of the postmark date or date hand-delivered to PDC.</p> |
| Where To File | <p>Send the original to PDC at the above address. Send a copy to County Auditor (county elections office) of the county in which the candidate resides. Candidates for city offices are advised to contact their City Clerk to learn if local filing is required by local ordinance. Keep a copy as part of the campaign's records.</p> |
| "Officer" of a Candidate's Committee – Definition | <p>Officer of a candidate's authorized committee or officer of a candidate's committee includes the following persons:</p> <ul style="list-style-type: none"> • the treasurer, • any person designated as an officer on the C-1 registration statement, and • any person who alone or in conjunction with other persons makes contribution, expenditure, strategic or policy decisions on behalf of the committee. (WAC 390-05-245) |

For Instruction Manuals and Reporting Forms look under the "Filer Assistance" menu category on PDC's Web Site: www.pdc.wa.gov

PERMANENT

AMENDATORY SECTION (Amending WSR 96-05-001, filed 2/7/96, effective 3/9/96)

WAC 390-16-310 Limitations on contributions. The limitations on contributions as provided in RCW 42.17.105(8) and RCW 42.17.640 shall be ~~((applied))~~ as follows:

(1)(a) The limitation on contributions in RCW 42.17.640 shall not apply to a "candidate" as that term is defined in RCW 42.17.020(8) when the candidate is contributing to his or her own campaign using his or her own personal funds as defined in WAC 390-17-305.

(b) The limitation on contributions in RCW 42.17.640 shall apply to contributions to the candidate from the candidate's spouse or other immediate family members.

(2) The limitations on contributions shall apply separately to the contributions made by each spouse.

(3) Emancipated minor children (children under 18 years of age) may make contributions which do not exceed the limitations on contributions and the contribution is properly attributed to the emancipated minor child if;

(a) The decision to contribute is made knowingly and voluntarily by the emancipated minor child;

(b) The funds, goods, or services contributed are owned or controlled exclusively by the emancipated minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained exclusively in the child's name; and

(c) The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another person.

Contributions by emancipated minor children which do not meet these requirements and contributions by unemancipated minor children shall be considered contributions by the child's parents. Fifty percent of the contributions will be attributed to each parent, or in the case of a single custodial parent, the total amount is attributed to the parent.

(4) Contributions from a business organized as a sole proprietorship and contributions from the owner of the sole proprietorship shall be aggregated for purposes of determining the limitations of contributions under ~~((the))~~ RCW 42.17.105(8) and 42.17.640.

(5) The limitations on contributions shall apply separately to the contributions made by a partnership from the contributions made by an individual partner except that;

Contributions made from or charged against the capital account of an individual partner shall be aggregated with the partner's individual contributions for purposes of determining the limitations on contributions under RCW 42.17.105(8) and 42.17.640.

(6) The limitations on contributions shall apply separately to the contributions made by an entity (corporation, ~~((other similar organization from the contributions made by the))~~ subsidiary or branch, national union and local unions, collective bargaining organizations and local units, membership organizations and local units and other organizations and their local units) pursuant to the standards set forth in WAC 390-16-309.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 390-16-311

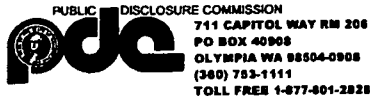
Automatically affiliated entities maintaining separate contribution limits.

PERMANENT

AMENDATORY SECTION (Amending WSR 04-02-028, filed 12/31/03, effective 1/31/04)

WAC 390-20-0101 Forms for lobbyist registration. The official form for lobbyist registration as required by RCW 42.17.150 is designated "L-1," revised ((12/03)) 2/05. Copies of this form are available at the commission office, Room 206, Evergreen Plaza Building, Olympia, Washington 98504. Any paper attachments shall be on 8-1/2" x 11" white paper.

((STRICKEN GRAPHIC))



LOBBYIST REGISTRATION

L1	THIS SPACE FOR OFFICE USE
	(12/03)

<p>1. Lobbyist Name</p> <hr/> <p>Permanent Business Address</p> <hr/> <p>City State Zip</p> <hr/> <p>2. Temporary Thurston County address during legislative session</p> <hr/> <p>3. Employer's name and address (person or group for which you lobby)</p> <hr/> <p>4. Name and address of person having custody of accounts, receipts, books or other documents which substantiate lobbyist reports. (Person responsible for producing the annual L3 report)</p>	<p>Business Telephone Numbers</p> <p>Permanent ()</p> <p>Temporary ()</p> <p>Cell Phone () or Pager</p> <hr/> <p>E-Mail Address</p> <hr/> <p>Employer's occupation, business or description of purpose of organization</p> <hr/> <p>E-Mail Address</p>			
<p>5. What is your pay (compensation) for lobbying?</p> <p>\$ _____ per _____ (hour, day, month, year)</p> <p>Other: Explain:</p>	<p>Description of employment (check one or more boxes)</p> <p><input type="checkbox"/> Full time employee <input type="checkbox"/> Sole duty is lobbying</p> <p><input type="checkbox"/> Part time or temporary employee <input type="checkbox"/> Lobbying is only a part of other duties</p> <p><input type="checkbox"/> Contractor, retainer or similar agreement</p> <p><input type="checkbox"/> Unsalaried officer or member of group</p>			
<p>6. Are you reimbursed for lobbying expenses? Explain which expenses.</p> <p><input type="checkbox"/> Yes: \$ _____ per _____</p> <p><input type="checkbox"/> Yes: I am reimbursed for expenses.</p> <p><input type="checkbox"/> No: I am not reimbursed for expenses.</p>	<p>Does employer pay any of your lobbying expenses directly? If yes, explain which ones.</p>			
<p>7. How long do you expect to lobby for this organization?</p> <p><input type="checkbox"/> Permanent lobbyist <input type="checkbox"/> Only during legislative session <input type="checkbox"/> Other: Explain:</p>				
<p>8. Is your employer a business or trade association or similar organization which lobbies on behalf of its members? If "yes," attach a list showing the name and address of each member who has paid the association fees, dues or other payments over \$500 during either of the past two years or is expected to pay over \$500 this year.</p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes. However, no member has paid, pays, or is expected to pay over \$500.</p> <p><input type="checkbox"/> Yes. The list is attached</p>				
<p>9. Does your employer have a connected, related or closely affiliated political action committee which will provide funds for you to make political contributions including purchase tickets to fund raising events? If so, list the name of that political action committee.</p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes. Name of the committee is:</p>				
<p>10. If lobbyist is a company, partnership or similar business entity which employs others to perform actual lobbying duties, list name of each person who will lobby. (See WAC 390-20-143 and 144 for instructions.)</p>				
<p>11. Areas of interest. Lobbying is most frequent before legislative committee members or state agencies concerned with following subjects:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;"> <p>01 <input type="checkbox"/> Agriculture</p> <p>02 <input type="checkbox"/> Business and consumer affairs</p> <p>03 <input type="checkbox"/> Constitutions and elections</p> <p>04 <input type="checkbox"/> Education</p> <p>05 <input type="checkbox"/> Energy and utilities</p> <p>06 <input type="checkbox"/> Environmental affairs - natural resources - parks</p> <p>07 <input type="checkbox"/> Financial institutions and insurance</p> <p>08 <input type="checkbox"/> Fiscal</p> </td> <td style="width: 33%;"> <p>09 <input type="checkbox"/> Higher education</p> <p>10 <input type="checkbox"/> Human services</p> <p>11 <input type="checkbox"/> Labor</p> <p>12 <input type="checkbox"/> Law and justice</p> <p>13 <input type="checkbox"/> Local government</p> <p>14 <input type="checkbox"/> State government</p> <p>15 <input type="checkbox"/> Transportation</p> <p>16 <input type="checkbox"/> Other - Specify:</p> </td> <td style="width: 33%; border: none;"></td> </tr> </table>	<p>01 <input type="checkbox"/> Agriculture</p> <p>02 <input type="checkbox"/> Business and consumer affairs</p> <p>03 <input type="checkbox"/> Constitutions and elections</p> <p>04 <input type="checkbox"/> Education</p> <p>05 <input type="checkbox"/> Energy and utilities</p> <p>06 <input type="checkbox"/> Environmental affairs - natural resources - parks</p> <p>07 <input type="checkbox"/> Financial institutions and insurance</p> <p>08 <input type="checkbox"/> Fiscal</p>	<p>09 <input type="checkbox"/> Higher education</p> <p>10 <input type="checkbox"/> Human services</p> <p>11 <input type="checkbox"/> Labor</p> <p>12 <input type="checkbox"/> Law and justice</p> <p>13 <input type="checkbox"/> Local government</p> <p>14 <input type="checkbox"/> State government</p> <p>15 <input type="checkbox"/> Transportation</p> <p>16 <input type="checkbox"/> Other - Specify:</p>		<p>Remarks:</p>
<p>01 <input type="checkbox"/> Agriculture</p> <p>02 <input type="checkbox"/> Business and consumer affairs</p> <p>03 <input type="checkbox"/> Constitutions and elections</p> <p>04 <input type="checkbox"/> Education</p> <p>05 <input type="checkbox"/> Energy and utilities</p> <p>06 <input type="checkbox"/> Environmental affairs - natural resources - parks</p> <p>07 <input type="checkbox"/> Financial institutions and insurance</p> <p>08 <input type="checkbox"/> Fiscal</p>	<p>09 <input type="checkbox"/> Higher education</p> <p>10 <input type="checkbox"/> Human services</p> <p>11 <input type="checkbox"/> Labor</p> <p>12 <input type="checkbox"/> Law and justice</p> <p>13 <input type="checkbox"/> Local government</p> <p>14 <input type="checkbox"/> State government</p> <p>15 <input type="checkbox"/> Transportation</p> <p>16 <input type="checkbox"/> Other - Specify:</p>			
<p>CERTIFICATION: I hereby certify that the above is a true, complete and correct statement.</p>	<p>EMPLOYER'S AUTHORIZATION: Confirming the employment authority to lobby described in this registration statement.</p>			
<p>12. LOBBYIST'S SIGNATURE DATE</p>	<p>EMPLOYER'S SIGNATURE, NAME TYPED OR PRINTED, AND TITLE DATE</p>			

NOT VALID UNLESS SIGNED BY BOTH

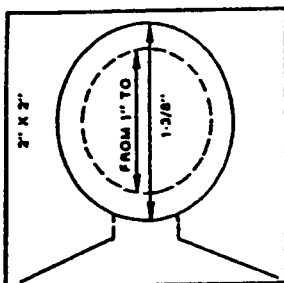
STRICKEN GRAPHIC))

PERMANENT

~~((STRICKEN GRAPHIC~~

[

LOBBYIST IDENTIFICATION FORM



NAME:
BUSINESS ADDRESS:

PHONE:

OLYMPIA ADDRESS:

PHONE:

EMPLOYERS' NAMES:

YEAR FIRST EMPLOYED AS A LOBBYIST:
BIOGRAPHY:

PERMANENT

INSTRUCTIONS

ATTACH THIS PAGE TO YOUR L-1 REGISTRATION.

ATTACH 2" x 2" PASSPORT TYPE, BLACK AND WHITE PHOTO. PHOTO SHOULD BE HEAD AND SHOULDERS, FULL FACE, AND TAKEN WITHIN LAST 12 MONTHS.

PLEASE WRITE, LIGHTLY IN PENCIL, NAME ON BACK OF PHOTO BEFORE ATTACHING. PHOTOS WILL NOT BE RETURNED.

PLEASE SEE INSTRUCTION BOOKLET FOR EXAMPLE OF BIOGRAPHY. LIST ALL EMPLOYERS ON THIS PAGE IF YOU HAVE MORE THAN ONE EMPLOYER. IF YOU LATER ADD ADDITIONAL EMPLOYERS, PDC WILL INCLUDE THEM FOR YOU.

PLEASE USE TYPEWRITER TO COMPLETE THIS PAGE.

FORM L-1, PAGE 2 (Rev. 3/77) -30-

~~STRICKEN GRAPHIC))~~



LOBBYIST REGISTRATION

THIS SPACE FOR OFFICE USE
L1

PERMANENT

1. Lobbyist Name

Permanent Business Address

City State Zip

Business Telephone Numbers
Permanent ()
Temporary ()
Cell Phone () or Pager

2. Temporary Thurston County address during legislative session

E-Mail Address

3. Employer's name and address (person or group for which you lobby)

Employer's occupation, business or description of purpose of organization

4. Name and address of person having custody of accounts, receipts, books or other documents which substantiate lobbyist reports.

E-Mail Address

5. What is your pay (compensation) for lobbying?
\$ _____ per _____ (hour, day, month, year)
Other: Explain:

Description of employment (check one or more boxes)
 Full time employee Sole duty is lobbying
 Part time or temporary employee Lobbying is only a part of other duties
 Contractor, retainer or similar agreement
 Unalarmed officer or member of group

6. Are you reimbursed for lobbying expenses? Explain which expenses.
 Yes: \$ _____ per _____
 Yes: I am reimbursed for expenses.
 No: I am not reimbursed for expenses.

Does employer pay any of your lobbying expenses directly? If yes, explain which ones.

7. How long do you expect to lobby for this organization?
 Permanent lobbyist Only during legislative session Other, Explain:

8. Is your employer a business or trade association or similar organization which lobbies on behalf of its members? If "yes," attach a list showing the name and address of each member who has paid the association fees, dues or other payments over \$500 during either of the past two years or is expected to pay over \$500 this year.
 No Yes. However, no member has paid, pays, or is expected to pay over \$500.
 Yes. The list is attached

9. Does your employer have a connected, related or closely affiliated political action committee which will provide funds for you to make political contributions including purchase tickets to fund raising events? If so, list the name of that political action committee.
 No Yes. Name of the committee is:

11. Areas of interest. Lobbying is most frequent before legislative committee members or state agencies concerned with following subjects:

01 <input type="checkbox"/> Agriculture	02 <input type="checkbox"/> Business and consumer affairs	03 <input type="checkbox"/> Constitutions and elections	04 <input type="checkbox"/> Education	05 <input type="checkbox"/> Energy and utilities	06 <input type="checkbox"/> Environmental affairs - natural resources - parks	07 <input type="checkbox"/> Financial institutions and insurance	08 <input type="checkbox"/> Fiscal	09 <input type="checkbox"/> Higher education	10 <input type="checkbox"/> Human services	11 <input type="checkbox"/> Labor	12 <input type="checkbox"/> Law and justice	13 <input type="checkbox"/> Local government	14 <input type="checkbox"/> State government	15 <input type="checkbox"/> Transportation	16 <input type="checkbox"/> Other - Specify:
---	---	---	---------------------------------------	--	---	--	------------------------------------	--	--	-----------------------------------	---	--	--	--	--

Remarks:

CERTIFICATION: I hereby certify that the above is a true, complete and correct statement.

EMPLOYER'S AUTHORIZATION: Confirming the employment authority to lobby described in this registration statement.

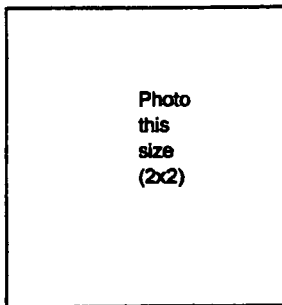
12. LOBBYIST'S SIGNATURE DATE

EMPLOYER'S SIGNATURE, NAME TYPED OR PRINTED, AND TITLE DATE

PDC Form L-1 (rev. 2003)

NOT VALID UNLESS SIGNED BY BOTH

LOBBYIST IDENTIFICATION FORM



NAME:
BUSINESS ADDRESS:

PHONE:

OLYMPIA ADDRESS:

PHONE:

EMPLOYERS' NAMES:

YEAR FIRST EMPLOYED AS A LOBBYIST:
BIOGRAPHY:

PERMANENT

INSTRUCTIONS

- ATTACH THIS PAGE TO YOUR L-1 REGISTRATION.
- ATTACH 2" x 2" PASSPORT TYPE PHOTO. PHOTO SHOULD BE HEAD AND SHOULDERS, FULL FACE, AND TAKEN WITHIN LAST 12 MONTHS.
- PLEASE WRITE NAME, LIGHTLY IN PENCIL, ON BACK OF PHOTO BEFORE ATTACHING.
- PHOTOS WILL NOT BE RETURNED.
- PLEASE SEE INSTRUCTION BOOKLET FOR EXAMPLE OF BIOGRAPHY.
- LIST ALL EMPLOYERS ON THIS PAGE.

PDC FORM L-1, PAGE 2 (Rev. 2000)

AMENDATORY SECTION (Amending WSR 04-02-028, filed 12/31/03, effective 1/31/04)

WAC 390-20-110 Forms for lobbyist employers report. The official form for statement by employers of registered lobbyists as required by RCW 42.17.180 is designated "L-3," revised ((12/03)) 2/05. Copies of this form are available at the Commission Office 711 Capitol Way, Room 206, Evergreen Plaza Building, PO Box 40908, Olympia, Washington, 98504-0908. Any paper attachments shall be on 8-1/2" x 11" white paper.

((STRICKEN GRAPHIC

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 206
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 763-1111
TOLL FREE 1-877-601-2828

Employer's Lobbying Expenses

L3
12/03

THIS SPACE FOR OFFICE USE

1. Employer's Name (Use complete company, association, union or entity name.)
Attention (Identify person to whom inquiries about the information below should be directed; NOT the lobbyist.)
Mailing Address Telephone
City State Zip + 4 E-Mail Address

THIS REPORT MUST BE FILED BY THE LAST DAY OF FEBRUARY. Include expenditures made and accrued during the previous calendar year for lobbying the Washington State Legislature and/or any state agency. Complete all sections. Use "none" or "0" when applicable.

2. Identify each of your lobbyists/lobbying firms below. In column 1, show the full amount of salary or fee each earned for lobbying. In column 2, show the full amount paid (plus obligated) for other lobbying related expenses that were made by or through the lobbyist and reported by the lobbyist on the monthly L-2 report (e.g., contributions to legislative candidates, reimbursement for entertainment expenses, etc.). Compute the subtotals across and down the columns; put the grand total of expenses incurred by or through lobbyists in the space designated.

Table with 4 columns: Names of Registered Lobbyists (if payments were to lobbying firm, list firm name), Col 1-Salary, Col 2-Other, Total Amount. Includes a Total From Attached Page row and a Total Expenses By or Through Lobbyists row.

Information continued on attached pages

DO NOT INCLUDE EXPENDITURES ALREADY ACCOUNTED FOR IN ITEM 2 ABOVE when completing Items 3 through 7 below.

- 3. Other expenditures made by the employer for lobbying purposes. Show total expenditures made/accrued:
a. to vendors on behalf of or in support of registered lobbyists (e.g., entertainment credit card purchases);
b. to or on behalf of expert witnesses or others retained to provide lobbying services who offer specialized knowledge or expertise that assists the employer's lobbying effort;
c. for entertainment, tickets, passes, travel expenses (e.g., transportation, meals, lodging, etc.) and enrollment or course fees provided to legislators, state officials, state employees and members of their immediate families; (Also complete Item 9.)
d. for composing, designing, producing and distributing informational materials for use primarily to influence legislation; and
e. for grass roots lobbying expenses, including those previously reported by employer on Form L-6, and payments for lobbying communications to clients/customers (other than to corporate stockholders and members of an organization or union).
4. Political contributions to candidates for legislative or statewide executive office, committees supporting or opposing these candidates, or committees supporting or opposing statewide ballot measures. (Also complete Item 10.)
a. Contributions made directly by the employer, including those previously reported on PDC Form L-3c.
b. If contributions were made by a political committee associated, affiliated or sponsored by the employer, show the PAC name below. (Information reported by the PAC on C-4 reports need not be again included as part of this L-3 report.)
Name of PAC
5. Independent expenditures supporting or opposing a candidate for legislative or statewide executive office or a statewide ballot measure. (Also complete Item 11.)
6. Expenditures to or on behalf of legislators, state officials, their spouses and dependents for the purpose of influencing, honoring or benefiting the legislator or official. (Normal course of business payments are not reportable.) (Also complete Item 14.)
7. Other lobbying-related expenditures, whether through or on behalf of a registered lobbyist. Attach list itemizing each expense (i.e., show date, recipient, purpose and amount). Do not include payments accounted for above.
Total Lobbying Expenses (Items 2 thru 7)

8. This report must be certified by the president, secretary-treasurer or similar office of lobbying employer.

Certification: I certify that this report is true, complete and correct to the best of my knowledge.
Signature of Employer Officer Date
Printed Name and Title of Officer:

CONTINUE ON REVERSE.

STRICKEN GRAPHIC))

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L3

Page 2

Employer's Name

Year report covers:

9. Entertainment, tickets, passes, travel expenses (including transportation, meals, lodging, etc.) and enrollment or course fees provided to legislators, state officials, state employees and members of their immediate families. See instruction manual for details.

Name and Title

Cost or Value

Date and Description of Expense

\$

Information continued on attached pages

10. Contributions (not reported by the lobbyist) totalling over \$25 to a legislative or statewide executive office candidate, a committee formed to support or oppose one of these candidates or a committee supporting or opposing a statewide ballot measure. Do not list employer-affiliated PAC contributions.

Name of Recipient

Amount

Date (and, if In-Kind, Description)

\$

Information continued on attached pages

11. Independent expenditures in support of or opposition to a) a legislative or statewide executive office candidate or b) a statewide ballot proposition. See instruction manual for definition of "Independent expenditure."

Candidate's Name, Office Sought & Party or Ballot Proposition Number & Brief Description

Amount

Date and Description of Expense (Note if Support or Oppose)

\$

Information continued on attached pages

12. Compensation of \$1,500 or more during the preceding calendar year for employment or professional services paid to state elected officials, successful candidates for state office and each member of their immediate family.

Name

Relationship to Candidate or Elected Official if Member of Family

Amount (Code)**

Description of Consideration or Services Exchanged for Compensation

Information continued on attached pages

13. Compensation of \$1,500 or more during the preceding calendar year for professional services paid to any corporation, partnership, joint venture, association or other entity in which state elected official, successful state candidate or member of their immediate family hold office, partnership, directorship or ownership interest of 10% or more.

Firm Name

Person's Name

Amount (Code)**

Description of Consideration or Services Exchanged for Compensation

Information continued on attached pages

14. Any expenditure, not otherwise reported, made directly or indirectly to a state elected official, successful candidate for state office or member of their immediate family, if made to honor, influence or benefit the person because of his or her official position.

Name

Amount

Date and Purpose

\$

Information continued on attached pages

**DOLLAR CODE AMOUNT

A - \$1 to \$2,999
B - \$3,000 to \$14,999
C - \$15,000 to \$29,999

**DOLLAR CODE AMOUNT

D - \$30,000 to \$74,999
E - \$75,000 or more

~~STRICKEN GRAPHIC))~~

PERMANENT

PUBLIC DISCLOSURE COMMISSION
pdc 711 CAPITOL WAY RM 206
 PO BOX 40908
 OLYMPIA WA 98504-0908
 (360) 783-1111
 TOLL FREE 1-877-801-3828

**Employer's
 Lobbying Expenses**

L3
 205

THIS SPACE FOR OFFICE USE

1. Employer's Name (Use complete company, association, union or entity name.)

Attention (Identify person to whom inquiries about the information below should be directed; NOT the lobbyist.)

Mailing Address Telephone

() -

City State Zip + 4 E-Mail Address Year Report Covers

THIS REPORT MUST BE FILED BY THE LAST DAY OF FEBRUARY. Include expenditures made and accrued during the previous calendar year for lobbying the Washington State Legislature and/or any state agency. Complete all sections. Use "none" or "0" when applicable.

2. Identify each of your lobbyists/lobbying firms below. In column 1, show the full amount of salary or fee each earned for lobbying. In column 2, show the full amount paid (plus obligated) for other lobbying related expenses that were made by or through the lobbyist and reported by the lobbyist on the monthly L-2 report (e.g., contributions to legislative candidates, reimbursement for entertainment expenses, etc.). Compute the subtotals across and down the columns; put the grand total of expenses incurred by or through lobbyists in the space designated.

Names of Registered Lobbyists (if payments were to lobbying firm, list firm name)	Col 1-Salary	Col 2-Other	Total Amount
	\$	\$	\$
Total From Attached Page			
Total Expenses By or Through Lobbyists			\$

Information continued on attached pages

DO NOT INCLUDE EXPENDITURES ALREADY ACCOUNTED FOR IN ITEM 2 ABOVE when completing Items 3 through 7 below.

3. Other expenditures made by the employer for lobbying purposes. Show total expenditures made/accrued:
- a. to vendors on behalf of or in support of registered lobbyists (e.g., entertainment credit card purchases); \$
 - b. to or on behalf of expert witnesses or others retained to provide lobbying services who offer specialized knowledge or expertise that assists the employer's lobbying effort;
 - c. for entertainment, tickets, passes, travel expenses (e.g., transportation, meals, lodging, etc.) and enrollment or course fees provided to legislators, state officials, state employees and members of their immediate families; (Also complete Item 9.)
 - d. for composing, designing, producing and distributing informational materials for use primarily to influence legislation; and
 - e. for grass roots lobbying expenses, including those previously reported by employer on Form L-6, and payments for lobbying communications to clients/customers (other than to corporate stockholders and members of an organization or union).
4. Political contributions to candidates for legislative or statewide executive office, committees supporting or opposing these candidates, or committees supporting or opposing statewide ballot measures. (Also complete Item 10.)
- a. Contributions made directly by the employer, including those previously reported on PDC Form L-3c.
 - b. If contributions were made by a political committee associated, affiliated or sponsored by the employer, show the PAC name below. (Information reported by the PAC on C-4 reports need not be again included as part of this L-3 report.)
- Name of PAC _____
5. Independent expenditures supporting or opposing a candidate for legislative or statewide executive office or a statewide ballot measure. (Also complete Item 11.)
6. Expenditures to or on behalf of legislators, state officials, their spouses and dependents for the purpose of influencing, honoring or benefiting the legislator or official. (Normal course of business payments are not reportable.) (Also complete Item 14.)
7. Other lobbying-related expenditures, whether through or on behalf of a registered lobbyist. Attach list itemizing each expense (i.e., show date, recipient, purpose and amount). Do not include payments accounted for above.
- Total Lobbying Expenses \$
- (Items 2 thru 7)

8. This report must be certified by the president, secretary-treasurer or similar office of lobbying employer.

Certification: I certify that this report is true, complete and correct to the best of my knowledge.

Signature of Employer Officer Date

Printed Name and Title of Officer:

CONTINUE ON REVERSE

PERMANENT

Employer's Name

Year report covers:

9. Entertainment, tickets, passes, travel expenses (including transportation, meals, lodging, etc.) and enrollment or course fees provided to legislators, state officials, state employees and members of their immediate families. See instruction manual for details.

Name and Title	Cost or Value	Date and Description of Expense
	\$	

Information continued on attached pages

10. Contributions (not reported by the lobbyist) totalling over \$25 to a legislative or statewide executive office candidate, a committee formed to support or oppose one of these candidates or a committee supporting or opposing a statewide ballot measure. Do not list employer-affiliated PAC contributions.

Name of Recipient	Amount	Date (and, if In-Kind, Description)
	\$	

Information continued on attached pages

11. Independent expenditures in support of or opposition to a) a legislative or statewide executive office candidate or b) a statewide ballot proposition. See instruction manual for definition of "independent expenditure."

Candidate's Name, Office Sought & Party or Ballot Proposition Number & Brief Description	Amount	Date and Description of Expense (Note if Support or Oppose)
	\$	

Information continued on attached pages

12. Compensation of \$1,500 or more during the preceding calendar year for employment or professional services paid to state elected officials, successful candidates for state office and each member of their immediate family.

Name	Relationship to Candidate or Elected Official if Member of Family	Amount (Code)**	Description of Consideration or Services Exchanged for Compensation

Information continued on attached pages

13. Compensation of \$1,500 or more during the preceding calendar year for professional services paid to any corporation, partnership, joint venture, association or other entity in which state elected official, successful state candidate or member of their immediate family hold office, partnership, directorship or ownership interest of 10% or more.

Firm Name	Person's Name	Amount (Code)**	Description of Consideration or Services Exchanged for Compensation

Information continued on attached pages

14. Any expenditure, not otherwise reported, made directly or indirectly to a state elected official, successful candidate for state office or member of their immediate family, if made to honor, influence or benefit the person because of his or her official position.

Name	Amount	Date and Purpose
	\$	

Information continued on attached pages

****DOLLAR CODE AMOUNT**
 A - \$1 to \$2,999
 B - \$3,000 to \$14,999
 C - \$15,000 to \$29,999

****DOLLAR CODE AMOUNT**
 D - \$30,000 to \$74,999
 E - \$75,000 or more

PERMANENT

AMENDATORY SECTION (Amending WSR 02-20-036, filed 9/24/02, effective 10/25/02)

WAC 390-24-010 Forms for statement of financial affairs. The official form for statements of financial affairs as required by RCW 42.17.240 is designated "F-1," revised ((9/02)) 2/05. Copies of this form are available at the Commission Office, 711 Capitol Way, Room 206, Evergreen Plaza Building, PO Box 40908, Olympia, Washington 98504-0908. Any paper attachments must be on 8-1/2" x 11" white paper.

((STRICKEN GRAPHIC))



PUBLIC DISCLOSURE COMMISSION
 711 CAPITOL WAY RM 206
 PO BOX 40908
 OLYMPIA WA 98504-0908
 (360) 753-1111
 TOLL FREE 1-877-601-2828
 EMAIL: pdc@pdc.wa.gov

PDC FORM F-1 (9/02)	PERSONAL FINANCIAL AFFAIRS STATEMENT	P M PDC OFFICE USE O A S A T R T K R E C E I V E D										
	<table border="1"> <tr> <th>DOLLAR CODE</th> <th>AMOUNT</th> </tr> <tr> <td>A</td> <td>\$1 to \$2,999</td> </tr> <tr> <td>B</td> <td>\$3,000 to \$14,999</td> </tr> <tr> <td>C</td> <td>\$15,000 to \$29,999</td> </tr> <tr> <td>D</td> <td>\$30,000 to \$74,999</td> </tr> <tr> <td>E</td> <td>\$75,000 or more</td> </tr> </table>		DOLLAR CODE	AMOUNT	A	\$1 to \$2,999	B	\$3,000 to \$14,999	C	\$15,000 to \$29,999	D	\$30,000 to \$74,999
DOLLAR CODE	AMOUNT											
A	\$1 to \$2,999											
B	\$3,000 to \$14,999											
C	\$15,000 to \$29,999											
D	\$30,000 to \$74,999											
E	\$75,000 or more											

Refer to instruction manual for detailed assistance and examples.

Deadlines: Incumbent elected and appointed officials -- by April 15.
 Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position.

SEND REPORT TO PUBLIC DISCLOSURE COMMISSION

Last Name _____ First _____ Middle Initial _____	Names of immediate family members. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse. See F-1 manual for details.
Mailing Address (Use PO Box or Work Address) _____	
City _____ County _____ Zip + 4 _____	
Filing Status (Check only one box.) <input type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office	Office Held or Sought Office title: _____ County, city, district or agency of the office, name and number: _____ Position number: _____ Term begins: _____ ends: _____

1 Show Self (S) Spouse (SP) Dependent (D)	INCOME	List each employer, or other source of income (pension, social security, legal judgment) from which you or a family member received \$1,500 or more during the period. (Report interest and dividends in Item 3 on reverse)						
<table border="1" style="width: 100%;"> <tr> <th style="width: 60%;">Name and Address of Employer or Source of Compensation</th> <th style="width: 20%;">Occupation or How Compensation Was Earned</th> <th style="width: 20%;">Amount: (Use Code)</th> </tr> <tr> <td style="height: 100px;"> </td> <td> </td> <td> </td> </tr> </table>			Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount: (Use Code)			
Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount: (Use Code)						
Check Here <input type="checkbox"/> if continued on attached sheet								

2 REAL ESTATE	List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$7,500 in which you or a family member held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement.)				
Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser		Nature and Amount (Use Code) of Payment or Consideration Received	
Property Purchased or Interest Acquired	Creditor's Name/Address	Payment Terms	Security Given	Mortgage Amount - (Use Code) Original Current	
All Other Property Entirely or Partially Owned					
Check here <input type="checkbox"/> if continued on attached sheet					

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PERMANENT

~~(STRICKEN GRAPHIC)~~

3 ASSETS / INVESTMENTS - INTEREST / DIVIDENDS		List bank and savings accounts, insurance policies, stock, bonds and other intangible property held during the reporting period.	
A. Name and address of each bank or financial institution in which you or a family member had an account over \$15,000 any time during the report period.	Type of Account or Description of Asset	Asset Value (Use Code)	Income Amount (Use Code)
B. Name and address of each insurance company where you or a family member had a policy with a cash or loan value over \$15,000 during the period.			
C. Name and address of each company, association, government agency, etc. in which you or a family member owned or had a financial interest worth over \$1,500. Include stocks, bonds, ownership, retirement plan, IRA, notes, and other intangible property.			
Check here <input type="checkbox"/> if continued on attached sheet.			

4 CREDITORS			List each creditor you or a family member owed \$1,500 or more any time during the period. Don't include retail charge accounts, credit cards, or mortgages or real estate reported in item 2.		AMOUNT (USE CODE)	
Creditor's Name and Address	Terms of Payment	Security Given	Original	Present		
Check here <input type="checkbox"/> if continued on attached sheet.						

5 All filers answer questions A thru D below. If the answer is YES to any of these questions, the F-1 Supplement must also be completed as part of this report. If all answers are NO and you are a candidate for state or local office, an appointee to a vacant elective office, or a state executive officer filing your initial report, no F-1 Supplement is required.

Incumbent elected officials and state executive officers filing an annual financial affairs report also must answer question E. An F-1 Supplement is required of these officeholders unless all answers to questions A thru E are NO.

A. Were you, your spouse or dependents an officer, director, general partner or trustee of any corporation, company, union, association, joint venture or other entity at any time during the reporting period? ___ If yes, complete Supplement, Part A.

B. Did you, your spouse or dependents have an ownership of 10% or more in any company, corporation, partnership, joint venture or other business at any time during the reporting period? ___ If yes, complete Supplement, Part A.

C. Did you, your spouse or dependents own a business at any time during the reporting period? ___ If yes, complete Supplement, Part A.

D. Did you, your spouse or dependents prepare, promote or oppose state legislation, rules, rates or standards for current or deferred compensation (other than pay for a currently-held public office) at any time during the reporting period? ___ If yes, complete Supplement, Part B.

E. Only for Persons Filing Annual Report. Regarding the receipt of items not provided or paid for by your governmental agency during the previous calendar year: 1) Did you, your spouse or dependents (or any combination thereof) accept a gift of food or beverages costing over \$50 per occasion? ___ or 2) Did any source other than your governmental agency provide or pay in whole or in part for you, your spouse and/or dependents to travel or to attend a seminar or other training? ___ If yes to either or both questions, complete Supplement, Part C.

<p>ALL FILERS EXCEPT CANDIDATES. Check the appropriate box.</p> <p><input type="checkbox"/> I hold a state elected office or am an executive state officer. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns.</p> <p><input type="checkbox"/> I hold a local elected office. I have read and am familiar with RCW 42.17.130 regarding the use of public facilities in campaigns.</p>	<p>CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.</p>
	<p>Signature _____ Date _____</p>
	<p>Contact Telephone: (____) _____</p>
	<p>Email: _____ (Work)</p>
	<p>Email: _____ (Home)</p>

REPORT NOT ACCEPTABLE WITHOUT FILER'S SIGNATURE

~~(STRICKEN GRAPHIC)~~

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((STRICKEN GRAPHIC))

PUBLIC DISCLOSURE COMMISSION

 711 CAPITOL WAY RM 206
 PO BOX 40908
 OLYMPIA WA 98504-0908
 (360) 753-1111
 TOLL FREE 1-877-801-2828
 EMAIL: pdc@pdc.wa.gov

PDC FORM F-1 SUPPLEMENT (9/02)	SUPPLEMENT PAGE PERSONAL FINANCIAL AFFAIRS STATEMENT
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PROVIDE INFORMATION FOR YOURSELF, SPOUSE, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD

Last Name	First	Middle Initial	DATE
-----------	-------	----------------	------

A

OFFICE HELD, BUSINESS INTERESTS:

For each corporation, non-profit organization, association, union, partnership, joint venture or other entity in which you, your spouse or dependents are an officer, director, general partner, trustee, or 10 percent or more owner – provide the following information:

- Legal Name: Report name used on legal documents establishing the entity.
- Trade or Operating Name: Report name used for business purposes if different from the legal name.
- Position or Percent of Ownership: The office, title and/or percent of ownership held.
- Brief Description of the Business/Organization: Report the purpose, product(s), and/or the service(s) rendered.
- Payments from Governmental Unit: If the governmental unit in which you hold or seek office made payments to the business entity concerning which you're reporting, show the purpose of each payment and the actual amount received.
- Payments from Business Customers and Other Government Agencies: List each corporation, partnership, joint venture, sole proprietorship, union, association, business or other commercial entity and each government agency (other than the one you seek/hold office) which paid compensation of \$7,500 or more during the period to the entity. Briefly say what property, goods, services or other consideration was given or performed for the compensation.
- Washington Real Estate: Identify real estate owned by the business entity if the qualifications referenced below are met.

ENTITY NO. 1

Reporting For: Self Spouse Dependent

LEGAL NAME:

POSITION OR PERCENT OF OWNERSHIP

TRADE OR OPERATING NAME:

ADDRESS:

BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:

PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:

Purpose of payments

Amount (actual dollars)

\$

PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OVER \$7,500:

Customer name:

Purpose of payment (amount not required)

WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$15,000. List street address, assessor parcel number, or legal description and county for each parcel):

Check here if continued on attached sheet

CONTINUE PARTS B AND C ON REVERSE

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PERMANENT

((STRICKEN GRAPHIC))

F-1 Supplement

Name

ENTITY NO. 2 Reporting For: Self Spouse Dependent

LEGAL NAME: POSITION OR PERCENT OF OWNERSHIP

TRADE OR OPERATING NAME:

ADDRESS:

BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:

PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:

Purpose of payments	Amount (actual dollars)
	\$

PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OVER \$7,500:

Customer name:	Purpose of payment (amount not required)
----------------	--

WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$15,000. List street address, assessor parcel number, or legal description and county for each parcel):

Check here if continued on attached sheet

PERMANENT

B LOBBYING: List persons for whom you or any immediate family member lobbied or prepared state legislation or state rules, rates or standards for current or deferred compensation. Do not list pay from government body in which you are an elected official or professional staff member.

Person to Whom Services Rendered	Description of Legislation, Rules, Etc.	Compensation (Use Code)

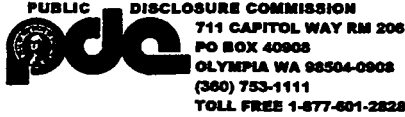
Check here if continued on attached sheet

C FOOD TRAVEL SEMINARS Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof: 1) Food and beverages costing over \$50 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.

Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
			\$	

Check here if continued on attached sheet

((STRICKEN GRAPHIC))



PDC FORM F-1 (2/05)	PERSONAL FINANCIAL AFFAIRS STATEMENT	P M PDC OFFICE USE O A S R T K R E C E I V E D
Refer to instruction manual for detailed assistance and examples. Deadlines: Incumbent elected and appointed officials -- by April 15. Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position.	DOLLAR CODE AMOUNT A \$1 to \$2,999 B \$3,000 to \$14,999 C \$15,000 to \$29,999 D \$30,000 to \$74,999 E \$75,000 or more	

SEND REPORT TO PUBLIC DISCLOSURE COMMISSION

Last Name	First	Middle Initial	Names of immediate family members. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse. See F-1 manual for details.
Mailing Address (Use PO Box or Work Address)			
City	County	Zip + 4	
Filing Status (Check only one box.) <input type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office <input type="checkbox"/> Professional staff of the Governor's Office and the Legislature			Office Held or Sought Office title: _____ County, city, district or agency of the office, name and number: _____ Position number: _____ Term begins: _____ ends: _____

1 INCOME List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member received \$1,500 or more during the period. (Report interest and dividends in item 3 on reverse)

Show Self (S) Spouse (SP) Dependent (D)	Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount (Use Code)
	Check Here <input type="checkbox"/> if continued on attached sheet		

2 REAL ESTATE List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$7,500 in which you or a family member held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement.)

Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser	Nature and Amount (Use Code) of Payment or Consideration Received		
Property Purchased or Interest Acquired		Creditor's Name/Address	Payment Terms	Security Given	Mortgage Amount - (Use Code) Original Current
All Other Property Entirely or Partially Owned					

Check here if continued on attached sheet

CONTINUE ON NEXT PAGE

PERMANENT

3 ASSETS / INVESTMENTS - INTEREST / DIVIDENDS List bank and savings accounts, insurance policies, stock, bonds and other intangible property held during the reporting period.

A. Name and address of each bank or financial institution in which you or a family member had an account over \$15,000 any time during the report period.	Type of Account or Description of Asset	Asset Value (Use Code)	Income Amount (Use Code)
B. Name and address of each insurance company where you or a family member had a policy with a cash or loan value over \$15,000 during the period.			
C. Name and address of each company, association, government agency, etc. in which you or a family member owned or had a financial interest worth over \$1,500. Include stocks, bonds, ownership, retirement plan, IRA, notes, and other intangible property.			

Check here if continued on attached sheet.

4 CREDITORS List each creditor you or a family member owed \$1,500 or more any time during the period. Don't include retail charge accounts, credit cards, or mortgages or real estate reported in Item 2.

Creditor's Name and Address	Terms of Payment	Security Given	AMOUNT (USE CODE)	
			Original	Present

Check here if continued on attached sheet.

5 All filers answer questions A thru D below. If the answer is YES to any of these questions, the F-1 Supplement must also be completed as part of this report. If all answers are NO and you are a candidate for state or local office, an appointee to a vacant elective office, or a state executive officer filing your initial report, no F-1 Supplement is required.

Incumbent elected officials and state executive officers filing an annual financial affairs report also must answer question E. An F-1 Supplement is required of these officeholders unless all answers to questions A thru E are NO.

- A. Were you, your spouse or dependents an officer, director, general partner or trustee of any corporation, company, union, association, joint venture or other entity at any time during the reporting period? ___ If yes, complete Supplement, Part A.
- B. Did you, your spouse or dependents have an ownership of 10% or more in any company, corporation, partnership, joint venture or other business at any time during the reporting period? ___ If yes, complete Supplement, Part A.
- C. Did you, your spouse or dependents own a business at any time during the reporting period? ___ If yes, complete Supplement, Part A.
- D. Did you, your spouse or dependents prepare, promote or oppose state legislation, rules, rubas or standards for current or deferred compensation (other than pay for a currently-held public office) at any time during the reporting period? ___ If yes, complete Supplement, Part B.
- E. Only for Persons Filing Annual Report. Regarding the receipt of items not provided or paid for by your governmental agency during the previous calendar year: 1) Did you, your spouse or dependents (or any combination thereof) accept a gift of food or beverages costing over \$50 per occasion? ___ or 2) Did any source other than your governmental agency provide or pay in whole or in part for you, your spouse and/or dependents to travel or to attend a seminar or other training? ___ If yes to either or both questions, complete Supplement, Part C.

ALL FILERS EXCEPT CANDIDATES. Check the appropriate box.

I hold a state elected office, am an executive state officer or professional staff. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns.

I hold a local elected office. I have read and am familiar with RCW 42.17.130 regarding the use of public facilities in campaigns.

CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.

Signature _____ Date _____

Contact Telephone: () _____

Email: _____(work)

Email: _____(Home)

REPORT NOT ACCEPTABLE WITHOUT FILER'S SIGNATURE

PERMANENT

PUBLIC DISCLOSURE COMMISSION
pdc
 711 CAPITOL WAY RM 206
 PO BOX 48908
 OLYMPIA WA 98504-0898
 (360) 783-1111
 TOLL FREE 1-877-601-2828
 EMAIL: pdc@pdc.wa.gov

PDC FORM
F-1
 SUPPLEMENT
 (206)

SUPPLEMENT PAGE
 PERSONAL FINANCIAL AFFAIRS
 STATEMENT

PROVIDE INFORMATION FOR YOURSELF, SPOUSE, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD

Last Name	First	Middle Initial	DATE
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- A OFFICE HELD, BUSINESS INTERESTS:** For each corporation, non-profit organization, association, union, partnership, joint venture or other entity in which you, your spouse or dependents are an officer, director, general partner, trustee, or 10 percent or more owner – provide the following information:
- Legal Name: Report name used on legal documents establishing the entity.
 - Trade or Operating Name: Report name used for business purposes if different from the legal name.
 - Position or Percent of Ownership: The office, title and/or percent of ownership held.
 - Brief Description of the Business/Organization: Report the purpose, product(s), and/or the service(s) rendered.
 - Payments from Governmental Unit: If the governmental unit in which you hold or seek office made payments to the business entity concerning which you're reporting, show the purpose of each payment and the actual amount received.
 - Payments from Business Customers and Other Government Agencies: List each corporation, partnership, joint venture, sole proprietorship, union, association, business or other commercial entity and each government agency (other than the one you seek/hold office) which paid compensation of \$7,500 or more during the period to the entity. Briefly say what property, goods, services or other consideration was given or performed for the compensation.
 - Washington Real Estate: Identify real estate owned by the business entity if the qualifications referenced below are met.

ENTITY NO. 1 Reporting For: Self Spouse Dependent

LEGAL NAME: POSITION OR PERCENT OF OWNERSHIP

TRADE OR OPERATING NAME:

ADDRESS:

BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:

PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:

Purpose of payments	Amount (actual dollars)
	\$

PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OVER \$7,500:

Customer name:	Purpose of payment (amount not required)

WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$15,000. List street address, assessor parcel number, or legal description and county for each parcel):

CONTINUE PARTS B AND C ON NEXT PAGE

PERMANENT

Page 2

F-1 Supplement

Name _____

ENTITY NO. 2 _____ Reporting For: Self Spouse Dependent

LEGAL NAME: _____ POSITION OR PERCENT. OF OWNERSHIP _____

TRADE OR OPERATING NAME: _____

ADDRESS: _____

BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION: _____

PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:
 Purpose of payments _____ Amount (actual dollars) _____
 \$ _____

PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OVER \$7,500:
 Customer name: _____ Purpose of payment (amount not required) _____

WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$15,000. List street address, assessor parcel number, or legal description and county for each parcel):

Check here if continued on attached sheet

B LOBBYING: List persons for whom you or any immediate family member lobbied or prepared state legislation or state rules, rates or standards for current or deferred compensation. Do not list pay from government body in which you are an elected official or professional staff member.

Person to Whom Services Rendered	Description of Legislation, Rules, Etc.	Compensation (Use Code)

Check here if continued on attached sheet

C FOOD TRAVEL SEMINARS Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof: 1) Food and beverages costing over \$80 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.

Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
			\$ _____	

Check here if continued on attached sheet

PERMANENT

AMENDATORY SECTION (Amending WSR 02-20-036, filed 9/24/02, effective 10/25/02)

WAC 390-24-020 Forms for amending statement of financial affairs. (1) The official form for amending statements of financial affairs as required by RCW 42.17.240 for all persons who have previously filed the Form F-1 is designated Form "F-1A," revised ((9/02)) 2/05.

(2) No more than three F-1A forms may be filed to amend a previously submitted statement of financial affairs (Form F-1). The form can be used only to update information required on an F-1.

(3) The commission reserves the right to reject amendatory forms and require a new statement of financial affairs (Form F-1) at any time the amendments are confusing or create misunderstandings. Authority is delegated to the commission's executive director to make this determination.

(4) Copies of Form F-1A are available at the Commission Office, 711 Capitol Way, Room 206, Evergreen Plaza Building, PO Box 40908, Olympia, Washington 98504-0908. Any paper attachments must be on 8-1/2" x 11" white paper.

((STRICKEN GRAPHIC



Form header: PDC FORM F-1A (9/02) PERSONAL FINANCIAL AFFAIRS STATEMENT Short Form. Includes PDC OFFICE USE checkboxes and a table for DOLLAR CODE (A-E) and AMOUNT (\$1 to \$75,000+).

The F-1A form is designed to simplify reporting for persons who have no changes or only minor changes to an F-1 report previously filed. A complete F-1 form must be filed at least every four years; an F-1A form may be used for no more than three consecutive reports. Deadlines: Incumbent elected and appointed officials -- by April 15. Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position.

Main form fields: Last Name, First, Middle Initial, Mailing Address, City, County, Zip + 4, Filing Status (checkboxes), Office Held or Sought (title, county, position number, term).

Select either "No Change Report" or "Minor Change Report," whichever reflects your situation. Supply all the requested information. NO CHANGE REPORT. MINOR CHANGES REPORT.

FOOD TRAVEL SEMINARS. Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof: 1) Food and beverages costing over \$50 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.

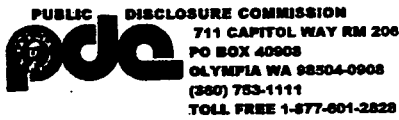
Table with 5 columns: Date Received, Donor's Name, City and State, Brief Description, Actual Dollar Amount, Value (Use Code).

CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge. Includes fields for Signature, Date, Contact Telephone, Email (Work/Home).

Report Not Acceptable Without Filer's Signature

STRICKEN GRAPHIC))

PERMANENT



PDC FORM
F-1A
(2/05)

PERSONAL FINANCIAL AFFAIRS STATEMENT
Short Form

P M PDC OFFICE USE
O A
S R
T K

The F-1A form is designed to simplify reporting for persons who have no changes or only minor changes to an F-1 report previously filed.
A complete F-1 form must be filed at least every four years; an F-1A form may be used for no more than three consecutive reports.
Deadlines: Incumbent elected and appointed officials - by April 15.
Candidates and others - within two weeks of becoming a candidate or being newly appointed to a position.

DOLLAR CODE	AMOUNT
A	\$1 to \$2,999
B	\$3,000 to \$14,999
C	\$15,000 to \$29,999
D	\$30,000 to \$74,999
E	\$75,000 or more

R
E
C
E
I
V
E
D

Last Name	First	Middle Initial	Names of immediate family members. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse. See F-1 manual for details.
Mailing Address (Use PO Box or Work Address)			
City	County	Zip + 4	

<p>Filing Status (Check only one box)</p> <input type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ year _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office <input type="checkbox"/> Professional Staff	Office Held or Sought Office title: _____ County, city, district or agency of the office, name and number: _____ Position number: _____ Term begins: _____ ends: _____
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Select either "No Change Report" or "Minor Change Report," whichever reflects your situation. Supply all the requested information.

- NO CHANGE REPORT.** I have reviewed my last complete F-1 report dated _____ and F-1A reports (if any) dated (1) _____ and (2) _____. The information disclosed on those reports is accurate for the current reporting period.
- MINOR CHANGES REPORT.** I have reviewed my last complete F-1 report dated _____. The changes listed below have occurred during the reporting period. Specify F-1 Form item numbers describing changes. Provide all information required on F-1 report.

Check here if continued on attached sheet

FOOD TRAVEL SEMINARS Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof: 1) Food and beverages costing over \$50 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.

Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
Check here <input type="checkbox"/> if continued on attached sheet				

ALL FILERS EXCEPT CANDIDATES. Check the appropriate box.

- I hold a state elected office, am an executive state officer or professional staff. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns.
- I hold a local elected office. I have read and am familiar with RCW 42.17.130 regarding the use of public facilities in campaigns.

CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.

Signature _____ Date _____
 Contact Telephone: () _____
 Email: _____ (work)
 Email: _____ (Home)

Report Not Acceptable Without Filer's Signature

PERMANENT

WSR 05-06-090
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)

[Filed March 1, 2005, 4:21 p.m., effective April 1, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department has amended WAC 388-478-0070 and 388-478-0080 to update the medically needy income level (MNIL) and the categorically needy income level (CNIL) based on a federal increase.

Citation of Existing Rules Affected by this Order: Amending WAC 388-478-0070 and 388-478-0080.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, and 74.09.500.

Other Authority: 42 U.S.C. 9902(2).

Adopted under notice filed as WSR 05-02-091 on January 5, 2005.

Changes Other than Editing from Proposed to Adopted Version: Editorial changes only.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 2, 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 2, Repealed 0.

Date Adopted: February 23, 2005.

Andy Fernando, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-10-116, filed 4/30/02, effective 5/31/02)

WAC 388-478-0070 Monthly income and countable resource standards for medically needy (MN) ~~((and medically indigent (MI) programs))~~. (1) Beginning January 1, ~~((2002))~~ 2005, the medically needy income level (MNIL) ~~((and MI monthly income standards are as follows))~~ is:

(a) One person	\$ ((571.00)) <u>579.00</u>
(b) Two persons	\$592
(c) Three persons	\$667
(d) Four persons	\$742
(e) Five persons	\$858
(f) Six persons	\$975
(g) Seven persons	\$1,125
(h) Eight persons	\$1,242
(i) Nine persons	\$1,358

(j) Ten persons and more \$1,483

(2) The MNIL standard for a person who meets institutional status requirements is in WAC 388-513-1305(3).

(3) Countable resource standards for the MN ~~((and MI))~~ program ~~((s are))~~ is:

(a) One person	\$2,000
(b) Two persons	\$3,000
(c) For each additional family member add	\$50

AMENDATORY SECTION (Amending WSR 04-16-107, filed 8/3/04, effective 9/3/04)

WAC 388-478-0080 Supplemental security income (SSI) standards; SSI-related categorically needy income level (CNIL); and countable resource standards. (1) The SSI payment standards, also known as the federal benefit rate (FBR), beginning January 1, ~~((2004))~~ 2005 are:

(a) Living alone (in own home or alternate care, does not include nursing homes or medical situations)

Individual	\$ ((564)) <u>579</u>
Individual with an ineligible spouse	\$ ((564)) <u>579</u>
Couple	\$ ((846)) <u>869</u>

(b) Shared living (in the home of another)

Individual	\$ ((376)) <u>386</u>
Individual with an ineligible spouse	\$ ((376)) <u>386</u>
Couple	\$ ((564)) <u>579</u>

(c) Living in an institution

Individual	\$30
------------	------

(2) See WAC 388-478-0055 for the amount of the state supplemental payments (SSP) for SSI recipients.

(3) ~~((The SSI-related CNIL standard varies in area 1 and area 2 for a single person. Area 1 is defined as the following counties: King, Pierce, Snohomish, Thurston, and Kitsap. All other counties are area 2.))~~ The SSI-related CNIL standards are:

	((Area-1))	((Area-2))
(a) Single person	\$ ((570.00)) <u>579.00</u>	\$ ((564.00))
(b) Married couple - both eligible	\$ ((846.00)) <u>869.00</u>	\$ ((846.00))
(c) Supplied shelter - single person	\$ ((376.00)) <u>386.00</u>	\$ ((376.00))
(d) Supplied shelter couple - both eligible	\$ ((564.00)) <u>579.00</u>	\$ ((564.00))

(4) The countable resource standards for SSI and SSI-related CN medical programs are:

(a) One person	\$2,000
(b) A legally married couple	\$3,000

PERMANENT

WSR 05-06-091
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Children's Administration)

[Filed March 1, 2005, 4:22 p.m., effective April 1, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of the rule making is to amend, adopt new, and repeal rules in chapter 388-25 WAC, Child welfare services—Foster care, to comply with statute changes (chapter 183, Laws of 2004) regarding changes to child support collections. Included is the good cause exemption for the best interest of the child. These rules replace the emergency rules expiring March 9, 2005.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-25-0230; and amending WAC 388-25-0225.

Statutory Authority for Adoption: RCW 74.08.090 and chapter 183, Laws of 2004.

Other Authority: RCW 74.20.040 and 74.13.020.

Adopted under notice filed as WSR 05-03-082 on January 17, 2005.

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 5, Amended 1, 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 5, Amended 1, Repealed 1.

Date Adopted: February 23, 2005.

Andy Fernando, Manager
 Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-08-047, filed 3/30/01, effective 4/30/01)

WAC 388-25-0225 ~~What cases must ((the department refer)) be referred to the division of child support (DCS)? ((1) The DCFS office must refer to the division of child support every foster care placement in which DCFS participates in payment for care, except:~~

~~((a) Cases, if any, in which the division of child support has determined it)) Each case where the department participates in the payment of foster care must be referred to the division of child support, except when:~~

~~((1) Collection would not be cost effective ((to pursue collection)), including placements of seventy-two hours or less; ((or~~

~~((b) Cases exempt by law from collection action; or~~

~~((2) The children's administration must refer to DCS cases in which the department determines that sufficient good~~

cause exists to not pursue collection. The following constitute good cause for requesting that DCS not pursue collection action on foster care cases referred to DCS:

~~((a) The department's division of developmental disabilities (DDD) has determined that the child is developmentally disabled. DCS still must establish paternity.~~

~~((b) The parent or other legally obligated person, or the parent or other person's child, spouse, or spouse's child was the victim of the offense for which the child was committed to the custody of the juvenile rehabilitation administration (JRA) and the child is being placed directly into foster care from a JRA facility until this placement episode closes.~~

~~((c) Adoption proceedings for the child are pending in court or the custodial parent is being helped by a private or public agency to decide if the child will be placed for adoption.~~

~~((d) The child was conceived as a result of incest or rape and establishing paternity would not be in the child's best interest.~~

~~((e) The juvenile or Tribal court in the dependency proceeding finds that the parents will be unable to comply with an agreed reunification plan with the child due to the financial hardship caused by paying child support. The social worker also may determine that financial hardship caused by paying child support will delay or prevent family reunification.~~

~~((f) The custodial parent and/or the child may be placed in danger as a result of the presence of or potential for domestic abuse perpetrated by the other parent or responsible person))~~

~~((2) Collection is exempt by law; or~~

~~((3) A child with developmental disabilities is eligible for admission to or discharged from a residential habilitation center as defined by RCW 71A.10.020(8), unless the child is placed as a result of an action taken under chapter 13.34 RCW.~~

NEW SECTION

WAC 388-25-0226 **Does children's administration refer foster care cases to the division of child support where good cause exists?** The children's administration must refer to the division of child support foster care cases in which sufficient good cause exists to not pursue collection or establish support or paternity.

NEW SECTION

WAC 388-25-0227 **What constitutes good cause for not pursuing the collection or establishment of child support or paternity?** Children's administration uses the following criteria to determine whether sufficient good cause exists for requesting that DCS not pursue collection or establish child support or paternity on foster care cases:

(1) It is not in the child's best interest;

(2) The parent or other legally obligated person, or the parent or other person's child, spouse, or spouse's child was the victim of the offense for which the child was committed to the custody of the juvenile rehabilitation administration (JRA) and the child is being placed directly into foster care from a JRA facility until this placement episode closes;

(3) Adoption proceedings for the child are pending in court or the custodial parent is being helped by a private or public agency to decide if the child will be placed for adoption;

(4) The child was conceived as a result of incest or rape and establishing paternity would not be in the child's best interest;

(5) The juvenile or Tribal court in the dependency proceeding finds that the parents will be unable to comply with an agreed reunification plan with the child due to the financial hardship caused by paying child support. The social worker also may determine that financial hardship caused by paying child support will delay or prevent family reunification; or

(6) The custodial parent and/or the child may be placed in danger as a result of the presence of or potential for domestic abuse perpetrated by the person that the division of child support would be pursuing for collection action.

NEW SECTION

WAC 388-25-0228 Does the division of child support pursue collection or establish child support or paternity on cases in which good cause has been determined? If children's administration determines that there is good cause the division of child support does not pursue collection or establish support or paternity on a foster care case.

NEW SECTION

WAC 388-25-0229 Who may request a good cause determination? The department or a parent, including an adoptive parent or legal guardian, may initiate a request for good cause determination at any time.

NEW SECTION

WAC 388-25-0231 When may a good cause determination be requested? A request for determination of good cause may be made at any time.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-25-0230 Are adoption support cases exempt from referral to the division of child support (DCS) for collection?

WSR 05-06-092
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)

[Filed March 1, 2005, 4:22 p.m., effective April 1, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rule establishes standards of coverage for billing codes to ensure the protection of the health and safety of medical assistance clients by restricting billable services to dentists who are entitled to a specialty designation under WAC 246-817-420 and who meet MAA's certification requirements to perform oral and maxillofacial surgery.

Citation of Existing Rules Affected by this Order: Amending WAC 388-535-1070.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.500, 74.09.520.

Adopted under notice filed as WSR 05-03-080 on January 17, 2005.

A final cost-benefit analysis is available by contacting Dr. John Davis, P.O. Box 45506, Olympia, WA 98504-5506, phone (360) 725-1748, fax (360) 568-1590, e-mail davisjs@dshs.wa.gov. No changes were made. The preliminary analysis will be final.

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: February 25, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 03-19-077, filed 9/12/03, effective 10/13/03)

WAC 388-535-1070 Dental-related services provider information. (1) The following providers are eligible to enroll with the medical assistance administration (MAA) to furnish and bill for dental-related services provided to eligible clients:

(a) Persons currently licensed by the state of Washington to:

- (i) Practice dentistry or specialties of dentistry.
- (ii) Practice as dental hygienists.
- (iii) Practice as denturists.
- (iv) Practice anesthesia by:

(A) Providing conscious sedation with ~~((parental))~~ parenteral or multiple oral agents, deep sedation, or general anesthesia as an anesthesiologist or dental anesthesiologist;

(B) Providing conscious sedation with ~~((parental))~~ parenteral or multiple oral agents, deep sedation, or general anesthesia as a certified registered nurse anesthetist (CRNA) ~~((-when the performing dentist has the appropriate conscious sedation permit or general anesthesia permit from~~

PERMANENT

~~the department of health (DOH))~~ under WAC 246-817-180; or

(C) Providing conscious sedation with parenteral or multiple oral agents (~~deep sedation, or general anesthesia~~) as a dentist, when the dentist has a conscious sedation permit (~~or general anesthesia permit from DOH~~) issued by the department of health (DOH) that is current at the time the billed service(s) is provided; or

(D) Providing deep sedation or general anesthesia as a dentist when the dentist has a general anesthesia permit issued by DOH that is current at the time the billed service(s) is provided.

(v) Practice medicine and osteopathy for:

(A) Oral surgery procedures; or

(B) Providing fluoride varnish under EPSDT.

(b) Facilities that are:

(i) Hospitals currently licensed by the (~~department of health~~) DOH;

(ii) Federally-qualified health centers (FQHCs);

(iii) Medicare-certified ambulatory surgical centers (ASCs);

(iv) Medicare-certified rural health clinics (RHCs); or

(v) Community health centers.

(c) Participating local health jurisdictions.

(d) (~~Border area~~) Bordering city or out-of-state providers of dental-related services who are qualified in their states to provide these services.

(2) Subject to the restrictions and limitations in this section and other applicable WAC, MAA pays licensed providers participating in the MAA dental program for only those services that are within their scope of practice.

(3) For the dental specialty of oral and maxillofacial surgery:

(a) MAA requires a dentist to:

(i) Be currently entitled to such specialty designation (to perform oral and maxillofacial surgery) under WAC 246-817-420; and

(ii) Meet the following requirements in order to be reimbursed for oral and maxillofacial surgery:

(A) The dentist must have participated at least three years in a maxillofacial residency program; and

(B) The dentist must be board certified or designated as "board eligible" by the American Board of Oral and Maxillofacial Surgery.

(b) A dental provider who meets the requirements in (3)(a) of this section must bill claims using appropriate current dental terminology (CDT) codes or current procedural terminology (CPT) codes for services that are identified as covered in WAC and MAA's published billing instructions or numbered memoranda.

(4) See WAC 388-502-0020 for provider documentation and record retention requirements. MAA requires additional dental documentation under specific sections in this chapter and as required by chapter 246-817 WAC.

((4)) (5) See WAC 388-502-0100 and 388-502-0150 for provider billing and payment requirements. Enrolled dental providers who do not meet the conditions in (3)(a) of this section must bill all claims using only the CDT codes for services that are identified in WAC and MAA's published billing instructions or numbered memoranda. MAA does not

reimburse for billed CPT codes when the dental provider does not meet the requirements in subsection (3)(a) of this section.

((5)) (6) See WAC 388-502-0160 for regulations concerning charges billed to clients.

((6)) (7) See WAC 388-502-0230 for provider review and appeal.

((7)) (8) See WAC 388-502-0240 for provider audits and the audit appeal process.

WSR 05-06-118

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed March 2, 2005, 11:29 a.m., effective April 2, 2005]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-834-250 Legend drugs and devices was adopted in January 1991 and has not been amended since. During a governor mandated rules review, the Midwifery Advisory Committee found that this rule needed to be updated. There have been many changes in medicine and pharmacology since 1991. The rules need to be updated to reflect these changes and to assure that patients receive safe midwifery care.

Citation of Existing Rules Affected by this Order: Amending WAC 246-834-250.

Statutory Authority for Adoption: RCW 18.50.115.

Adopted under notice filed as WSR 04-24-086 on December 1, 2004.

A final cost-benefit analysis is available by contacting Leann Yount, 310 Israel Road S.E., P.O. Box 47860, Olympia, WA 98501, phone (360) 236-4997, fax (360) 236-4626, e-mail leann.yount@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.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: January 11, 2005.

M. C. Selecky
Secretary

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-834-250 Legend drugs and devices. (1) Licensed midwives may purchase and use legend drugs and

devices (~~which are deemed integral to providing safe care to the public. Such devices include the following~~) as follows:

(a) Dopplers, syringes, needles, phlebotomy equipment, suture, urinary catheters, intravenous equipment, (~~heparin locks;~~) amnihooks, (~~(and "DeLee type" mucous traps;)~~) airway suction devices, electronic fetal monitoring, toco monitoring, neonatal and adult resuscitation equipment, oxygen, glucometer, and centrifuge; and

(b) Pharmacies may (~~fill orders for~~) issue breast pumps, compression stockings and belts, maternity belts, diaphragms (~~which have been issued~~) and cervical caps, ordered by licensed midwives (~~for postpartum women~~).

(2) In addition to (~~medications~~) prophylactic ophthalmic medication, postpartum oxytocic, vitamin K, Rho immune globulin (human), and local anesthetic medications as listed in RCW 18.50.115, licensed midwives may obtain and administer the following medications:

(a) Intravenous fluids limited to Lactated Ringers, 5% Dextrose with Lactated Ringers(~~, and 5% Dextrose with water~~) heparin and 0.9% sodium chloride for use in intravenous locks;

(b) (~~Heparin for use in heparin locks;~~) Sterile water for intradermal injections for pain relief;

(c) Magnesium sulfate for prevention of maternal seizures pending transport;

(d) Epinephrine for use in (~~allergic reactions, and Magnesium Sulphate shall be used according to midwifery advisory committee established protocols. Such protocols shall state the indications for use, the dosage and the administration of these medications.~~)

(e) ~~Licensed midwives may obtain and administer Rubella~~) maternal anaphylaxis pending transport;

(e) Measles, Mumps, and Rubella (MMR) vaccine to nonimmune postpartum women, HBIG and HBV for neonates born to hepatitis B+ mothers;

(f) Terbutaline for nonreassuring fetal heart tones and/or cord prolapse pending transport;

(g) Antibiotics for intrapartum prophylaxis of Group B Beta hemolytic Streptococcus (GBS) per current CDC guidelines; and

(h) Antihemorrhagic drugs to control postpartum hemorrhage, such as misoprostel per rectum (for use only in postpartum hemorrhage), methylergonovine maleate in the absence of hypertension, oral or intramuscular, prostaglandin F2 alpha (hemobate), intramuscular.

(3) The client's records shall contain documentation of all medications administered.

(4) (~~Whenever Epinephrine or Magnesium Sulfate is administered, a report, on approved forms, shall be submitted within thirty days to the midwifery advisory committee.~~) The midwife must have a procedure, policy or guideline for the use of each drug.

Purpose: The purpose of this rule revision is to improve a certified water works operator's ability to comply with minimum requirements for certification, and ensures continuing education requirements are relevant to the operation of a water system. The revision establishes a definition for gross negligence and revises the grandparenting requirement for consistency. The revision also enables the department to take immediate enforcement action for acts of gross negligence.

Citation of Existing Rules Affected by this Order: Amending WAC 246-292-010, 246-292-085, 246-292-090, and 246-292-100.

Statutory Authority for Adoption: Chapter 70.119 RCW.

Adopted under notice filed as WSR 05-01-095 on December 14, 2004.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-292-085 Grandparenting, was changed to correct the date that a grandparented operator is subject to requirements for renewals, recertification and reclassification. In response to testimony, the department added back "maintenance and management" to WAC 246-292-010 Definitions, for "relevant water system training" and WAC 246-292-090 Renewal of certificates, and clarified what type of management courses are acceptable to the department.

A final cost-benefit analysis is available by contacting Theresa Phillips, P.O. Box 47822, Olympia, WA 98504-7822, phone (360) 236-3147, fax (360) 236-2253, e-mail theresa.phillips@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.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 4, 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 4, Repealed 0.

Date Adopted: February 28, 2005

M. C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 01-02-070, filed 12/29/00, effective 1/29/01)

WAC 246-292-010 Definitions. Abbreviations and acronyms:

BAT - backflow assembly tester;

BTO - basic treatment operator;

CCS - cross connection control specialist;

GWU - ground water under the direct influence of surface water;

NTNC - nontransient noncommunity;

OIT - operator-in-training;

WSR 05-06-122

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed March 2, 2005, 11:32 a.m., effective April 2, 2005]

Effective Date of Rule: Thirty-one days after filing.

SMA - satellite management agency;
 TNC - transient noncommunity;
 WAC - Washington Administrative Code;
 WDM - water distribution manager;
 WDS - water distribution specialist;
 WTPO - water treatment plant operator;

"Available" means based on system size, complexity, and source water quality, a certified operator must be on-site or able to be contacted as needed to initiate the appropriate action in a timely manner.

"Certificate" means a certificate of competency issued by the department stating that the operator has met the requirements for the specified operator classification of the certification program.

"Certified operator" means a person who has met the applicable requirements of this chapter and holds a valid certificate.

"Complex filtration technology" means conventional, direct, in-line or diatomaceous earth filtration.

"Community water system" means any Group A water system providing service to fifteen or more service connections used by year-round residents for one hundred eighty or more days within a calendar year, regardless of the number of people, or regularly serving twenty-five year-round (i.e., more than one hundred eighty days per year) residents. Examples of a community water system might include a municipality, subdivision, mobile home park, apartment complex, college with dormitories, nursing home, or prison.

"Continuing education unit (CEU)" means a nationally recognized unit of measurement similar to college credits. One CEU is awarded for every ten contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction and qualified instruction. Forty-five relevant CEUs equals forty-five relevant college quarter credits or thirty relevant college semester credits as determined by the department.

"Contract operator" means a person in charge of the daily operational activities of three or more public water systems.

"Cross connection control program" means the administrative and technical procedures the owner implements to protect the public water system from contamination via cross-connections as required in WAC 246-290-490.

"Department" means the Washington state department of health, through the secretary of health or the secretary's designee.

"Distribution system" means all piping components of a public water system that serves to convey water from transmission mains linked to source, storage and treatment facilities to the consumer excluding individual services.

"Grandparenting" means the exemption for the existing operator in responsible charge from meeting the initial education, experience and examination requirements for the class of certification the system has been assigned.

"Gross negligence" means an act or omission performed or not performed in reckless disregard of a legal duty, or without even slight care. In considering whether an act or omission constitutes gross negligence, the department shall consider all relevant factors including, but not limited to:

(1) The standard of care commonly exercised by operators;

(2) Whether the legal duty was known or should have been known to the alleged violator; and

(3) The degree to which the alleged violation endangered public health.

"Ground water under the direct influence of surface water (GWI)" means any water beneath the surface of the ground with:

Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia*; or

Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH closely correlating to climatological or surface water conditions.

"Group A water system" means a public water system providing service such that it meets the definition of a public water system provided in the 1996 amendments to the federal Safe Drinking Water Act (Public Law 104-182, Section 101, subsection b). Group A water systems are further defined as community and noncommunity water systems (see other definitions).

"Group B water system" means a public water system with less than fifteen residential connections and serving:

An average of less than twenty-five people per day for sixty or more days within a calendar year; or

Any number of people for less than sixty days within a calendar year.

"Nationally recognized association of certification authorities" means an organization that:

- Serves as an information center for certification activities;

- Recommends minimum standards and guidelines for classification of potable water treatment plants, water distribution systems, wastewater facilities and certification of operators;

- Facilitates reciprocity between state programs; and
- Assists authorities in establishing new and updating existing certification programs.

"Noncommunity water system" means a Group A water system that is not a community water system. Noncommunity water systems are further defined as nontransient noncommunity (NTNC) and transient noncommunity (TNC).

"Nontransient noncommunity water system (NTNC)" means a Group A water system that provides service to twenty-five or more of the same nonresidential people for one hundred eighty or more days within a calendar year. Examples of a NTNC water system include a school or day care center, or a business, factory, motel or restaurant with twenty-five or more employees on-site.

"Owner" means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity that holds as property, a public water system.

"Operating experience" means the routine on-site performance of duties in a water purification plant or distribution system. Those duties affect plant or system performance and/or water quality.

"Operating shift" means that period of time during which operator decisions are made and actions are taken that will directly impact water quality and/or quantity of drinking water.

"Professional growth reporting period" means a designated time period of not less than three years, in which a certified operator shall demonstrate professional growth.

"Public water system" means any system providing water for human consumption through pipes or other constructed conveyances, 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. The term includes:

- Collection, treatment, storage, and/or distribution facilities under control of the owner and used primarily in connection with such systems; and
- Collection or pretreatment storage facilities not under control of the owner, but primarily in connection with such system.

"Purification plant" means that portion of a public water system that treats or improves the physical, chemical or bacteriological quality of the system's water to bring the water into compliance with state board of health standards. Unit processes installed to perform water filtration, ion exchange, electro dialysis, reverse osmosis, or iron and manganese removal shall be included within the scope of the term purification plant. Unit processes installed to allow in-line fluoridation, in-line chlorination, or chemical addition to inhibit corrosion are not included within the scope of the term purification plant.

"Relevant water system training" means ~~((directly related to the operation, maintenance or management of a water system; and which))~~ training that:

- (1) Is approved by the department;
- (2) Has an influence on water quality, water supply, or public health((-or environmental)) protection; and
- (3) Is directly related to the operation, or maintenance of a water system; or
- (4) Is directly related to managing the operation or maintenance of a water system. Examples of acceptable management training include drinking water regulatory compliance, capacity development, rate setting, financial viability, water system security, and responding to drinking water emergencies.

"Responsible charge" means the operator(s) designated by the owner to be the certified operator(s) who makes the decisions regarding the daily operational activities of a public water system, water treatment facility and/or distribution system that will directly impact water quality and/or quantity of drinking water including, but not limited to, decisions concerning process control and system integrity.

"Satellite management agency (SMA)" means a person or entity that is approved by the department to own or operate public water systems on a regional or county-wide basis without the necessity for a physical connection between such systems.

"Service connection" means a connection to a public water system designed to provide water to a single family residence, or other residential or nonresidential population.

"Significant noncomplier" means a system that is violating or has violated department rules, and the violation may create, or has created an imminent or a significant risk to human health. Such violations include, but are not limited to, repeated violations of monitoring requirements, failure to address an exceedance of permissible levels of regulated contaminants, or failure to comply with treatment technique standards or requirements.

"Transient noncommunity (TNC)" means a Group A water system that serves:

- Twenty-five or more different people each day for sixty or more days within a calendar year; or
- Twenty-five or more of the same people each day for sixty or more days, but less than one hundred eighty days within the calendar year.

"Validated exam" means an exam that is independently reviewed by subject matter experts to ensure that the exam is based on a job analysis and related to the classification of the system or facility.

NEW SECTION

WAC 246-292-031 Certified operator duties. (1) The certified operator shall operate the public water system with due care and diligence for protecting public health and shall abide by applicable state and federal drinking water laws and regulations.

(2) The certified operator shall operate the water system consistent with experience and training appropriate to their level of certification.

(3) The certified operator shall perform his or her duties in accordance with this section. Failure to do so may threaten public health and safety which could result in the suspension or revocation of his or her certification.

AMENDATORY SECTION (Amending WSR 01-02-070, filed 12/29/00, effective 1/29/01)

WAC 246-292-085 Grandparenting. ~~((1) This section expires two years after its effective date.~~

~~(2) The department will allow one existing operator in responsible charge of a public water system to be grandparented for the minimum classification of the water system, if the water system:~~

~~(a) Is a Group A system serving less than 100 services that has not been identified as a SNC and is not a GWI or surface water source system.~~

~~(b) Is not in violation of any bilateral compliance agreement, or state or federal order; and~~

~~(c) Has not had a notice of imposition of penalty issued in the last five years under current ownership.~~

~~(3) The owner shall apply for the grandparent certification by completing a department application identifying the operator to be grandparented. The operator identified by the owner must have been in responsible charge of the water system prior to the effective date of this section. Subsequent operators are not eligible for grandparenting.~~

~~(4) The operator identified by the owner shall complete and submit an application and application fee in accordance with WAC 246-292-160, Table 2.~~

~~(5) No operator may be grandparented for more than two water systems:~~

~~(6)) Operators who received a grandparented certification prior to January 1, 2001, for the minimum classification of a water system remain subject to the following:~~

~~(1) A grandparent operator certification is site specific and nontransferrable(-);~~

~~((7)) (2) A grandparented operator shall meet all certification renewal requirements under the provisions of WAC 246-292-090; ((and must complete the first professional growth reporting period by December 31, 2003.~~

~~(8)) (3) If a grandparented operator ((failing)) fails to renew ((their)) his or her certification under ((provisions of)) WAC 246-292-090 ((may reapply)), the grandparent certification is no longer valid. To become recertified, the operator must apply for certification and ((shall)) meet all the requirements ((for)) of a new applicant(-); and~~

~~((9)) (4) If plant or distribution system classification changes to a higher level, the grandparent certification is no longer valid; and the owner and operator shall comply with chapter 246-292 WAC.~~

AMENDATORY SECTION (Amending WSR 01-02-070, filed 12/29/00, effective 1/29/01)

WAC 246-292-090 Renewal of certificates. (1) The operator must renew his or her certificate ~~((shall be renewed))~~ by January 1st of each year.

(2) The department shall renew ~~((the))~~ an operator's certificates ~~((upon payment of))~~ when the operator:

(a) Pays the applicable renewal fee; and ~~((demonstration))~~

(b) Demonstrates completion of required professional growth in accordance with subsections (3) and (4) of this section. The ~~((applicant shall))~~ operator must provide evidence of professional growth acceptable to the department within the designated professional growth reporting period as described in the department guideline titled, Water Works Certification Program Guideline.

(3) To demonstrate professional growth, a holder of WDM, WTPO, WDS, BTO or CCS certification shall accomplish one of the following activities during each professional growth reporting period:

(a) Accumulate a minimum of three continuing education units (CEU), or college credits ~~((relevant to the operation, maintenance, or management of a water system, and which))~~ for training that:

(i) Has an influence on water quality, water supply, or public health ~~((or environmental))~~ protection; and

(ii) Is directly relevant to the operation, or maintenance of a water system; or

(iii) Is directly relevant to managing the operation, or maintenance activities of a water system;

(b) Advance by examination in the Washington water works operator certification program within the classifications WDM and WTPO to a level 2, 3, or 4; or

(c) Achieve certification by examination in a different classification as shown below:

(i) WDM to WTPO, BTO or CCS;

(ii) WTPO to WDM, or CCS;

(iii) WDS to WDM, WTPO, BTO or CCS;

(iv) BTO to WDM, WTPO, WDS or CCS; or

(v) CCS to WDM, WTPO, BTO, or WDS.

(4) To demonstrate professional growth, a ~~((holder of a))~~ certified BAT ~~((certification shall))~~ must satisfactorily complete the department's backflow assembly tester professional growth examination during each professional growth reporting period.

(5) If an operator fails to renew his or her certificate, the department shall notify ~~((an))~~ the operator ~~((failing to renew the operator certificate))~~ by December 31st, that the certificate is temporarily valid for two months beginning January 1st.

~~((A certificate not renewed during the two-month period))~~ If an operator fails to renew the certificate within the two-month period, the certificate is invalid. The department shall notify the ~~((holder))~~ operator in writing of an invalid certificate ~~((with notice in writing)).~~

(7) An operator ~~((failing))~~ who fails to renew ~~((their))~~ his or her certification ~~((under provisions of this section))~~ may reapply for certification ~~((and shall)), but must~~ meet the requirements for a new applicant.

AMENDATORY SECTION (Amending WSR 01-02-070, filed 12/29/00, effective 1/29/01)

WAC 246-292-100 Revocation and suspension. (1) The department may suspend an operator's certificate for up to a ~~((specified time))~~ year or revoke an operator's certificate for up to five years if the operator:

(a) Obtains a certificate by fraud or deceit;

(b) ~~((Demonstrates))~~ Performs an act of gross negligence in the operation of a purification plant or a distribution system; or

(c) Intentionally violates the requirements of this chapter or ~~((any))~~ department statutes, rules or orders.

(2) Except in a case of fraud, deceit, or gross negligence, the department may not revoke or suspend a certificate under subsection (1)(c) of this section until the department ~~((shall provide written notice of violation and reasonable))~~ notifies the operator in writing of the violation and provides an opportunity for ~~((correction prior))~~ the operator to ~~((taking action on revocation or suspension of a certificate.~~

~~((3))~~ The department shall not initiate action to revoke a certificate until the department has conducted a hearing to consider the appropriateness of revocation)) correct the violation.

~~((4))~~ (3) A revocation or suspension action brought under this section shall be conducted in accordance with RCW 43.70.115, chapter 34.05 RCW, and chapter 246-10 WAC.

~~((5))~~ (4) A person whose certificate is revoked ~~((is))~~ may not ~~((eligible to))~~ apply for certification ~~((for one year from the effective date of the final order of revocation))~~ until the period of revocation has ended.

~~((6))~~ (5) After the revocation period has ended, a person whose certificate was revoked ~~((and who desires to))~~ may reapply for ~~((a certificate shall apply))~~ certification as a new operator ~~((in accordance with))~~ under WAC 246-292-070.

PERMANENT

~~((7))~~ (6) An operator whose certificate is suspended shall continue to meet all renewal requirements in accordance with WAC 246-292-090 in order to maintain certification after the suspension period has lapsed.

PERMANENT

WSR 05-04-020**EMERGENCY RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed January 24, 2005, 4:27 p.m., effective January 24, 2005]

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.

These rules will clarify eligibility, service array, utilization, provider qualifications, client appeal rights and access to services. This filing includes a new chapter 388-845 WAC.

These rules extend the emergency rules filed as WSR 04-20-018 while the division gathers input necessary to file the proposed rules for adoption on a permanent basis.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

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: The approval of the HCBS waivers by CMS required the department to implement new rules by 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. Emergency rules were originally filed as WSR 04-08-020, and were extended as WSR 04-16-019 and 04-20-018. 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 stakeholders 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 125, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 125, Amended 0, Repealed 0.

Date Adopted: January 19, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

Chapter 388-845 WAC**DDD HOME AND COMMUNITY BASED SERVICES
WAIVERS****NEW SECTION**

WAC 388-845-0005 What are home and community based services (HCBS) waivers? (1) Home and community based services (HCBS) waivers are services approved by the Centers For Medicare and Medicaid Services (CMS) under section 1915 (c) of the Social Security Act as an alternative to intermediate care facility for the mentally retarded (ICF/MR) care.

(2) Certain federal regulations are "waived" enabling the provision of services in the home and community to individuals who would otherwise require the services provided in an ICF/MR as defined in chapters 388-835 and 388-837 WAC.

NEW SECTION

WAC 388-845-0010 What is the purpose of HCBS waivers? The purpose of HCBS waivers is to provide services in the community to individuals with ICF/MR level of need to prevent their placement in an ICF/MR.

NEW SECTION

WAC 388-845-0015 What HCBS waivers are provided by the division of developmental disabilities (DDD)? DDD is replacing its community alternative program (CAP) waiver with four HCBS waivers:

- (1) Basic waiver;
- (2) Basic Plus waiver;
- (3) CORE waiver; and
- (4) Community Protection waiver.

NEW SECTION

WAC 388-845-0020 When are these four HCBS waivers effective? The four DDD HCBS waivers are effective April 1, 2004 for all persons enrolled on the CAP waiver March 31, 2004.

NEW SECTION

WAC 388-845-0025 Does this change in waivers affect the waiver services I am currently receiving? Your services will not be disrupted with this transfer to new waivers.

(1) Your current services will continue as authorized in your current CAP waiver plan.

(2) At the time of your next waiver plan of care after March 31, 2004, the rules and limits of your new waiver will apply.

NEW SECTION

WAC 388-845-0030 Do I meet criteria for HCBS waiver-funded services? If you are on the CAP waiver as of March 31, 2004, your waiver eligibility continues until your plan of care review. You meet criteria for DDD HCBS waiver funded services if you meet all of the following:

(1) You have been determined eligible for DDD services per RCW 71A.10.020(3).

(2) You have been determined to meet ICF/MR level of care per WAC 388-845-0070 through 388-845-0090.

(3) You meet disability criteria established in the Social Security Act.

(4) You meet financial eligibility requirements as defined in WAC 388-515-1510.

(5) You choose to receive services in the community rather than in an ICF/MR facility.

(6) You have a need for waiver services as identified in your plan of care.

NEW SECTION

WAC 388-845-0035 Am I guaranteed placement on a waiver if I meet waiver criteria? If you are not currently on a waiver, meeting criteria for the waiver does not guarantee access to or receipt of waiver services.

NEW SECTION

WAC 388-845-0040 Is there a limit to the number of people who can be on each HCBS waiver? Each waiver has a limit on the number of people who can be served in a waiver year. In addition, DDD has the authority to limit access to the waivers based on availability of funding for new waiver participants.

NEW SECTION

WAC 388-845-0041 What is DDD's responsibility to provide my services under the waivers administered by DDD? If you are enrolled in an HCBS waiver administered by DDD, DDD must meet your assessed needs for health and welfare.

(1) DDD must address your assessed health and welfare needs in your plan of care, as specified in WAC 388-845-3055.

(2) You have access to DDD paid services that are provided within the scope of your waiver, subject to the limitations in WAC 388-845-0110 and WAC 388-845-0115.

(3) DDD will provide waiver services you need and qualify for within your waiver.

(4) DDD will not deny or limit your waiver services based on a lack of funding.

NEW SECTION

WAC 388-845-0045 When there is capacity to add people to a waiver, how does DDD determine who will be added? When there is capacity on a waiver and available funding for new waiver participants, DDD may add people to a waiver based on the following priority considerations.

(1) First priority will be given to current waiver participants assessed to require a different waiver because their needs have increased and these needs cannot be met within the scope of their current waiver.

(2) DDD may also consider any of the following populations:

(a) Priority populations as identified and funded by the legislature.

(b) Persons DDD has determined to be in immediate risk of ICF/MR admission due to unmet health and safety needs.

(c) Persons identified as a risk to the safety of the community.

(d) Persons currently receiving services through state-only funds.

(e) Persons on an HCBS waiver that provides services in excess of what is needed to meet their identified health and welfare needs.

(3) For the Basic waiver only, DDD may consider persons who need the waiver services available in the Basic waiver to maintain them in their family's home.

NEW SECTION

WAC 388-845-0050 How do I request to be enrolled in a waiver? You can contact DDD and request to be enrolled in a waiver at any time.

(1) Your request for waiver enrollment will be documented by DDD in a statewide database if DDD determines that you:

(a) Meet the criteria for a priority populations in WAC 388-845-0045, and

(b) Have ICF/MR level of care needs per WAC 388-845-0070 through 388-845-0090.

(2) When there is capacity available to enroll additional people in a waiver, WAC 388-845-0045 describes how DDD will determine who will be added.

NEW SECTION

WAC 388-845-0051 How will I be notified of the decision by DDD to enroll me in a waiver? DDD will notify you in writing of your enrollment on the data base.

NEW SECTION

WAC 388-845-0055 How do I remain eligible for the waiver? If you are already on a HCBS waiver, you must continue to meet eligibility criteria.

(1) DDD completes a reassessment at least every twelve months to determine if you continue to meet all of the eligibility requirements in WAC 388-845-0030.

(2) You must receive a waiver service at least once in every thirty consecutive days, as specified in WAC 388-513-1320 (3)(b).

(3) Your reassessments must be done in-person and may be completed more often if your functional, financial, or other significant circumstances change.

NEW SECTION

WAC 388-845-0060 Can my waiver eligibility be terminated? DDD may terminate your waiver eligibility if DDD determines that your health and safety needs cannot be met in your current waiver or for one of the following reasons:

(1) You no longer meet one of the requirements listed in WAC 388-845-0030;

(2) You no longer need waiver services;

(3) You do not use a waiver service at least once in every thirty consecutive days;

(4) You are in the Community Protection waiver and choose not to be served by a certified residential community protection provider-intensive supported living services (CP-ISLS);

(5) You choose to disenroll from the waiver;

(6) You reside out of state;

(7) You cannot be located or do not make yourself available for the annual waiver reassessment of eligibility;

(8) You refuse to participate with DDD in:

(a) Service planning,

(b) Required quality assurance and program monitoring activities, or

(c) Accepting services agreed to in your plan of care as necessary to meet your health and safety needs.

(9) You are residing in hospital, jail, prison, nursing facility, ICF/MR, or other institution and remain in residence at least one full calendar month, and are still in residence:

(a) At the time your annual waiver reassessment is due;

or

(b) On March 31st, the end of the waiver fiscal year, whichever date occurs first.

(10) Your needs exceed the maximum funding level or scope of services under the Basic or Basic Plus waiver as specified in WAC 388-845-3080.

(11) Your needs exceed what can be provided under the CORE or Community Protection waiver as specified in WAC 388-845-3085.

NEW SECTION

WAC 388-845-0065 What happens if I am terminated or choose to disenroll from a waiver? If you are terminated from a waiver or choose to disenroll from a waiver, DDD will notify you.

(1) DDD cannot guarantee continuation of your current services, including Medicaid eligibility.

(2) Your eligibility for nonwaiver DDD services is based upon availability of funding and program eligibility for a particular service.

NEW SECTION

WAC 388-845-0070 What determines if I need ICF/MR level of care? DDD determines if you need ICF/MR level of care based on your need for waiver services. To reach this decision, DDD uses its department-approved assessment and/or other information.

NEW SECTION

WAC 388-845-0075 How is a child age twelve or younger assessed for ICF/MR level of care? If you are age twelve or younger, DDD assesses you for ICF/MR level of care using the "child's assessment of ICF/MR level of care—current support needs" form. You must have support needs exceeding what is expected of others of the same age.

NEW SECTION

WAC 388-845-0080 What score indicates ICF/MR level of care if I am age twelve or younger? (1) If you are age five or younger you need major or moderate support in five of nine tasks;

(2) If you are age six through twelve, you need major or moderate support in seven of nine of the following tasks.

(3) The form indicates certain tasks that require major support and which require moderate or major support.

(a) Major support for:

(i) Dressing and grooming self,

(ii) Toileting self.

(b) Major or moderate support for:

(i) Eating,

(ii) Mobility,

(iii) Communication,

(iv) Making choices and taking responsibility,

(v) Exploring one's environment,

(vi) Supports needed to meet therapy and health needs

(vii) Family/caregiver support required to maintain the child at home.

NEW SECTION

WAC 388-845-0085 If I am age twelve or younger, what if my score on the current needs assessment does not indicate ICF/MR level of care? For children age twelve or younger:

(1) If you do not have a qualifying score for determining ICF/MR level of care using the department approved assessment, you may provide DDD other current information that provides evidence of your need for waiver services.

(2) This additional information may include occupational therapy (OT), physical therapy (PT), psychological, nursing, social work, speech and hearing, or other professional evaluations that reflect current needs.

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.

NEW SECTION

WAC 388-845-0090 How is a person age thirteen or older assessed for ICF/MR level of care? If you are age thirteen or older, DDD assesses you for ICF/MR level of care using the "assessment of ICF/MR level of care—current support needs" form.

NEW SECTION

WAC 388-845-0095 What score indicates ICF/MR level of care if I am age thirteen or older? If you are age thirteen or older, you must have a qualifying score of at least forty in responses to twenty questions assessing your residential, school or employment, and social support needs.

NEW SECTION

WAC 388-845-0096 If I am age thirteen or older, what if my score on the current needs assessment does not indicate ICF/MR level of care? If you are age thirteen or older and your current needs assessment does not indicate ICF/MR level of care, you are not eligible for an HCBS waiver.

NEW SECTION

WAC 388-845-0100 What determines which waiver I am assigned to? DDD will assign you to a waiver based on the following criteria:

(1) If you were on the CAP waiver as of March 2004, your initial assignment to the Basic, Basic Plus, CORE, or Community Protection waiver is based on:

(a) Services you received from DDD in October 2002 through September 2003; and

(b) Services you were authorized to receive in October, November and December 2003.

(2) If you are new to a waiver since April 1, 2004, assignment is based on your assessment and service plan.

(3) Additional criteria apply to the assignment to the Community Protection waiver.

NEW SECTION

WAC 388-845-0105 What criteria determine assignment to the Community Protection waiver? DDD may assign you to the Community Protection waiver only if you are at least eighteen years of age, not currently residing in a hospital, jail or other institution, and meet the following criteria:

(1) You have been identified by DDD as a person who meets one or more of the following:

(a) You have been convicted of or charged with a crime of sexual violence as defined in chapter 71.09 RCW;

(b) You have been convicted of or charged with acts directed towards strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization, or persons of casual acquaintance with whom no substantial personal relationship exists;

(c) You have been convicted of or charged with a sexually violent offense and/or predatory act, and may constitute a future danger as determined by a qualified professional;

(d) You have not been convicted and/or charged, but you have a history of stalking, sexually violent, predatory and/or opportunistic behavior which demonstrates a likelihood to commit a sexually violent and/or predatory act based on current behaviors that may escalate to violence, as determined by a qualified professional;

(e) You have committed one or more violent crimes.

(2) You receive or agree to receive residential services from certified residential community protection provider-intensive supported living services (CP-ISLS); and

(3) You comply with the specialized supports and restrictions in your:

(a) Plan of care (POC);

(b) Individual instruction and support plan (IISP); and/or

(c) Treatment plan provided by DDD approved certified individuals and agencies.

NEW SECTION

WAC 388-845-0110 Are there limitations to the waiver services I can receive? There are limitations to waiver services. In addition to the limitations to your access to nonwaiver services cited for specific services in WAC 388-845-0115, the following limitations apply:

(1) A service must be offered in your waiver and authorized in your plan of care.

(2) Waiver services are limited to services required to prevent ICF/MR placement.

(3) The cost of your waiver services cannot exceed the average daily cost of an ICF/MR.

(4) Waiver services cannot replace or duplicate other available paid and unpaid supports and services, including payments authorized to you by DDD to purchase a service directly.

(5) Waiver funding cannot be authorized for treatments determined by DSHS to be experimental.

(6) The Basic and Basic Plus waivers have yearly limits on some services and combinations of services. The combination of services is referred to as aggregate services.

(7) Your choice of qualified providers and services is limited to the most cost effective option that meets your assessed needs.

(8) Services out-of-state, other than in recognized bordering cities, are limited to respite care and personal care during vacations.

(a) You may receive services in a recognized out-of-state bordering city on the same basis as in-state services.

(b) The only recognized bordering cities are:

(i) Coeur d'Alene, Moscow, Sandpoint, Priest River and Lewiston, Idaho; and

(ii) Portland, The Dalles, Hermiston, Hood River, Rainier, Milton-Freewater and Astoria, Oregon.

(9) Other out-of-state waiver services require an approved exception to rule before DDD can authorize payment.

NEW SECTION

WAC 388-845-0115 Does my waiver eligibility limit my access to DDD nonwaiver services? If you are enrolled in a DDD HCBS waiver:

(1) You are not eligible for state-only funding for DDD services.

(2) You are not eligible for Medicaid personal care.

NEW SECTION

WAC 388-845-0120 Will I continue to receive state supplementary payments (SSP) if I am on the waiver? Your participation in the new waivers does not affect your continued receipt of SSP from DDD.

NEW SECTION

WAC 388-845-0200 What waiver services are available to me? Each of the four HCBS waivers has a different scope of service and your service plan defines the waiver services available to you.

NEW SECTION

WAC 388-845-0205 Basic waiver services.

	AGGREGATE SERVICES	YEARLY LIMIT
BASIC WAIVER	Behavior management and consultation Community guide Environmental accessibility adaptations Specialized medical equipment/supplies Occupational therapy Specialized psychiatric services Physical therapy Speech, hearing and language services Staff/family consultation and training Transportation	May not exceed \$1425 per year on any combination of these services
	Person-to-person Supported employment Community access Prevocational services	May not exceed \$6500 per year
	Respite care	Limits are determined by respite assessment
	Personal care	Limits are determined by CARE assessment
	MENTAL HEALTH STABILIZATION SERVICES: Behavior management and consultation Mental health crisis diversion bed services Specialized psychiatric services Skilled nursing	Limits determined by mental health or DDD
	Emergency assistance is only for services contained in the Basic waiver	\$6000 per year; Preauthorization required

NEW SECTION

WAC 388-845-0210 Basic Plus waiver services.

	SERVICES	YEARLY LIMIT
BASIC PLUS WAIVER	AGGREGATE SERVICES: Behavior management and consultation Community guide Environmental accessibility adaptations Specialized medical equipment/supplies Occupational therapy Specialized psychiatric services Physical therapy Skilled nursing Speech, hearing and language services Staff/family consultation and training Transportation	May not exceed \$6070 per year on any combination of these services
	Person-to-person Supported employment Community access Prevocational services	May not exceed \$9500 per year
	Adult foster care (adult family home) Adult residential care (boarding home)	Determined per department rate structure
	MENTAL HEALTH STABILIZATION SERVICES: Behavior management and consultation Mental health crisis diversion bed services Specialized psychiatric services Skilled nursing	Limits determined by mental health or DDD
	Personal care	Limits determined by the CARE assessment
	Respite care	Limits are determined by respite assessment
	Emergency assistance is only for services contained in the Basic Plus waiver	\$6000 per year; Preauthorization required

EMERGENCY

NEW SECTION

WAC 388-845-0215 CORE waiver services.

	SERVICES	YEARLY LIMIT
CORE WAIVER	Behavior management and consultation Community guide Environmental accessibility adaptations Specialized medical equipment/supplies	Determined by the Plan of Care, not to exceed the average cost of an ICF/MR for any combination of services

	SERVICES	YEARLY LIMIT
	Occupational therapy Specialized psychiatric services Physical therapy Respite care Skilled nursing Speech, hearing and language services Staff/family consultation and training Transportation	
	Residential habilitation	
	Person-to-person Supported employment Community access Prevocational services	
	Personal care	Limited by CARE assessment

NEW SECTION

WAC 388-845-0220 Community Protection waiver services.

	SERVICES	YEARLY LIMIT
COMMUNITY PROTECTION WAIVER	Behavior management and consultation Environmental accessibility adaptations Specialized medical equipment/supplies Occupational therapy Specialized psychiatric services Physical therapy Skilled nursing Speech, hearing and language services Staff/family consultation and training Transportation	Determined by the Plan of Care, not to exceed the average cost of an ICF/MR for any combination of services
	Residential habilitation	
	Person-to-person Supported employment Prevocational services	

WAIVER SERVICES DEFINITIONS

NEW SECTION

WAC 388-845-0300 What are adult family home (AFH) services? Per RCW 70.128.010 an adult family home (AFH) is a regular family abode in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the service. Adult family homes (AFH) may provide residential care to adults in the Basic Plus waiver.

NEW SECTION

WAC 388-845-0305 Who is a qualified provider of AFH services? The provider of AFH services must be licensed and ADSA contracted as an AFH who has successfully completed the DDD specialty training provided by the department.

NEW SECTION

WAC 388-845-0310 Are there limits to the AFH services I can receive? Adult family homes services are limited by the following:

(1) AFH services are defined and limited per chapter 388-72A and 388-71 WAC governing Medicaid personal care and the comprehensive assessment and reporting evaluation (CARE) or the legacy comprehensive assessment.

(2) Rates are determined by and limited to department published rates for the level of care generated by CARE or the legacy comprehensive assessment.

(3) AFH reimbursement cannot be supplemented by other department funding.

NEW SECTION

WAC 388-845-0400 What are adult residential care (ARC) services? Adult residential care (ARC) facilities may provide residential care to adults. This service is available in the Basic Plus waiver.

(1) An ARC is a licensed boarding home for seven or more unrelated adults.

(2) Services include, but are not limited to, individual and group activities; assistance with arranging transportation; assistance with obtaining and maintaining functional aids and equipment; housework; laundry; self-administration of medications and treatments; therapeutic diets; cuing and providing physical assistance with bathing, eating, dressing, locomotion and toileting; stand-by one person assistance for transferring.

NEW SECTION

WAC 388-845-0405 Who is a qualified provider of ARC services? The provider of ARC services must:

(1) Be a licensed boarding home;

(2) Be contracted with ADSA to provide ARC services; and

(3) Have completed the required and approved DDD specialty training.

NEW SECTION

WAC 388-845-0410 Are there limits to the ARC services I can receive? ARC services are limited by the following:

(1) ARC services are defined and limited by boarding home licensure and rules and chapter 388-72A and 388-71 WAC governing Medicaid personal care and the comprehensive assessment and reporting evaluation (CARE) or the legacy comprehensive assessment.

EMERGENCY

(2) Rates are determined and limited to department published rates for the level of care generated by CARE or the legacy comprehensive assessment.

(3) ARC reimbursement cannot be supplemented by other department funding.

NEW SECTION

WAC 388-845-0500 What is behavior management and consultation? Behavior management and consultation may be provided to persons on any of the HCBS waivers and include:

(1) The development and implementation of programs designed to support waiver participants to behave in ways that enhance their inclusion in the community.

(2) Strategies for effectively relating to caregivers and other people in the waiver participant's life.

(3) Direct interventions with the person to decrease aggressive, destructive, and sexually inappropriate or other behaviors that compromise their ability to remain in the community (i.e., training, specialized cognitive counseling).

NEW SECTION

WAC 388-845-0505 Who is a qualified provider of behavior management and consultation? The provider of behavior management and consultation must be one of the following licensed, registered, or certified professionals contracted with DDD to provide this service:

(1) Marriage and family therapist (chapter 246-809 WAC);

(2) Mental health counselor (chapter 246-809; 246-810 WAC);

(3) Psychologist (chapter 246-924 WAC);

(4) Registered counselor (chapter 246-810 WAC);

(5) Sex offender treatment provider (chapter 246-930 WAC);

(6) Social worker (chapter 246-809 WAC);

(7) Register nurse (RN) or licensed practical nurse (LPN);

(8) Psychiatrist;

(9) Psychiatric advanced registered nurse practitioner (ARNP); or

(10) Physician assistant working under the supervision of a psychiatrist.

NEW SECTION

WAC 388-845-0510 Are there limits to the behavior management and consultation I can receive? The following limits apply to your receipt of behavior management and consultation:

(1) DDD and the treating professional will determine the need and amount of service you will receive, subject to the limitations in subsection (2) below.

(2) The dollar limitations in your Basic and Basic Plus waiver limit the amount of service.

(3) DDD reserves the right to require a second opinion from a department-selected provider.

NEW SECTION

WAC 388-845-0600 What is community access? Community access is a service provided in the community to enhance or maintain the person's competence, integration, physical or mental skills.

(1) If you are age sixty-one or younger, the goal of community access is to help you progress towards employment.

(2) If you are age sixty-two or older, this service is available to meet your retirement needs.

(3) This service is available to adults in the Basic, Basic Plus, and CORE waiver.

NEW SECTION

WAC 388-845-0605 Who is a qualified provider of community access? The provider of community access must be a county or person or agency contracted with a county or DDD.

NEW SECTION

WAC 388-845-0610 Are there limits to community access I can receive? The following limits apply to your receipt of community access:

(1) You must be age twenty-one and graduated from high school or age twenty-two or older.

(2) You cannot be authorized to receive community access services if you receive pre-vocational services or supported employment services.

NEW SECTION

WAC 388-845-0700 What is a community guide service? Community guide service increases access to informal community supports. Services are short-term and designed to develop creative, flexible and supportive community resources for individuals with developmental disabilities. This service is available in Basic, Basic Plus and CORE waivers.

NEW SECTION

WAC 388-845-0705 Who is a qualified community guide? Any individual or agency contracted with DDD as a "community guide" is qualified to provide this service.

NEW SECTION

WAC 388-845-0710 Are there limitations to the community guide services I can receive? You may not receive community guide services if you are receiving residential habilitation services because your residential provider can meet this need.

NEW SECTION

WAC 388-845-0800 What is emergency assistance? Emergency assistance is a temporary increase to the yearly dollar limit specified in the Basic and Basic Plus waiver when additional waiver services are required to prevent ICF/MR

placement. These additional services are limited to the services provided in your waiver.

NEW SECTION

WAC 388-845-0805 Who is a qualified provider of emergency assistance? The provider of the service you need to meet your emergency must meet the provider qualifications for that service.

NEW SECTION

WAC 388-845-0810 How do I qualify for emergency assistance? You qualify for emergency assistance only if you have used all of your waiver funding and your current situation meets one of the following criteria:

- (1) You involuntarily lose your present residence for any reason either temporary or permanent;
- (2) You lose your present caregiver for any reason, including death;
- (3) There are changes in your caregiver's mental or physical status resulting in the caregiver's inability to perform effectively for the individual;
- (4) There are significant changes in your emotional or physical condition that requires a temporary increase in the amount of a waiver service.

NEW SECTION

WAC 388-845-0820 Are there limits to my use of emergency assistance? All of the following limitations apply to your use of emergency assistance:

- (1) Prior authorization is required based on a reassessment of your plan of care to determine the need for emergency services;
- (2) Payment authorizations are reviewed every thirty days and cannot exceed six thousand dollars per twelve months based on the effective date of your current plan of care (POC);
- (3) Emergency services are limited to the scope of services in your waiver;
- (4) Emergency Assistance may be used for interim services until:
 - (a) The emergency situation has been resolved; or
 - (b) You are transferred to alternative supports that meet your assessed needs; or
 - (c) You are transferred to an alternate waiver that provides the service you need.

NEW SECTION

WAC 388-845-0900 What are environmental accessibility adaptations? (1) Environmental accessibility adaptations are available in all of the HCBS waivers and provide the physical adaptations to the home required by the individual's plan of care needed to:

- (a) Ensure the health, welfare and safety of the individual; or
- (b) Enable the individual who would otherwise require institutionalization to function with greater independence in the home.

(2) Environmental accessibility adaptations may include the installation of ramps and grab bars, widening of doorways, modification of bathroom facilities, or installing specialized electrical and/or plumbing systems necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the individual.

NEW SECTION

WAC 388-845-0905 Who is a qualified provider for building these environmental accessibility adaptations? The provider making these environmental accessibility adaptations must be a registered contractor per chapter 18.27 RCW and contracted with DDD.

NEW SECTION

WAC 388-845-0910 What limitations apply to environmental accessibility adaptations? The following service limitations apply to environmental accessibility adaptations:

- (1) Prior approval by DDD is required.
- (2) Environmental accessibility adaptations or improvements to the home are excluded if they are of general utility without direct medical or remedial benefit to the individual, such as carpeting, roof repair, central air conditioning, etc.
- (3) Environmental accessibility adaptations cannot add to the total square footage of the home.

NEW SECTION

WAC 388-845-1000 What are extended state plan services? Extended state plan services refer to physical therapy; occupational therapy; and speech, hearing and language services available to you under Medicaid without regard to your waiver status. They are "extended" services when the waiver pays for more services than is provided under the state Medicaid plan. These services are available under all four HCBS waivers.

NEW SECTION

WAC 388-845-1010 Who is a qualified provider of extended state plan services? Providers of extended state plan services must be certified, registered or licensed therapists as required by law and contracted with DDD for the therapy they are providing.

NEW SECTION

WAC 388-845-1015 Are there limits to the extended state plan services I can receive? (1) Additional therapy may be authorized as a waiver service only after you have accessed what is available to you under Medicaid and any other private health insurance plan;

- (2) The department does not pay for treatment determined by DSHS to be experimental;
- (3) The department and the treating professional determine the need for and amount of service you can receive:
 - (a) The department reserves the right to require a second opinion from a department-selected provider.

(b) The department will require evidence that you have accessed your full benefits through Medicaid and private insurance before authorizing this waiver service.

(4) The Basic and Basic Plus waivers limit the amount of service you can receive.

NEW SECTION

WAC 388-845-1100 What are mental health crisis diversion bed services? Mental health crisis diversion bed services are temporary residential and behavioral services that may be provided in a client's home or licensed or certified setting. These services are available to eligible clients who are at risk of serious decline of mental functioning and who have been determined to be at risk of psychiatric hospitalization.

NEW SECTION

WAC 388-845-1105 Who is a qualified provider of mental health crisis diversion bed services? Providers of mental health crisis diversion bed services must be:

- (1) DDD certified residential agencies per Chapter 388-820 WAC; or
- (2) Other department licensed or certified agencies.

NEW SECTION

WAC 388-845-1110 What are the limits of mental health crisis diversion bed services? Mental health crisis diversion bed services are intermittent and temporary. The duration and amount of services you need to stabilize your crisis is determined by a mental health professional and/or DDD.

NEW SECTION

WAC 388-845-1150 What are mental health stabilization services? Mental health stabilization services assist persons who are experiencing a mental health crisis. These services are available in all four waivers to adults determined by mental health professionals or DDD to be at risk of institutionalization in a psychiatric hospital without one of more of the following services.

- (1) Behavior management and consultation,
- (2) Skilled nursing services,
- (3) Specialized psychiatric services,
- (4) Mental health crisis diversion bed services.

NEW SECTION

WAC 388-845-1155 Who are qualified providers of mental health stabilization services? Providers of these mental health stabilization services are listed in the rules in this chapter governing the specific services listed in WAC 388-845-1150.

NEW SECTION

WAC 388-845-1160 Are there limitations to the mental health stabilization services that I can receive? Mental

health stabilization services are intermittent and temporary. The duration and amount of services you need to stabilize your crisis is determined by a mental health professional and/or DDD.

NEW SECTION

WAC 388-845-1200 What is a "person-to-person" service? "Person-to-person" is a day program service intended to assist participants to progress toward employment goals through individualized planning, skill instruction, information and referral, and one to one relationship building. This service may be provided in addition to community access, prevocational services, or supported employment. This service is available to adults in all four HCBS waivers.

NEW SECTION

WAC 388-845-1205 Who is a qualified provider of person-to-person services? The provider of "person-to-person" services must be a county or an individual or agency contracted with a county or DDD.

NEW SECTION

WAC 388-845-1210 Are there limits to the person-to-person service I can receive? You must be age twenty-one and graduated from high school or age twenty-two or older to receive person-to-person services.

NEW SECTION

WAC 388-845-1300 What are personal care services? Personal care services are the provision of assistance with personal care tasks as defined in WAC 388-71-0202, personal care services. These services are available in the Basic, Basic Plus, and CORE waivers.

NEW SECTION

WAC 388-845-1305 Who are the qualified providers of personal care services? (1) Qualified providers of personal care services may be individuals or licensed homecare agencies contracted with DDD.

(2) All individual providers and homecare agency providers must meet provider qualifications for in-home caregivers in WAC 388-71-0500 through 388-71-0556.

(3) Providers of adults must comply with the training requirements in these rules governing Medicaid personal care providers in WAC 388-71-05670 through 388-71-05799.

(4) Natural, step, or adoptive parents can be the personal care provider of their adult child age eighteen or older.

NEW SECTION

WAC 388-845-1310 Are there limits to the personal care services I can receive? (1) You must meet the programmatic eligibility for Medicaid personal care in chapter 388-72A and 388-71 WAC governing Medicaid personal care (MPC) using the current department approved assessment form: Comprehensive assessment reporting evaluation

(CARE), legacy comprehensive assessment, or children's comprehensive assessment.

(2) The maximum hours of personal care you may receive are determined by the approved department assessment for Medicaid personal care services.

(a) Provider rates are limited to the department established hourly rates for in-home Medicaid personal care.

(b) Homecare agencies must be licensed through the department of health and contracted with DDD.

NEW SECTION

WAC 388-845-1400 What are prevocational services? Prevocational services prepare an adult for paid or unpaid employment through the teaching of such concepts as compliance, attendance, task completion, problem solving and safety. These services are available in all four HCBS waivers.

NEW SECTION

WAC 388-845-1405 Who are the qualified providers of prevocational services? Providers of prevocational services must be a county or an individual or agency contracted with a county or DDD.

NEW SECTION

WAC 388-845-1410 Are there limits to the prevocational services I can receive? The following limitations apply to your receipt of prevocational services.

(1) You must be age twenty-one and graduated from high school or age twenty-two or older.

(2) You are not expected to be competitively employed within one year (excluding supported employment programs).

(3) You cannot be authorized to receive prevocational services if you receive community access services or supported employment services.

NEW SECTION

WAC 388-845-1500 What are residential habilitation services? (1) Residential habilitation services (RHS) services include assistance to learn or improve or retain the social and adaptive skills necessary for living in the community. These services are available in the CORE and Community Protection waivers.

(2) Services may provide instruction and support addressing one or more of the following outcomes:

- (a) Health and safety;
- (b) Personal power and choice;
- (c) Competence and self-reliance;
- (d) Positive recognition by self and others;
- (e) Positive relationships; and
- (f) Integration into the physical and social life of the community.

NEW SECTION

WAC 388-845-1505 Who are qualified providers of residential habilitation services for the CORE waiver? Providers of residential habilitation services for participants in the CORE waiver must be one of the following:

(1) Individuals contracted with DDD to provide residential support as a "companion home" provider;

(2) Individuals contracted with DDD to provide training as an "alternative living provider";

(3) Agencies contracted with DDD and certified per chapter 388-820 WAC;

(4) State-operated living alternatives (SOLA);

(5) Licensed and contracted group care homes, foster homes, child placing agencies, staffed residential homes (licensed and contracted adult residential rehabilitation center per WAC 246-325-0012).

NEW SECTION

WAC 388-845-1510 Who are qualified providers of residential habilitation services for the Community Protection waiver? Providers of residential habilitation services for participants of the Community Protection waiver are limited to state-operated living alternatives (SOLA) and supported living providers who:

(1) Are contracted with DDD and certified under chapter 388-820 WAC as a residential community protection provider-intensive supported living services (CP-ISLS); and

(2) Meet the additional standards in DDD Policy 15.04 (Standards for community protection intensive supported living services).

NEW SECTION

WAC 388-845-1515 Are there limits to the residential habilitation services I can receive? (1) You may only receive one type of residential habilitation service at a time.

(2) None of the following can be paid for under the CORE or Community Protection waiver:

(a) Room and board;

(b) The cost of building maintenance, upkeep, improvement, modifications or adaptations required to assure the health and safety of residents, or to meet the requirements of the applicable life safety code;

(c) Activities or supervision already being paid for by another source;

(d) Services provided in your parent's home unless you are receiving alternative living services for a maximum of six months to transition you from your parent's home into your own home.

(3) The following persons cannot be paid providers for your service:

(a) Your spouse;

(b) Your natural, step, or adoptive parents if you are a child age seventeen or younger;

(c) Your natural, step, or adoptive parent unless your parent is certified as a residential agency per chapter 388-820 WAC or is employed by a certified or licensed agency qualified to provide residential habilitation services.

NEW SECTION

WAC 388-845-1600 What is respite care? Respite care is intended to provide short-term intermittent relief for persons normally providing care for waiver individuals. This service is available in the Basic, Basic Plus, and CORE waivers.

NEW SECTION

WAC 388-845-1605 Who is eligible to receive respite care? The person providing your care is eligible to receive respite care if you are in the Basic, Basic Plus or CORE waiver and:

- (1) You live in a private home with an unpaid caregiver;
- or
- (2) You live with a paid caregiver who is:
 - (a) A natural, step or adoptive parent;
 - (b) A contracted companion home provider; or
 - (c) A licensed children's foster home provider.

NEW SECTION

WAC 388-845-1606 Can DDD approve an exception to the requirements in WAC 388-845-1605? DDD may approve an exception to WAC 388-845-1605 above only through June 30, 2006 if all of the following conditions exist:

- (1) Your live-in caregiver is a relative as defined in WAC 388-825-345(2);
- (2) You were living with this caregiver in January 2005;
- (3) Your relative caregiver was receiving payment from the department as your caregiver in January 2005; and
- (4) You were enrolled in the Basic, Basic Plus, or CORE Waiver in January 2005.

NEW SECTION

WAC 388-845-1610 Where can respite care be provided? Respite care can be provided in the following location(s):

- (1) Individual's home or place of residence;
- (2) Relative's home;
- (3) Licensed children's foster home;
- (4) Licensed, contracted and DDD certified group home;
- (5) State operated living alternative (SOLA) and other DDD certified supported living settings;
- (6) Licensed boarding home contracted as an adult residential center;
- (7) Adult residential rehabilitation center;
- (8) Licensed and contracted adult family home;
- (9) Children's licensed group home, licensed staffed residential home, or licensed childcare center;
- (10) Other community settings such as camp, senior center, or adult day care center.

NEW SECTION

WAC 388-845-1615 Who are qualified providers of respite care? Providers of respite care can be any of the fol-

lowing individuals or agencies contracted with DDD for respite care:

- (1) Individuals meeting the provider qualifications under chapter 388-825 WAC;
- (2) Homecare/home health agencies, licensed under chapter 246-335 WAC, Part 1;
- (3) Licensed and contracted group homes, foster homes, child placing agencies, staffed residential homes and foster group care homes;
- (4) Licensed and contracted AFH;
- (5) Licensed and contracted ARC;
- (6) Licensed and contracted adult residential rehabilitation center under WAC 246-325-012;
- (7) Licensed childcare center under chapter 388-151 WAC;
- (8) Licensed child daycare center under chapter 388-151 WAC;
- (9) Adult day care centers contracted with DDD;
- (10) Certified provider per chapter 388-820 WAC when respite is provided within the DDD contract for certified residential services; or
- (11) Other DDD contracted providers such as community center, senior center, parks and recreation, summer programs, adult day care.

NEW SECTION

WAC 388-845-1620 Are there limits to the respite care I can receive? The following limitations apply to the respite care you can receive:

- (1) If you are in the Basic or Basic Plus waiver, a respite care assessment will determine how much respite you can receive per WAC 388-845-3005 through WAC 388-845-3050.
- (2) If you are in the CORE waiver, the POC, not the respite assessment, will determine the amount of respite care you can receive.
- (3) Prior approval by DDD is required to exceed fourteen days per month.
- (4) Respite cannot replace:
 - (a) Daycare while a parent or guardian is at work; and/or
 - (b) Personal care hours available to you. When determining your unmet need, DDD will first consider the personal care hours available to you.
- (5) Respite providers have the following limitations and requirements:
 - (a) If respite is provided in a private home, the home must be licensed unless it is the client's home or the home of a relative of specified degree per WAC 388-825-345; and
 - (b) The respite provider cannot be the spouse of the caregiver receiving respite if the spouse and the caregiver reside in the same residence.
- (6) Your caregiver cannot provide paid respite services for you or other persons during your respite care hours.
- (7) If you require respite from a licensed practical nurse (LPN) or a registered nurse (RN), services may be authorized as skilled nursing services per WAC 388-845-1700 using an LPN or RN. If you are in the Basic Plus waiver, skilled nursing services are limited to the dollar limits of your aggregate services per WAC 388-845-0210. The dollar limit governing

aggregate services does not apply to skilled nursing services provided as part of mental health stabilization services per WAC 388-845-1100(2).

NEW SECTION

WAC 388-845-1700 What is skilled nursing? (1) Skilled nursing is continuous, intermittent, or part time nursing services. These services are available in the Basic Plus, CORE, and Community Protection waivers.

(2) Services include nurse delegation services provided by a registered nurse, including the initial visit, follow-up instruction, and/or supervisory visits.

NEW SECTION

WAC 388-845-1705 Who is a qualified provider of skilled nursing services? The provider of skilled nursing services must be a licensed practical nurse (LPN) or registered nurse (RN) acting within the scope of the Nurse Practice Act chapter 246-845 WAC and contracted with DDD to provide this service.

NEW SECTION

WAC 388-845-1710 Are there limitations to the skilled nursing services I can receive? The following limitations apply to your receipt of skilled nursing services:

- (1) Prior department approval is required.
- (2) The department and the treating professional determine the need for and amount of service.
- (3) The department reserves the right to require a second opinion by a department-selected provider.

NEW SECTION

WAC 388-845-1800 What are specialized medical equipment and supplies? (1) Specialized medical equipment and supplies are services to help individuals with their activities of daily living or to better participate in their environment. These services are available in all four HCBS waivers.

(2) Included are devices, controls, appliances, and items necessary for life support; ancillary supplies and equipment necessary to the proper functioning of such items; and durable and nondurable medical equipment not available through Medicaid under the Medicaid state plan.

NEW SECTION

WAC 388-845-1805 Who are the qualified providers of specialized medical equipment and supplies? The provider of specialized medical equipment and supplies must be a medical equipment supplier contracted with DDD.

NEW SECTION

WAC 388-845-1810 Are there limitations to my receipt of specialized medical equipment and supplies? The following limitations apply to your receipt of specialized medical equipment and supplies:

(1) Prior approval by the department is required for each authorization.

(2) The department reserves the right to require a second opinion by a department-selected provider.

(3) Items reimbursed with waiver funds shall be in addition to any medical equipment and supplies furnished under the Medicaid state plan.

(4) Items must be of direct medical or remedial benefit to the individual or necessary as a result of the individual's disability.

(5) Medications, prescribed or nonprescribed, and vitamins are excluded.

NEW SECTION

WAC 388-845-1900 What are specialized psychiatric services? (1) Specialized psychiatric services are specific to the individual needs of persons with developmental disabilities who are experiencing mental health symptoms. These services are available in all four HCBS waivers.

(2) Service may be any of the following:

- (a) Psychiatric evaluation,
- (b) Medication evaluation and monitoring,
- (c) Psychiatric consultation.

NEW SECTION

WAC 388-845-1905 Who are qualified providers of specialized psychiatric services? Providers of specialized psychiatric services must be one of the following licensed or registered, and contracted healthcare professionals:

- (1) Psychiatrist;
- (2) Psychiatric advanced registered nurse practitioner (ARNP); or
- (3) Physician assistant working under the supervision of a psychiatrist.

NEW SECTION

WAC 388-845-1910 Are there limitations to the specialized psychiatric services I can receive? Specialized psychiatric services are excluded if they are available through other Medicaid programs.

NEW SECTION

WAC 388-845-2000 What is staff/family consultation and training? (1) Staff/family consultation and training is professional assistance to families or direct service providers to help them better meet the needs of the waiver person. This service is available in all four HCBS waivers.

(2) Consultation and training is provided to families, direct staff, or personal care providers to meet the specific needs of the waiver participant as outlined in the individual's plan of care, including:

- (a) Health and medication monitoring;
- (b) Positioning and transfer;
- (c) Basic and advanced instructional techniques;
- (d) Positive behavior support; and
- (e) Augmentative communication systems.

NEW SECTION

WAC 388-845-2005 Who is a qualified provider of staff/family consultation and training? To provide staff/family consultation and training, a provider must be one of the following licensed, registered or certified professionals and be contracted with DDD:

- (1) Audiologist;
- (2) Licensed practical nurse;
- (3) Marriage and family therapist;
- (4) Mental health counselor;
- (5) Occupational therapist;
- (6) Physical therapist;
- (7) Counselor;
- (8) Registered nurse;
- (9) Sex offender treatment provider;
- (10) Speech/language pathologist;
- (11) Social worker;
- (12) Psychologist;
- (13) Certified American Sign Language instructor; or
- (14) Nutritionist.

NEW SECTION

WAC 388-845-2010 Are there limitations to the staff/family consultation and training I can receive? Expenses to the family or provider for room and board or attendance, including registration, at conferences are excluded as a service under staff/family consultation and training.

NEW SECTION

WAC 388-845-2100 What is supported employment? Supported employment provides intensive ongoing individual or group support in a work setting to adults with developmental disabilities. This service is available in all four HCBS waivers.

(1) Supported employment includes activities needed to sustain paid work by individuals receiving waiver services, including supervision and training.

(2) Supported employment is conducted in a variety of settings; particularly work sites in which persons without disabilities are employed.

NEW SECTION

WAC 388-845-2105 Who is a qualified provider of supported employment? A supported employment provider must be a county, or agencies or individuals contracted with a county or DDD.

NEW SECTION

WAC 388-845-2110 Are there limits to the supported employment I can receive? The following limitations apply to your receipt of supported employment:

(1) You must be age twenty-one and graduated from high school or age twenty-two or older.

(2) Payment will be made only for the adaptations, supervision, training, and support with the activities of daily living you require as a result of your disabilities.

(3) Payment is excluded for the supervisory activities rendered as a normal part of the business setting.

(4) You cannot be authorized to receive supported employment services if you receive community access services or prevocational services.

NEW SECTION

WAC 388-845-2200 What are transportation services? Transportation services provide reimbursement to a provider when the transportation is required and specified in the waiver plan of care. This service is available in all four HCBS waivers.

(1) Transportation provides the person access to waiver and other community services, activities and resources, specified by the plan of care.

(2) Whenever possible, the person will use family, neighbors, friends, or community agencies that can provide this service without charge.

NEW SECTION

WAC 388-845-2205 Who is qualified to provide transportation services? The provider of transportation services can be an individual or agency contracted with DDD.

NEW SECTION

WAC 388-845-2210 Are there limitations to the transportation services I can receive? The following limitations apply to transportation services:

(1) Transportation to/from medical or medically related appointments is a Medicaid transportation service and is to be considered and used first.

(2) Transportation is offered in addition to medical transportation but shall not replace Medicaid transportation services.

(3) Reimbursement for provider mileage requires prior approval by DDD and is paid according to contract.

(4) This service does not cover the purchase or lease of vehicles.

(5) Reimbursement for provider travel time is not included in this service.

(6) Reimbursement to the provider is limited to transportation that occurs when you are with the provider.

(7) You are not eligible for transportation services if the cost and responsibility for transportation is already included in your waiver provider's contract and payment.

ASSESSMENT AND PLAN OF CARENEW SECTION

WAC 388-845-3000 What is the process for determining the services I need? Your service needs are determined through an assessment and service planning process.

(1) You receive an initial and annual assessment of your needs using a department-approved form.

(a) The "comprehensive assessment reporting evaluation (CARE)" will determine your eligibility and amount of personal care services.

(b) If you are in the Basic or Basic Plus waiver, a DDD respite assessment will determine the amount of respite care available to you.

(2) From the assessment, DDD develops your waiver plan of care (POC) with you and/or your legal representative and others who are involved in your life such as your parent or guardian, advocate and service providers.

NEW SECTION

WAC 388-845-3005 What is the waiver respite assessment? The waiver respite assessment is a series of questions about you and your primary caregiver that will determine the amount of respite care available to you.

NEW SECTION

WAC 388-845-3010 Who must have a waiver respite assessment? If you are in the Basic or Basic Plus waiver and are interested in receiving respite care, and are eligible for respite care per WAC 388-845-1605, a respite assessment will determine the amount of respite care available to you.

NEW SECTION

WAC 388-845-3015 How is the waiver respite assessment administered? The waiver respite assessment is administered by department staff during an in-person interview with you if you choose to be present, and at least one other person with knowledge of you, such as your primary caregiver.

NEW SECTION

WAC 388-845-3020 Who can be the respondent for the waiver respite assessment? The respondent for your waiver respite assessment must be an adult who is well acquainted with you and can provide the information needed to complete the assessment, such as your primary caregiver.

(1) You cannot be the respondent for your own respite assessment.

(2) The department may select and interview additional respondents as needed to get complete and accurate information.

NEW SECTION

WAC 388-845-3025 How often is this waiver respite assessment completed? Your waiver respite assessment must be completed at the time of your CARE assessment/reassessment.

NEW SECTION

WAC 388-845-3030 What items are assessed to determine my respite allocation? The waiver respite assessment documents information about you and your caregiver. Information must reflect what is currently happening, not

what may occur in the future or what has occurred more than thirty days ago. The information documented includes:

- (1) The level of monitoring you require, above and beyond what is typically required for persons of similar age;
- (2) Circumstances in your primary caregiver's life that may impact his/her care giving ability;
- (3) The effect of your disability on other household members;
- (4) Your primary caregiver's care giving responsibilities for others;
- (5) How many parents, legal representatives and/or primary caregivers live in the same household as you;
- (6) Availability of others to provide your care; and
- (7) Your disability related emotional or behavior issues and how that affects your caregiver; the frequency and severity of these issues; and what a caregiver does to help you manage these behaviors.

NEW SECTION

WAC 388-845-3035 How is the waiver respite assessment scored? The responses to the waiver respite assessment are converted to a respite lid.

(1) The respite lid represents the maximum number of respite hours you are authorized to receive in a twelve-month period.

(2) You may use as many respite hours as you need, up to your assessed respite lid.

NEW SECTION

WAC 388-845-3040 When will the new respite assessment go into effect? The new respite assessment will be effective at your next plan of care completed after September 1, 2004.

NEW SECTION

WAC 388-845-3045 How will I know the results of my respite assessment? Your respite care allocation will be written into your plan of care as a separate, authorized service.

NEW SECTION

WAC 388-845-3050 What is the effective date of my respite allocation? Your respite care allocation is effective when your respite assessment is completed and authorized in your annual or amended POC.

NEW SECTION

WAC 388-845-3055 What is a waiver plan of care (POC)? (1) The plan of care is the primary tool DDD uses to determine and document your needs and to identify the services to meet those needs.

(2) Your plan must include:

(a) The services that you and DDD have agreed are necessary for you to receive in order to address your health and welfare needs;

(b) Both paid and unpaid services you receive or need;

EMERGENCY

(c) How often you will receive each waiver service; how long you will need it; and who will provide it; and

(d) Your signature on the plan indicating your agreement.

(3) You may choose any qualified provider for the service, who meets all of the following:

(a) Is able to meet your needs within the scope of their contract, licensure and certification;

(b) Is reasonably available;

(c) Meets provider qualifications in chapters 388-845 and 388-825 WAC for contracting; and

(d) Agrees to provide the service at department rates.

NEW SECTION

WAC 388-845-3060 When is my plan of care effective? Your plan of care is effective the date DDD signs and approves it.

NEW SECTION

WAC 388-845-3065 How long is my plan effective? Your plan of care is effective through the last day of the twelfth month following the effective date.

NEW SECTION

WAC 388-845-3070 What happens if I do not sign my plan of care? If DDD is unable to obtain the necessary signature on the plan of care from you or your legal representative, DDD will take one or more of the following actions:

(1) DDD will continue providing services as identified in your most current POC for up to thirty days from the date you were notified of the plan to implement your most current POC.

(2) After thirty days, unless you file an appeal, DDD will assume consent and implement the new POC without your signature or the signature of your legal representative.

(3) You will be provided written notification and appeal rights to this action to implement the new POC.

(4) Your appeal rights are in WAC 388-825-120 through 388-825-165.

NEW SECTION

WAC 388-845-3075 What if my needs change? You may request a review of your plan of care at any time by calling your case manager. If there is a significant change in your condition or circumstances, DDD must reassess your plan of care with you and amend the plan to reflect any significant changes. This reassessment does not affect the end date of your annual plan of care.

NEW SECTION

WAC 388-845-3080 What if my needs exceed the maximum yearly funding limit or the scope of services under the Basic or Basic Plus waiver? (1) If you are on the Basic or Basic Plus waiver and your assessed need for services exceeds the maximum permitted, DDD will make the following efforts to meet your health and welfare needs:

(a) Add more available natural supports;

(b) Initiate an exception to rule to access available non-waiver services not included in the Basic or Basic Plus waiver other than natural supports;

(c) Authorize emergency services up to six thousand dollars per year if your needs meet the definition of emergency services in WAC 388-845-0800.

(2) If emergency services and other efforts are not sufficient to meet your needs, you will be offered:

(a) An opportunity to apply for an alternate waiver that has the services you need;

(b) Priority for placement on the alternative waiver when there is capacity to add people to that waiver;

(c) Placement in an ICF/MR.

(3) If none of the options in subsections (1) and (2) above is successful in meeting your health and welfare needs, DDD may terminate your waiver eligibility.

(4) If you are terminated from a waiver, you will remain eligible for nonwaiver DDD services but access is limited by availability of funding.

NEW SECTION

WAC 388-845-3085 What if my needs exceed what can be provided under the CORE or Community Protection waiver? (1) If you are on the CORE or Community Protection waiver and your assessed need for services exceeds the scope of services provided under your waiver, DDD will make the following efforts to meet your health and welfare needs:

(a) Add more available natural supports;

(b) Initiate an exception to rule to access available non-waiver services not included in the CORE or Community Protection waiver other than natural supports;

(c) Offer you the opportunity to apply for an alternate waiver that has the services you need, subject to WAC 388-845-0045;

(d) Offer you placement in an ICF/MR.

(2) If none of the above options is successful in meeting your health and welfare needs, DDD may terminate your waiver eligibility.

(3) If you are terminated from a waiver, you will remain eligible for nonwaiver DDD services but access is limited by availability of funding.

NEW SECTION

WAC 388-845-3090 What if my identified health and welfare needs are less than what is provided in my current waiver? If your identified health and welfare needs are less than what is provided in your current waiver, DDD may terminate you from your current waiver and enroll you in a waiver that meets but does not exceed your assessed need for waiver services.

NEW SECTION

WAC 388-845-3095 Will I have to pay toward the cost of waiver services? (1) Depending on your SSI status, Medicaid status, income and resources, you may be required

to participate towards the cost of your care. DDD determines what amount, if any, you pay.

(2) If you live in a licensed facility, you participate from your earned and unearned income per rules in WAC 388-515-1510:

(a) If you have nonexempt income that exceeds the cost of your waiver services, you may keep the difference.

(b) If you are eligible for SSI, you pay only for room and board.

(c) If you are not eligible for SSI, you may be required to participate towards the cost of your waiver services in addition to your facility room and board rate.

NEW SECTION

WAC 388-845-4000 What are my appeal rights under the waiver? You have appeal rights under WAC 388-825-120 to the following decisions:

- (1) Any denial, reductions, or termination of a service.
- (2) A denial or termination of your choice of a qualified provider.
- (3) Your termination from waiver eligibility.
- (4) Denial of your request to receive ICF/MR services instead of waiver services.

NEW SECTION

WAC 388-845-4005 Can I appeal a denial of my request to be enrolled in a waiver? If you are not on an HCBS waiver, your appeal rights are limited to WAC 388-825-120. You have an appeal right to a denial of services or provider but you do not have an appeal right to a denial to be enrolled in a waiver.

NEW SECTION

WAC 388-845-4010 How do I appeal a department action? (1) Your rights to appeal a department decision are in RCW 71A.10.050 and WAC 388-825-120 and are limited to an applicant, recipient, or former recipient of services from the division of developmental disabilities.

(2) If you want to appeal a department action, you must request an appeal within ninety days from receipt of the department notice of the action you are disputing.

NEW SECTION

WAC 388-845-4015 Will my services continue during an appeal? If you file an appeal within twenty-eight days from the date DDD notifies you of the action you are disputing, services may continue during the appeal process except as specified in WAC 388-825-150.

WSR 05-06-001

**EMERGENCY RULES
SECRETARY OF STATE**

[Filed February 16, 2005, 1:11 p.m., effective February 16, 2005]

Effective Date of Rule: Immediately.

Purpose: In order to begin the bidding process by the Department of General Administration. The old WACs were out of date and did not list valid color numbers.

Citation of Existing Rules Affected by this Order: Amending WAC 434-04-017.

Statutory Authority for Adoption: RCW 43.04.040(4).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The Washington state flag contract provided by private vendors to the Department of General Administration has expired. General administration needs the new WAC in order to begin the bidding process by vendors who want to manufacture the Washington state flag.

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: February 15, 2005.

Steve Excell
Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 89-20-031, filed 9/29/89, effective 10/30/89)

WAC 434-04-017 Description of seal for use on state flags. (1) Each flag shall have official identical seals, one on each side of the flag, and so placed that the center of each seal shall be centered on each side of the flag. The seal may have a serrated edge;

(2) The size of the seal to be used shall be in proportion to the size of the flag as follows:

((Flag Size:	Diameter of State Seal:
3' x 5'	19"
4' x 6'	25"
5' x 8'	31"))

Flag	Size Diameter of State Seal:
3' x 5'	19"
4' x 6'	25"
5' x 8'	31"

EMERGENCY

In all the other instances, the ratio of the seal diameter to the length of the flag shall be 1:3; and the ratio of the flag height to flag width shall be 1:1.6;

(3) The following color references for textiles are by cable number (~~are those colors~~) in the Standard Color (~~Card~~) Reference of America, (~~Ninth~~) Tenth Edition (~~second issue~~) of The (~~Textile~~) Color (~~Card~~) Association of the United States, Inc., New York, New York(

- (a) Flag background—Irish green, cable #70, 168;
 - (b) State seal background—Oriental blue, cable #70, 209;
 - (c) State seal (portrait, lettering, outer and inner rings)—black;
 - (d) Gold used in state seal and fringe (if any)—nugget gold, cable #70, 215;
 - (e) Face of George Washington—PMS—169 (flesh tint).
- (4) All colors shall be of colorfast washable dyes.)

Flag Color	Cable Color (Textile)	Pantone Color (Process CMYK Printing)
Flag Background	Irish Green 80210	PMS DS-268-1
State Seal Background	Oriental Blue 80176	PMS DS-226-3
State Seal (portrait, lettering, outer and inner rings)	Black	PMS Process Black
State Seal Gold	Spanish Yellow 80068	PMS DS-5-4
Fringe (if any) Gold	Spanish Yellow 80068	PMS DS-5-4
George Washington's Face	Eggshell 80004	PMS DS-5-9

- (4) All textile colors shall be of colorfast washable dyes;
- (5) The flag may be flown or displayed in its entirety as described herein; the state seal shall not be expropriated from the flag for any other use and such expropriation is regulated by the statutes (chapter 43.04 RCW) and administrative rules (chapter 434-04 WAC) governing the use of the Washington state seal.

**WSR 05-06-006
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-23—Filed February 18, 2005, 3:11 p.m., effective February 22, 2005]

Effective Date of Rule: February 22, 2005.
Purpose: Amend personal use fishing rules.
Citation of Existing Rules Affected by this Order: Amending WAC 220-56-282.
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 one single-point barbless hook rule for sturgeon, adopted at the February 4-5, 2005, Washington Fish and Wildlife Commission meeting, will be implemented statewide May 1, 2005. The Oregon Department of Fish and Wildlife implemented the one single-point barbless hook requirement for sturgeon on January 1, 2005. This emergency rule change is needed to maintain concurrent regulations with Oregon in adjacent boundary waters until the permanent statewide rule takes effect.

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: February 16, 2005.

J. P. Koenings
Director

EMERGENCY

NEW SECTION

WAC 220-56-28200H Sturgeon,—Areas, seasons, limits and unlawful acts. Notwithstanding the provisions of WAC 220-56-282, effective February 22, 2005, until further notice, in those waters of the Columbia River and adjacent tributaries, it is unlawful to fish for sturgeon with terminal gear other than bait and one single barbless hook.

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 05-06-007
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-26—Filed February 18, 2005, 3:12 p.m., effective February 18, 2005]

Effective Date of Rule: Immediately.
Purpose: Amend personal use fishing rules.
Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-35000U; and amending WAC 220-56-350.
Statutory Authority for Adoption: RCW 77.12.240.
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 emergency regulation is needed to protect the clam resource at Dosewallips State Park; surveys show a reduction in the clam population requiring a delay in the opening date. At Point Whitney Tidelands, surveys indicate that the clam population has increased and the season can be extended. These rules are interim until permanent rules take effect.

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: February 17, 2005.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-35000V Clams other than razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, it is unlawful to take, dig for and possess clams, cockles, and mussels taken for personal use from the following public tidelands except during the open periods specified herein:

- (1) Dosewallips State Park: Open April 1 until further notice.
- (2) Point Whitney Tidelands: Open March 1 through April 15.
- (3) Rendsland Creek: CLOSED
- (4) West Dewatto (DNR 44-A): Open immediately through April 15.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-35000U Clams other than razor clams—Areas and seasons. (05-319)

WSR 05-06-008 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 05-27—Filed February 18, 2005, 3:12 p.m., effective March 12, 2005, 12:01 a.m.]

Effective Date of Rule: March 12, 2005, 12:01 a.m.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-56-250.

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 emergency rule is needed for state rules to be consistent with federal rules. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 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: February 17, 2005.

J. P. Koenings
Director

NEW SECTION

WAC 220-56-25000H Lingcod—Areas and seasons. Notwithstanding the provisions of WAC 220-56-250, effective 12:01 a.m. March 12, 2005 until further notice, it is lawful to fish for and possess lingcod for personal use in Catch Record Cards Areas 1, 2, and 3.

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 05-06-009 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 05-28—Filed February 18, 2005, 3:13 p.m., effective February 21, 2005, 6:00 a.m.]

Effective Date of Rule: February 21, 2005, 6:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100L; and amending WAC 220-51-071.

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 remaining sea cucumber districts listed. Prohibition of all diving within two days of scheduled sea cucumber 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 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: February 18, 2005.

J. P. Koenings
Director

NEW SECTION

WAC 220-52-07100M Sea cucumbers. Notwithstanding the provisions of WAC 220-52-071, effective 6:00 a.m. February 21, 2005 until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1 and 5 on Monday, Tuesday and Wednesday of each week. Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 2 on February 21 only.

(2) It is unlawful to dive for any purpose from a commercially licensed sea cucumber or sea urchin fishing vessel on Saturday and Sunday of each week, except by permission from the Director. Such written permission must be on the harvest vessel and available to authorized Department staff upon request.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 a.m. February 21, 2005:

WAC 220-52-07100L Sea cucumbers (05-19)

WSR 05-06-010 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 05-29—Filed February 18, 2005, 3:14 p.m., effective February 22, 2005, 6:00 a.m.]

Effective Date of Rule: February 22, 2005, 6:00 a.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000S; 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 two additional winter season sturgeon fishing periods. Season is consistent with the 2003-2005 sturgeon fishery management plan. Landings are expected to stay within the harvest guideline of 1,800 fish for this season. Regulation is consistent with compact actions of December 16, 2004, and February 18, 2005. The select area fisheries in Deep River and Blind Slough/Knappa Slough are part of an on-going BPA funded study to design fisheries in areas outside of the mainstem Columbia River. Several stocks of salmon have been released from net pens in these select areas to provide for fisheries. All salmon returning to these net pens are harvestable. Impacts to ESA-listed stocks in these fisheries are covered under the biological opinion for the interim management agreement. This rule is consistent with actions of the Columbia River compact hearings of January 28, 2005, and conforms Washington and Oregon state rules. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 0, Amended 0, Repealed 0; or **Recently Enacted State Statutes:** New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; **Pilot Rule Mak-**

EMERGENCY

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 18, 2005.

J. P. Koenings
Director

NEW SECTION

WAC 220-33-01000T Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) AREAS: SMCRA 1A, 1B, 1C, 1D, and 1E

SEASON: 6:00 a.m. Tuesday February 22, 2005 to 6:00 a.m. Wednesday, February 23, 2005

6:00 a.m. Tuesday February 24, 2005 to 6:00 a.m. Wednesday, February 25, 2005

GEAR: 9-inch minimum mesh and 9-3/4 inch maximum mesh

ALLOWABLE SALE: Sturgeon and adipose fin-clipped salmon.

SANCTUARIES: Sandy River.

OTHER: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

MISCELLANEOUS: Notwithstanding the provisions of WAC 220-20-010, during open salmon and/or sturgeon seasons fishers may have stored onboard their boats, while fishing, smelt gill nets; and while smelt fishing, fishers may have stored onboard their boats, gill nets of a size that meets the commercial salmon/sturgeon mesh size, weight, and length restrictions for the open salmon/sturgeon season.

2) Blind Slough/Knappa Slough Select Area

Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

a) Gear: 7-inch minimum mesh through March 10 and 8-inch maximum mesh thereafter. Mono-filament gill nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed.

b) Dates: Winter Season

7:00 p.m. Wednesdays to 7:00 a.m. Thursdays and 7:00 p.m. Saturdays to 7:00 a.m. Sundays from February 16 through March 10, 2005.

Spring Season

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays from April 21 until further notice.

Only Blind Slough is open through March 10. After March 10, both Blind Slough and Knappa Slough are open.

c) Allowable Sale: Salmon, sturgeon, shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

d) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3 Deep River Select Area

a) Area: From the markers at USCG navigation marker #16 upstream to the Highway 4 Bridge.

b) Dates:

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays April 21 until further notice.

c) Gear: 8-inch maximum mesh size. Nets restricted to a maximum length of 100 fathoms and no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off of any stationary structures. Nets may not fully cross the navigation channel.

d) Allowable sale: salmon, sturgeon and shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

f) 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 220-33-01000S Columbia River gillnet seasons below Bonneville. (05-25)

WSR 05-06-024

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed February 22, 2005, 4:26 p.m., effective February 22, 2005]

Effective Date of Rule: Immediately.

Purpose: The department's Division of Employment and Assistance Programs must amend WAC 388-273-0035 What we reimburse the local telephone company to clarify payment limits for reimbursable services.

Citation of Existing Rules Affected by this Order: Amending WAC 388-273-0035.

Statutory Authority for Adoption: RCW 74.08.090, 80.36.440.

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 change is necessary to ensure that the more than 120,000 low income Washington telephone assistance program (WTAP) participants can continue to have access to basic telephone service.

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: February 17, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 04-13-136, filed 6/22/04, effective 7/23/04)

WAC 388-273-0035 What we reimburse the local telephone company. (1) Within available funding limits, we reimburse local telephone companies for fully documented administrative and program expenses associated with WTAP. The reimbursable expenses are limited to:

(a) Program services provided to eligible households June 1, 2003 and beyond, and after eligibility for WTAP is verified;

(i) Monthly flat rate service.

We reimburse the local telephone company an amount equal to the monthly flat rate of the incumbent local exchange carrier providing service in the customer's exchange area, minus the WTAP assistance rate set by the commission, and minus the amount of federal lifeline program reimbursement available to an eligible telecommunications carrier. An "incumbent local exchange carrier" is a telephone company in the U.S. that was providing local service when the Telecommunications Act of 1996 was enacted, and is required to file tariffs with the commission. For all exchange areas, the WTAP reimbursement shall be limited to not more than nineteen dollars for each eligible household.

(ii) Connection fee.

We reimburse the local telephone company an amount equal to one-half the connection fee rate or twenty-two dollars, whichever is less, for your first connection at a given address. If you move, we will reimburse the local telephone company for your first connection at the new address.

(iii) Waiver of local deposit.

We reimburse the local telephone company an amount up to two times the WTAP assistance rate.

(b) Correct, verifiable billing items;

(c) One monthly invoice and supporting documentation submitted and received by WTAP by the fifteenth day following the month the expense occurred;

(d) Items charged in error that have been corrected within thirty days from the date we return the report of invoicing error to the local phone company;

(e) Salaries and benefits for time required to implement and maintain WTAP, with the exception that time required for the correction of billing, case number and client identification errors is not an allowable expense;

(f) Travel expenses for attending hearings, meetings, or training pertaining to WTAP;

(g) Expenses for supplies and materials for implementing and maintaining WTAP;

(h) Postage and handling for delivery of WTAP material;

(i) Administrative charge for change of service orders specified by tariffs; and

(j) Preapproved documented indirect costs associated with implementing and maintaining WTAP.

**WSR 05-06-034
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-30—Filed February 24, 2005, 3:15 p.m., effective February 25, 2005, 6:00 p.m.]

Effective Date of Rule: February 25, 2005, 6:00 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000H and 220-52-04600Z; and amending WAC 220-52-040 and 220-52-046.

Statutory Authority for Adoption: RCW 77.12.240.

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: Pot limit changes for the commercial crab fishery in the Puget Sound licensing district are to maintain commercial harvest allocation objectives. Pot limitations are the primary tool for in-season adjustments of the fishery and may reflect a change in conditions such as harvest rates, or state/treaty balances. The closures are to protect high numbers of soft crab. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 23, 2005.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-52-04000J Commercial crab fishery— Lawful and unlawful gear, methods, and other unlawful acts. Notwithstanding the provisions of WAC 220-52-040:

1) Effective 6:00 p.m. February 25, 2005 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 20A, 20B, 21B, 22A, and 22B. The remaining 25 buoy tags per license must be onboard the designated vessel and available for inspection in the pot limited areas.

(2) Effective immediately 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 23C and 29. 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 effective 6:00 p.m. February 25, 2005:

WAC 220-52-04000H Commercial crab fishery— Lawful and unlawful gear, methods, and other unlawful acts. (05-04)

NEW SECTION

WAC 220-52-04600A Crab fishery—Seasons and areas. Notwithstanding the provisions of WAC 220-52-046, effective immediately until further notice:

1) It will be lawful to fish for Dungeness Crab for commercial purposes in the following areas:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A within a line that extends due north from the green number 1 buoy at Scatchet Head to Scatchet Head, thence from the green number 1 buoy at Scatchet Head to the green number 1 buoy at Possession Point, thence due north from the green number 1 buoy at Possession Point to Possession Point through 6:00 p.m. February 28, 2005.

(b) Those waters of Marine Fish-Shellfish Catch Area 26A in Useless Bay north and east of a line from the south end of the Double Bluff State Park seawall (47° 58.782"N, 122° 30.84'W) projected 110° true to the boulder on shore (47° 57.690'N, 122° 26.742'W) through 6:00 p.m. February 28, 2005.

(c) That portion of Marine Fish-Shellfish Catch Area 21B in Samish Bay south of a line from Fish Point and Point Williams in water deeper than 60 feet.

2) Marine Fish-Shellfish Management and Catch Reporting Area 26A shall be further defined by the following boundaries:

(a) Area 26A-W shall include those waters of Catch Area 26A south of 25B and northerly of a line from Apple Cove Point to Point Edwards and south and west of a line that extends from Possession Point to the Shipwreck located .8 nautical miles north of Picnic Point.

(b) Area 26A-E shall include those waters of Catch Area 26A south of Areas 24B and 24C and north and east of a line that extends from Possession Point to the Shipwreck located .8 nautical miles north of Picnic Point.

3) Those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 21A, 24B, 23D, 24D, that portion of 24C south of a line drawn from Snatelum Point to Rocky Point, 25A, 25E and 26A-East are closed to the taking or possession of Dungeness crab.

4) Those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A and 24C north of a line drawn from Snatelum Point to Rocky Point will close to the taking or possession of Dungeness crab effective 6:00 p.m. February 25, 2005.

5) Those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 25B, 25D and 26A-W are closed to the taking or possession of Dungeness crab effective 6:00 p.m. February 28, 2005.

REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. February 25, 2005:

WAC 220-52-04600Z Crab fishery—Seasons and areas. (05-20)

**WSR 05-06-042
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-31—Filed February 25, 2005, 3:19 p.m., effective February 25, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-04000W and 220-33-04000X; and amending WAC 220-33-040.

Statutory Authority for Adoption: RCW 77.12.240.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is

EMERGENCY

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 smelt fishery regulations are consistent with Level One fisheries in the "Washington and Oregon Eulachon Management Plan" for the Columbia River. The lack of significant signs of smelt abundance in the Columbia River and tributaries as of mid-February supports reverting to a Level One fishery. The rule is consistent with Columbia River joint state hearing of February 23, 2005. 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 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 25, 2005.

J. P. Koenings
Director
by Larry Peck

NEW SECTION

WAC 220-33-04000X Smelt—Areas and seasons. Notwithstanding the provisions of WAC 220-33-040, effective immediately through March 31, 2005, the Columbia River and Washington tributaries are closed to fishing for smelt except under the following provisions:

1) Area: Columbia River - below Bonneville Dam

Dates: Thursdays

3:00 a.m. to 9:00 p.m. daily

Gear: Gillnets, dipnets and trawl nets.

Allowable sales: Smelt.

Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

Miscellaneous: Notwithstanding the provisions of WAC 220-20-010, during open salmon and/or sturgeon seasons fishers may have stored onboard their boats, while fishing, smelt gill nets; and while smelt fishing, fishers may have stored onboard their boats, gill nets of a size that meets the commercial salmon/sturgeon mesh size, weight, and length restrictions for the open salmon/sturgeon season.

2) Area: Cowlitz River downstream of Peterson's Eddy

Dates: 6:00 p.m. Wednesday to 6:00 a.m. Thursday

Gear: Dipnets.

Allowable sales: Smelt.

Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-04000W Smelt—Areas and seasons.
(04-325)

The following section of the Washington Administrative Code is repealed effective April 1, 2004:

WAC 220-33-04000X Smelt—Areas and seasons.

**WSR 05-06-043
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-32—Filed February 25, 2005, 3:20 p.m., effective February 25, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-27000W and 220-56-27000X; and amending WAC 220-56-270.

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 smelt fishery regulations are consistent with Level One fisheries in the "Washington and Oregon Eulachon Management Plan" for the Columbia River. The lack of significant signs of smelt abundance in the Columbia River and tributaries as of mid-February supports reverting to a Level One fishery. The rule is consistent with Columbia River joint state hearing of February 23, 2005. 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 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-

EMERGENCY

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 25, 2005.

J. P. Koenings
 Director
 by Larry Peck

NEW SECTION

WAC 220-56-27000X Smelt—Areas and seasons
 Notwithstanding the provisions of WAC 220-56-270, WAC 220-56-240, WAC 220-56-275, effective immediately through March 31, 2005, it is unlawful to fish for or possess smelt in those waters of the Columbia River and tributaries except under the following provisions:

1) Area: Mainstem Columbia River below Bonneville Dam

Open Dates: 7 days/week
 Hours: 24 hours per day
 Daily limit: 25 pounds, possession limit 25 pounds
 Gear: Dipnets

2) Area: Cowlitz River
 Open Dates: Saturdays
 Hours: 6:00 a.m. to 10:00 p.m. daily
 Daily limit: 10 pounds
 Gear: Dipnets

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-56-27000W Smelt—Areas and seasons.
 (04-324)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 1, 2005:

WAC 220-56-27000X Smelt—Areas and seasons.

**WSR 05-06-046
 EMERGENCY RULES
 BUILDING CODE COUNCIL**

[Filed February 28, 2005, 10:58 a.m., effective February 28, 2005]

Effective Date of Rule: Immediately.

Purpose: To extend the current emergency rule affecting amendments to the 2003 International Fire Code, as amended by WSR 04-13-095. Amend Section 804, Decorative Vegetation, to limit restrictions on placement of cut trees. Amend Chapter 4 requirements for fire evacuation plan review, to allow jurisdictions to determine when a full review is necessary. Amend Chapter 3 to allow BBQ grills on R-2 decks and balconies.

Citation of Existing Rules Affected by this Order: Amending WAC 51-54-0300, 51-54-0400, and 51-54-0800.

Statutory Authority for Adoption: RCW 19.27.031 and 19.27.074.

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 Building Code Council (council), based on the following good cause, finds that an emergency affecting the general welfare of the state of Washington exists. The council further finds that immediate amendment of a certain council rule is necessary for the public welfare and that observing the time requirements of notice and opportunity to comment would be contrary to the public interest.

The declaration of emergency affecting the general welfare of the state of Washington is based on the following findings:

The 2003 International Fire Code, adopted by the council in November 2003 and effective July 1, 2004, contains provisions that restrict the placement of seasonal cut trees in certain building types. These restrictions were not found in the previous code. The intent behind the model code provision is that these trees are shipped into an area after cutting and are therefore already dried out once they reach the marketplace. Since most trees originate in the Northwest, it is felt that some of these restrictions can be safely removed. Immediate amendment allows continued use of local trees, benefitting the public, the industry, and the enforcement community.

Another provision found in the 2003 International Fire Code concerns jurisdictional review of fire safety and evacuation plans. The technical advisory group and the council feel that the requirements found in Chapter 4 of this code are onerous and create undue expense for both building managers and review personnel. The amendments to this chapter would allow the local fire code official to determine when a full review of plans is necessary.

The final provision, found in Section 308.3, restricts the use of charcoal and propane grills in all occupancies except one-and two-family dwellings. The council feels this restriction is onerous and unenforceable.

It is felt that these amendments should be effective on the same date as the model code and state amendments go into effect on July 1, 2004.

The council has also taken the necessary steps to adopt permanent rules on these matters. However, the permanent rules will not be effective until the end of the 2005 legislative session as per RCW 19.27.074.

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 2, 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.

EMERGENCY

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: February 28, 2005.

February 28, 2005

Tim Nogler

for John Neff

Council Chair

AMENDATORY SECTION (Amending WSR 04-01-105, filed 12/17/03, effective 7/1/04)

WAC 51-54-0300 Chapter 3—General precautions against fire.

307.2.1 Authorization. Where required by state or local law or regulations, open burning shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed. See also chapter 173-425 WAC.

307.3.2 Recreational fires. Recreational fires shall not be conducted within 25 feet of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet of a structure shall be eliminated prior to ignition. See also chapter 173-425 WAC.

308.3.1 Open-flame cooking devices. This section is not adopted.

308.3.1.1 Liquefied-petroleum-gas-fueled cooking devices. This section is not adopted.

308.3.4 Aisles and exits. Candles shall be prohibited in areas where occupants stand, or in an aisle or exit.

EXCEPTION: Candles used in religious ceremonies. See RCW 19.27.031(3).

308.3.5 Religious ceremonies. Participants in religious ceremonies shall not be precluded from carrying hand-held candles.

308.3.7 Group A Occupancies. Open-flame devices shall not be used in a Group A Occupancy.

EXCEPTIONS: 1. Open-flame devices are allowed to be used in the following situations:

1.1 Where necessary for ceremonial or religious purposes in accordance with Section 308.5.

1.2 On stages and platforms as a necessary part of a performance in accordance with Section 308.6, provided approved precautions are taken to prevent ignition of a combustible material or injury to occupants.

1.3 Where candles on tables are securely supported on substantial noncombustible bases and the candle flames are protected provided approved precautions are taken to prevent ignition of a combustible material or injury to occupants.

2. Heat-producing equipment complying with Chapter 6 and the International Mechanical Code.

3. Gas lights are allowed to be used provided adequate precautions satisfactory to the fire code official are taken to prevent ignition of combustible materials.

NEW SECTION

WAC 51-54-0400 Chapter 4—Emergency planning and preparedness.

401.2 Approval. Where required by the fire code official, fire safety plans, emergency procedures, and employee training programs shall be approved.

404.2 Where required. A fire safety and evacuation plan shall be prepared and maintained in accordance with this chapter for the following occupancies and buildings when required by the fire code official.

1. Group A having an occupant load of 100 or more.

2. Group E.

3. Group H.

4. Group I.

5. Group R-1.

6. Group R-4.

7. High-rise buildings.

8. Group M buildings having an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.

9. Covered malls exceeding 50,000 sf in aggregate floor area.

10. Underground buildings.

11. Buildings with an atrium and having an occupancy in Group A, E, or M.

404.4 Maintenance. Fire safety and evacuation plans shall be reviewed by the owner or occupant annually or as necessitated by changes in staff assignments, occupancy, or the physical arrangement of the building.

408.11.1.1 Approval. The lease plan shall be submitted to the fire code official, and shall be maintained on-site for immediate reference by responding fire service personnel.

408.11.1.2 Revisions. The lease plan shall be reviewed by the owner or occupant and revised annually or as often as necessary to keep them current.

NEW SECTION

WAC 51-54-0800 Chapter 8—Interior finish, decorative materials and furnishings.

804.1.1 Restricted occupancies. Natural cut trees shall be prohibited in Group I-1, I-2, I-3, I-4, LC and R-4 occupancies.

804.1.2 Support devices. The support device that holds the tree in an upright position shall be of a type that is stable and that meets all of the following criteria:

1. The device shall hold the tree securely and be of adequate size to avoid tipping over of the tree.

2. The device shall be capable of containing a minimum supply of water in accordance with Table 804.1.2.

3. The water level, when full, shall cover the tree stem at least 2 inches (51 mm). The water level shall be maintained above the fresh cut and checked at least once daily.

804.1.3 Dryness. The tree shall be removed from the building whenever the tree is determined to be dry by needle pliability, discoloration or other approved means as approved by

the fire code official. The tree shall be checked daily for dryness.

Date Adopted: March 1, 2005.

J. P. Koenings
Director

Table 804.1.2—Support Stand Water Capacity

Tree Stem Diameter (inches)	Minimum Support Stand Water Capacity (gallons)	Typical Daily Water Transpiration Amount (gallons)
Up to 4	1	1/4 to 1
4 to 6	1 1/2	1 1/4 to 1 1/2
7 to 8	2	1 3/4 to 2
9 to 12	3	2 1/4 to 3
13 and over	4	Over 3

**WSR 05-06-071
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-34—Filed March 1, 2005, 3:55 p.m., effective March 6, 2005, 12:01 p.m.]

Effective Date of Rule: March 6, 2005, 12:01 p.m.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000G; and amending WAC 220-56-360.

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: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 2 and those portions of Razor Clam Area 3 opened for harvest. Washington Department of Health has certified clams from these beaches to be safe for human consumption. 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.

NEW SECTION

WAC 220-56-36000G Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

1. Effective 12:01 p.m. March 6 through 11:59 p.m. March 8, 2005, razor clam digging is allowed in Razor Clam Area 1, Razor Clam Area 2 and that portion of Razor Clam Area 3 that is between the Grays Harbor North Jetty (Grays Harbor County) and the southern boundary of the Quinault Indian Reservation (Grays Harbor County). Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

2. It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. March 9, 2005:

WAC 220-56-36000G Razor clams—Areas and seasons.

**WSR 05-06-072
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 05-33—Filed March 1, 2005, 3:56 p.m., effective March 1, 2005]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-33-01000T; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.240.

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 first winter salmon directed fishery. Season is consistent with the 2003-2005 sturgeon fishery management plan. Regulation is consistent with compact actions of January 28, and February 28, 2005. The select area fisheries in Deep River and Blind Slough/ Knappa Slough are part of an on-going BPA funded study to design fisheries in areas outside of the mainstem Columbia River. Several stocks of salmon have been released from net pens in these select areas to provide for fisheries. All salmon returning to these net pens are harvestable. Impacts to ESA-listed stocks in these fisheries are covered under the biologi-

EMERGENCY

cal opinion for the interim management agreement. This rule is consistent with actions of the Columbia River compact hearings of February 28, 2005, and conforms Washington and Oregon state rules. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 1, 2005.

J. P. Koenings
Director

NEW SECTION

WAC 220-33-01000U Columbia River seasons below Bonneville. Notwithstanding the provisions of WAC 220-33-010, WAC 220-33-020, and WAC 220-33-030, it is unlawful for a person to take or possess salmon, sturgeon, and shad, taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E except during the times and conditions listed:

1) Area: SMCRA 1A, 1B, 1C, and 1D upstream to Kelley Point.

a) Season: 5:00 p.m. March 1 through 5:00 a.m. March 2, 2005.

b) Gear: 9-inch minimum and 9 3/4 inch maximum mesh. Gill nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat then one lighted buoy on the opposite end of the net from the boat is required. Net length not to exceed 150 fathoms.

c) Allowable Sale: Adipose fin-clipped salmon, sturgeon, and shad. An adipose fin-clipped salmon is defined as a hatchery salmon with a clipped adipose fin and having a healed scar at the location of the fin.

d) Sanctuaries: Grays River, Gnat Creek, Elokomin-B, Abernathy Creek, Cowlitz River, Kalama-B, Lewis-B.

e) Miscellaneous Regulations:

1) At least one fisher on each boat must possess a tangle net certificate issued by either WDFW or ODFW. The certificate must be displayed to WDFW or ODFW employees, fish and wildlife enforcement officers, or other peace officers upon request.

2) Soak times, defined as the time elapsed from when the first of the gill net web is deployed into the water until the gill net web is fully retrieved from the water, must not exceed 45 minutes.

3) Red corks are required at 25 fathom intervals and red corks must be in contrast to the corks used in the remainder of the net.

4) Each boat will be required to have two operable recovery boxes or one box with two chambers, on board. Each box and chamber shall be operating during any time that the net is being retrieved or picked. The flow in the recovery box will be a minimum of 16 gallons per minute in each chamber of the box, not to exceed 20 gallons per minute. Each chamber of the recovery box must meet the following dimensions as measured from within the box; the inside length measurement must be at or within 39 1/2 inches to 48 inches, the inside width measurements must be at or within 8 to 10 inches, and the inside height measurement must be at or within 14 to 16 inches. Each chamber of the recovery box must include a water inlet hole between 3/4 inch and 1 inch in diameter, centered horizontally across the door or wall of chamber and 1 3/4 inches from the floor of the chamber. Each chamber of the recovery box must include a water outlet hole opposite the inflow that is 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 WDFW and ODFW employees, fish and wildlife enforcement officers, or other peace officers, upon request, that the pumping system is delivering the proper volume of fresh river water into each chamber.

5) All non-legal sturgeon, non-adipose fin-clipped salmon, and steelhead must be released immediately to the river with care and the least possible injury to the fish or placed into an operating recovery box.

6) Any fish that is bleeding or lethargic must be placed in the recovery box prior to being released.

7) All fish placed in recovery boxes must be released to the river prior to landing or docking.

8) As a condition of fishing, owners or operators of commercial fishing vessels must cooperate with Department observers or observers collecting data for the Department, when notified by the observer of their intent to board the commercial vessel for observation and sampling during an open fishery.

9) Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

f) Tangle net permit. Any individual meeting the qualifications of RCW 77.65.040(2) may obtain a tangle net certificate by attending and completing a WDFW- or ODFW-sponsored workshop concerning live captive commercial fishing techniques. No individual may obtain more than one tangle net certificate between January 1 and December 31, 2005.

g) Nothing in this section sets any precedent for any fishery after the 2005 spring chinook fishery. The fact that an individual may hold a tangle net certificate in spring 2004 does not entitle the certificate holder to participate in any other fishery. If WDFW authorizes a tangle net fishery in spring 2006 or at any other time, WDFW may establish qualifications and requirements that are different from those established for 2005. In particular, WDFW may consider an individual's compliance with these rules in determining that individual's eligibility to participate in any future tangle net fisheries.

2) Blind Slough/Knappa Slough Select Area

Area: Open waters of Blind Slough extend from markers at the mouth of Gnat Creek located approximately 1/2 mile upstream of the county road bridge, downstream to markers at the mouth of Blind Slough. Concurrent Washington/Oregon waters extend downstream of the railroad bridge.

Knappa Slough is open to fishing in all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to a north-south line defined by a marker on the eastern end of Minaker Island to markers on Karlson Island and the Oregon shore.

a) Gear: 7-inch minimum mesh through March 10 and 8-inch maximum mesh thereafter. Mono-filament gill nets are allowed. Nets restricted to 100 fathoms in length with no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed.

b) Dates: Winter Season

7:00 p.m. Wednesdays to 7:00 a.m. Thursdays and 7:00 p.m. Saturdays to 7:00 a.m. Sundays from February 16 through March 10, 2005.

Spring Season

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays from April 21 until further notice.

Only Blind Slough is open through March 10. After March 10, both Blind Slough and Knappa Slough are open.

c) Allowable Sale: Salmon, sturgeon, shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

d) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

3) Deep River Select Area

a) Area: From the markers at USCG navigation marker #16 upstream to the Highway 4 Bridge.

b) Dates:

7:00 p.m. Mondays to 7:00 a.m. Tuesdays and 7:00 p.m. Thursdays to 7:00 a.m. Fridays April 21 until further notice.

c) Gear: 8-inch maximum mesh size. Nets restricted to a maximum length of 100 fathoms and no weight restriction on leadline. Use of additional weights or anchors attached directly to the leadline is allowed. Nets cannot be tied off of any stationary structures. Nets may not fully cross the navigation channel.

d) Allowable sale: salmon, sturgeon and shad. A maximum of three white sturgeon may be possessed or sold by each participating vessel during each open period.

e) Miscellaneous: Transportation or possession of fish outside the fishing area is unlawful. An exception to the rule would allow fishers to transport their catch out of the fishing area with a permit issued by an authorized agency employee after examining the catch.

f) Other: Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000T Columbia River gillnet seasons below Bonneville. (05-29)

WSR 05-06-093
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Children's Administration)

[Filed March 1, 2005, 4:23 p.m., effective March 9, 2005]

Effective Date of Rule: March 9, 2005.

Purpose: The purpose of the emergency filing of amended, new and repealed rules of chapter 388-25 WAC, Child welfare services—Foster care, is to comply with statute changes (chapter 183, Laws of 2004) regarding changes to child support collections, including the good cause exemption of the best interest of the child. A public hearing was held February 22, 2005, on the permanent proposed rules. The anticipated effective date of the permanent rule is late March 2005.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-25-0230; and amending WAC 388-25-0225.

Statutory Authority for Adoption: RCW 74.08.090 and chapter 183, Laws of 2004.

Other Authority: RCW 74.20.040 and 74.13.020.

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: Amendments to chapter 388-25 WAC, Child welfare services—Foster care, due to changes in statute, chapter 183, Laws of 2004, which took effect on July 1, 2004. Extending the current emergency rule (WSR 04-23-038) is needed while permanent rule making is completed and final rules take effect.

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 3, Amended 1, 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 0.

EMERGENCY

Date Adopted: February 23, 2005.

Andy Fernando, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 01-08-047, filed 3/30/01, effective 4/30/01)

WAC 388-25-0225 What cases must ~~((the department refer))~~ be referred to the division of child support (DCS)? ~~((1) The DCFS office must refer to the division of child support every foster care placement in which DCFS participates in payment for care, except:~~

~~(a) Cases, if any, in which the division of child support has determined it))~~ Each case where the department participates in the payment of foster care must be referred to the division of child support, except when:

~~(1) Collection would not be cost effective ((to pursue collection)), including placements of seventy-two hours or less; ((or~~

~~(b) Cases exempt by law from collection action; or~~

~~(2) The children's administration must refer to DCS cases in which the department determines that sufficient good cause exists to not pursue collection. The following constitute good cause for requesting that DCS not pursue collection action on foster care cases referred to DCS:~~

~~(a) The department's division of developmental disabilities (DDD) has determined that the child is developmentally disabled. DCS still must establish paternity.~~

~~(b) The parent or other legally obligated person, or the parent or other person's child, spouse, or spouse's child was the victim of the offense for which the child was committed to the custody of the juvenile rehabilitation administration (JRA) and the child is being placed directly into foster care from a JRA facility until this placement episode closes.~~

~~(c) Adoption proceedings for the child are pending in court or the custodial parent is being helped by a private or public agency to decide if the child will be placed for adoption.~~

~~(d) The child was conceived as a result of incest or rape and establishing paternity would not be in the child's best interest.~~

~~(e) The juvenile or Tribal court in the dependency proceeding finds that the parents will be unable to comply with an agreed reunification plan with the child due to the financial hardship caused by paying child support. The social worker also may determine that financial hardship caused by paying child support will delay or prevent family reunification.~~

~~(f) The custodial parent and/or the child may be placed in danger as a result of the presence of or potential for domestic abuse perpetrated by the other parent or responsible person))~~

~~(2) Collection is exempt by law; or~~

(3) A child with developmental disabilities is eligible for admission to or discharged from a residential habilitation center as defined by RCW 71A.10.020(8), unless the child is placed as a result of an action taken under chapter 13.34 RCW.

NEW SECTION

WAC 388-25-0226 Does children's administration refer foster care cases to the division of child support where good cause exists? The children's administration must refer to the division of child support foster care cases in which sufficient good cause exists to not pursue collection or establish support or paternity.

NEW SECTION

WAC 388-25-0227 What constitutes good cause for not pursuing the collection or establishment of child support or paternity? Children's administration uses the following criteria to determine whether sufficient good cause exists for requesting that DCS not pursue collection or establish child support or paternity on foster care cases:

(1) It is not in the child's best interest;

(2) The parent or other legally obligated person, or the parent or other person's child, spouse, or spouse's child was the victim of the offense for which the child was committed to the custody of the juvenile rehabilitation administration (JRA) and the child is being placed directly into foster care from a JRA facility until this placement episode closes;

(3) Adoption proceedings for the child are pending in court or the custodial parent is being helped by a private or public agency to decide if the child will be placed for adoption;

(4) The child was conceived as a result of incest or rape and establishing paternity would not be in the child's best interest;

(5) The juvenile or Tribal court in the dependency proceeding finds that the parents will be unable to comply with an agreed reunification plan with the child due to the financial hardship caused by paying child support. The social worker also may determine that financial hardship caused by paying child support will delay or prevent family reunification; or

(6) The custodial parent and/or the child may be placed in danger as a result of the presence of or potential for domestic abuse perpetrated by the person that the division of child support would be pursuing for collection action.

NEW SECTION

WAC 388-25-0228 Does the division of child support pursue collection or establish child support or paternity on cases in which good cause has been determined? If children's administration determines that there is good cause the division of child support does not pursue collection or establish support or paternity on a foster care case.

NEW SECTION

WAC 388-25-0229 Who may request a good cause determination? The department or a parent, including an adoptive parent or legal guardian, may initiate a request for good cause determination at any time.

EMERGENCY

NEW SECTION

WAC 388-25-0231 **When may a good cause determination be requested?** A request for determination of good cause may be made at any time.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-25-0230 Are adoption support cases exempt from referral to the division of child support (DCS) for collection?

WSR 05-06-094
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Children's Administration)

[Filed March 1, 2005, 4:24 p.m., effective March 1, 2005]

Effective Date of Rule: Immediately.

Purpose: The department is adopting a new subchapter in chapter 388-25 WAC that allows Children's Administration to participate in the state supplementary payment (SSP) program. Additional time is needed to complete the rule-making process. A public hearing is scheduled for April 5, 2005.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: Chapter 371, Laws of 2002 (2001-03 Supplemental Budget - ESSB 6387), RCW 74.04.600 and 74.13.031.

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: Immediate adoption is necessary to preserve the public health and general welfare by allowing the state to continue to receive federal financial participation (FFP) for its Medicaid program under Title XIX of the act. The loss of FFP would effectively terminate medical assistance under Title XIX for low-income families and individuals in the state of Washington. Children's Administration has elected to begin participation in the state supplementary payment as of January 1, 2004, to prevent the loss of FFP through contributing to Washington state's maintenance of effort requirement. This action will also directly benefit foster children served through this division. Emergency adoption of these rules is necessary to implement ESSB 6387, to comply with the requirements of federal law cited above, and to implement the 2004 plan for Children's Administration to participate in disbursing state supplementary payments

which was approved by the federal government on February 13, 2004. Children's Administration has filed a notice of intent to adopt permanent rules, WSR 04-07-059. Additional time is required to continue with the rule drafting and public participation process. Children's Administration has obtained feedback from internal and external sources, and a public hearing is anticipated for April 5, 2005.

Number of Sections Adopted in Order to Comply with Federal Statute: New 6, 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 6, Amended 0, Repealed 0.

Date Adopted: February 23, 2005.

Andy Fernando, Manager

Rules and Policies Assistance Unit

STATE SUPPLEMENTARY PAYMENT PROGRAMNEW SECTION

WAC 388-25-1000 **What is the State Supplementary Payment (SSP) that is administered by the children's administration (CA)?** The State Supplementary Payment (SSP) is a state-paid cash assistance program for specific eligible foster children with the children's administration.

NEW SECTION

WAC 388-25-1010 **What are the eligibility requirements for the CA/SSP program?** To be eligible to receive CA/SSP, you must be a child who has entered foster care (Title 45 CFR 1355.20) and is eligible for and receiving Supplemental Security Income (SSI), receiving behavior rehabilitation services (BRS) for out-of-home placement services for all or part of a month, and not be eligible for foster care reimbursement under Title IV-E of the Social Security Act (42 U.S.C. 670).

NEW SECTION

WAC 388-25-1020 **When will my eligibility for CA/SSP be determined?** The SSP eligibility verification and payment process is usually done two months following the month of your potential eligibility for an SSP payment. You will receive an SSP payment when all of the eligibility criteria (WAC 388-25-1010) have been verified.

NEW SECTION

WAC 388-25-1030 How will I know if I am eligible to receive a CA/SSP payment? Once you have been identified as eligible for a CA/SSP payment, CA will send out written notification to representative payees, legal guardians, and children age eighteen and above.

NEW SECTION

WAC 388-25-1040 Can I apply for the CA/SSP program if I am not identified by CA as eligible for the CA/SSP program? You can apply through children's administration to determine your eligibility for CA/SSP, but eligibility is limited to those meeting the eligibility requirements in WAC 388-25-1010.

NEW SECTION

WAC 388-25-1050 What are my appeal rights if CA determines that I am not eligible for CA/SSP? You have the right to appeal children's administration's denial, termination, or reduction of eligibility for the CA/SSP under RCW 74.13.045 and chapter 34.05 RCW and chapter 388-02 WAC.



WSR 05-06-012**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE**

(Barley Commission)

[Memorandum—February 16, 2005]

The Washington Barley Commission's regular meeting has been scheduled for December 1, 2005. The prior meeting notice did not specify a date. The meeting will begin at 9 a.m. and will be held at the Washington Wheat Commission's conference room located at 907 West Riverside Avenue, Spokane, WA.

If you have any questions, please give Mary Palmer Sullivan a call at (509) 456-4400.

WSR 05-06-013**NOTICE OF PUBLIC MEETINGS
WASHINGTON SCHOOL
FOR THE DEAF**

[Memorandum—February 14, 2005]

The Washington School for the Deaf (WSD) board of trustees will hold their March 10th board meeting at the following location: 2306 Glen Kerry Court S.E., Lacey, WA 98513.

Also, at the February 10th board meeting it was decided to change the regularly scheduled board meetings to the third Thursday of each month (meetings will be held on the WSD campus). Below are the dates for the remainder of 2005:

April 21

May 19

June 16

July 21

August 18

September 15

October 20

November 17

December 15

WSR 05-06-015**NOTICE OF PUBLIC MEETINGS
SHORELINE COMMUNITY COLLEGE**

[Memorandum—February 16, 2005]

In compliance with the Open Public Meetings Act, this letter serves as notice that the board of trustees of Shoreline Community College will hold a special meeting on February 22, 2005, from 5:30 p.m. to 7:00 p.m. in the Central Conference Room of the Administration Building 1000.

We will also notify local area media of this special meeting.

The purpose of this special meeting is for the board of trustees to discuss the performance of public employees. The board will convene into executive session. This special meeting is not open to the public. No action will be taken as a

result of this special meeting. The board will reconvene into the special meeting to adjourn.

Please call (206) 546-4552 or e-mail Diana Penley at dpenley@shoreline.edu if you have further questions or need additional clarification.

WSR 05-06-016**NOTICE OF PUBLIC MEETINGS
SHORELINE COMMUNITY COLLEGE**

[Memorandum—February 16, 2005]

In compliance with the Open Public Meetings Act, this letter serves as notice that the board of trustees of Shoreline Community College will hold a study session prior to the regular board meeting on February 23, 2005. The study session is open to the public and is scheduled from 3:00 p.m. to 4:00 p.m. in the board room of the Administration Building 1000, after which the regular board meeting will convene at 4:00 p.m.

We will also notify local area media of this study session.

The purpose of the study session is for the board of trustees to review college policies and board resolutions. This study session is open to the public. No action will be taken during this study session. The board will convene into the regular board meeting at 4:00 p.m.

Please call (206) 546-4552 or e-mail Diana Penley at dpenley@shoreline.edu if you have further questions or need additional clarification.

WSR 05-06-025**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed February 22, 2005, 4:27 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: SEO Handbook Chapter 9.

Subject: Limitations to enforcement.

Effective Date: February 16, 2005.

Document Description: This is a revision to the existing SEO Handbook Chapter 9, Limitations to enforcement.

To receive a copy of the interpretive or policy statement, contact Susan Reams, Division of Child Support, Mailstop 45860, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5278, TDD (360) 753-9122, fax (360) 586-3274, e-mail sreams@dshs.wa.gov.

February 16, 2005

Susan Reams

WSR 05-06-028
NOTICE OF PUBLIC MEETINGS
OFFICE OF THE
INTERAGENCY COMMITTEE

(Interagency Committee for Outdoor Recreation)
 [Memorandum—February 18, 2005]

The Interagency Committee for Outdoor Recreation (IAC) will meet Thursday, March 10, and Friday, March 11, 2005, beginning at 10:00 a.m. on Thursday at Sawyer Hall in Lacey, Washington.

Action items for this two-day meeting include: Funding recommendations for projects in the nonhighway off-road vehicle (NOVA) program funding (NHR, E&E, NM, and ORV), an update on the 6242 lands study, and continued work on the committee's strategic plan. Additional agenda items may include discussion of the Thurston County Sports Park, Washington wildlife and recreation program set-aside clarification, and management reports.

If you plan to participate or have materials for committee review, please submit information to IAC no later than February 28, 2003 [2005]. This will allow for distribution to committee members in a timely fashion.

IAC public meetings are held in locations accessible to people with disabilities. Arrangements for individuals with hearing or visual impairments can be provided by contacting IAC by March 3, at (360) 902-2637 or TDD (360) 902-1996.

WSR 05-06-031
NOTICE OF PUBLIC MEETINGS
COMMUNITY ECONOMIC
REVITALIZATION BOARD
 [Memorandum—February 24, 2005]

Change of Meeting Location
 for March 17, 2005, CERB Meeting

The Community Economic Revitalization Board (CERB) will change the meeting location for the March 17, 2005, meeting only. The meeting location for the March meeting is located at the SeaTac International Airport, 17801 Pacific Highway South, Seattle, WA 98158. The CERB meeting will be held in the Amsterdam Room. The meeting will begin at 9:00 a.m.

Please call Kate Rothschild if you have any questions or require further clarification.

WSR 05-06-037
DEPARTMENT OF ECOLOGY
 [Filed February 25, 2005, 12:59 p.m.]

Notice of Public Hearing
 Concerning the
Proposed Award List for
Flood Control Assistance Account Program grants
For the 2005-2007 Biennium
 by the
 Washington State Department of Ecology
 Shorelands and Environmental Assistance Program
 as mandated by WAC 173-145-070(3)
Public Hearing

Date: Wednesday, May 4, 2005.

Time: 10:00 a.m.

Location: Department of Ecology, 300 Desmond Drive, Lacey, First Floor Meeting Room 1S-16.

The proposed award list will be posted on ecology's FCAAP website at <http://www.ecy.wa.gov/programs/sea/grants/fcaap/index.html> as of April 19, 2005. Ecology will be accepting written comments until COB May 11, 2005.

Contacts: Dan Sokol, (360) 407-6796, dsok461@ecy.wa.gov or Bev Huether at bhue461@ecy.wa.gov.

WSR 05-06-039
NOTICE OF PUBLIC MEETINGS
EVERETT COMMUNITY COLLEGE
 [Memorandum—February 25, 2005]

NOTIFICATION OF EXECUTIVE SESSION MEETING

The board of trustees of Everett Community College will hold an executive session to discuss property acquisition on February 23, 2005, from 3:30 - 5:30 p.m. in the board room of Olympus Hall at Everett Community College.

WSR 05-06-047
NOTICE OF PUBLIC MEETINGS
PIERCE COLLEGE
 [Memorandum—February 25, 2005]

The board of trustees of Community College District Number Eleven (Pierce College) would like to announce a **special board meeting**. This meeting is to approve the Chancellor Search Advisory Committee.

Meeting Date/Location
 Friday, March 4, 2005
 Pierce College Fort Steilacoom
 Boardroom
 9401 Farwest Drive S.W.
 Lakewood, WA 98498

Time
 9:00 a.m.

MISC.

WSR 05-06-048
NOTICE OF PUBLIC MEETINGS
BOARD OF
PILOTAGE COMMISSIONERS

[Memorandum—February 28, 2005]

February 24, 2005

MEETING SCHEDULE 2005

The Washington State Board of Pilotage Commissioners meets the **second Thursday** of each month at 9:30 a.m., with the exception of March, when the meeting has been rescheduled for March 15.

January 13
 February 10
 March 15
 April 14
 May 12
 June 9
 July 14
 August 11
 September 8
 October 13
 November 10
 December 8

In accordance with RCW 42.30.075, this schedule of regular meeting dates for Board of Pilotage Commissioners is filed with the Office of the Code Reviser for publication in the Washington State Register.

WSR 05-06-049
NOTICE OF PUBLIC MEETINGS
SKAGIT VALLEY COLLEGE

[Memorandum—February 28, 2005]

NOTICE OF SPECIAL MEETING

BOARD OF TRUSTEES
COMMUNITY COLLEGE DISTRICT NO. 4
SKAGIT VALLEY COLLEGE
 2405 East College Way
 Mount Vernon, WA 98273
 Monday, February 28, 2005
 6:30 p.m.
 Portofino's Restaurant
 101 Division Street N.W.
 Olympia, WA

The board of trustees of Skagit Valley College, Bellingham Technical College and Whatcom Community College, will hold a special dinner meeting on Monday, February 28, 2005, at 6:30 p.m., with legislators from the 10th, 39th, 40th and 42nd districts. The meeting will be held at Portofino's Restaurant, 101 Division Street N.W., in Olympia.

WSR 05-06-052
ATTORNEY GENERAL'S OFFICE

[Filed February 28, 2005, 3:54 p.m.]

NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION
WASHINGTON ATTORNEY GENERAL

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by March 23, 2005. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 586-4218, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s).

05-02-09 Request by Jim Honeyford
State Senator, 15th Legislative District

1. Is the Department of Agriculture (DOA) authorized to use funds from the fruit and vegetable inspection account created pursuant to RCW 15.17.240 in order to pay administrative and overhead expenses of the DOA?
2. What types of expenses of the DOA are considered to have been incurred in the "implementation and enforcement" of RCW 15.17?
3. Is the DOA authorized to pay from the fruit and vegetable inspection account created pursuant to RCW 15.17.240 any expenses other than those referred to in your answer to question 2?

WSR 05-06-053
ATTORNEY GENERAL'S OFFICE

[Filed February 28, 2005, 3:55 p.m.]

NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION
WASHINGTON ATTORNEY GENERAL

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys. When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in

MISC.

the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by March 23, 2005. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 586-4218, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested; information about the Attorney General's Opinion process; information on how to submit your comments; and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s).

**05-02-04 Request by Jim Honeyford, Bob Morton, Joyce Mulliken, Jerome Delvin, and Mark Schoesler
State Senators, 15th, 7th, 13th, 8th, and 9th Districts**

How may commission boards be constituted under RCW 15.66, specifically regarding the election of the members of commodity commissions?

WSR 05-06-060

INTERPRETIVE STATEMENT DEPARTMENT OF REVENUE

[Filed March 1, 2005, 9:15 a.m.]

CANCELLATION OF INTERPRETIVE STATEMENT

This announcement of the cancellation of this interpretive statement is being published in the Washington State Register pursuant to the requirements of RCW 34.05.230(4).

The Department of Revenue has cancelled the following excise tax advisory (ETA):

574.08.198 Financial Institutions Incurring Bad Debts on Contract Assignments. This advisory explains the department's position regarding contract assignments and retail sales tax bad debt credits as a result of the decision of the Washington State Supreme Court in *Puget Sound National Bank v. Department of Revenue*, 123.Wn2d 284, 868 P.2d 127 (1994). This advisory is being cancelled because the information was incorporated consistent with recent statutory amendments in the recent revision of WAC 458-20-196 Bad debts, which became effective February 27, 2005.

A copy of this document is available via the internet at <http://www.dor.wa.gov/content/laws/eta/eta.aspx>, or a request for copies may be directed to Roseanna Hodson, Interpretations and Technical Advice Unit, P.O. Box 47453,

Olympia, WA 98504-7453, phone (360) 570-6119, fax (360) 586-5543.

Alan R. Lynn
Rules Coordinator

WSR 05-06-061

BOARD OF PILOTAGE COMMISSIONERS

[Filed March 1, 2005, 11:23 a.m.]

**NOTICE OF WORKSHOPS AND COMMITTEE MEETINGS
(March 24, March 31 and April 7, 2005, at 1:00 p.m.)**

**NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS
(March 24, 2005)**

Re: Rule making chapter 363-116 WAC, Pilotage rules.

TO INTERESTED PERSONS: On January 13, 2005, the Washington State Board of Pilotage Commissioners created a committee to review existing regulations and propose any appropriate amendments to or additions to existing regulations regarding pilot licensing qualifications and procedures. The membership is to be Charles M. Davis (chairman) with remaining members to be appointed by Commissioner Davis at the first meeting of the committee and membership to be selected from a representative of the public (not on the board), two pilot representatives (only one from the board), two industry representatives (only one from the board), one Department of Ecology representative, and three pilot aspirants (one each from aspirants with experience primarily on (1) ferries, (2) towing vessels, and (3) deep-draft vessels), the times, dates and places of meetings to be determined by Commissioner Davis.

On February 2, 2005, a preproposal statement of inquiry (CR-101) was filed with the code reviser to initiate rule making to consider revisions to chapter 363-116 WAC.

STAKEHOLDER WORKSHOP. Commissioner Davis has scheduled three workshops to be followed by meetings of the Pilot Licensing Qualifications and Procedures Committee on each of three successive Thursdays, March 24, 31 and April 7, 2005, at 1:00 p.m., in the 4th Floor Rainier Conference Room, at 2911 Second Avenue, Seattle, WA.

The purpose of the workshops will be to discuss and review the board's rules for pilot licensing qualifications and procedures. The purpose of the committee meetings will be to adopt proposals as to amendments to and additions to chapter 363-116 WAC as it deems appropriate relative to pilot licensing qualifications and procedures.

If you need additional information, please call Charles Davis at (360) 766-3223 or e-mail him at <cdavis@davismarine.com>.

Written comments may be submitted to the committee by filing with the board administrator either by electronic transmission at larpson@wsdot.wa.gov or by physical delivery to 2911 Second Avenue, Seattle, WA 98121.

WSR 05-06-074
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed March 1, 2005, 4:07 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 05-07 MAA.
Subject: Prosthetic and orthotic (P&O) devices: Fee schedule corrections.

Effective Date: January 1, 2005.

Document Description: **Retroactive to dates of service on and after January 1, 2005**, the Medical Assistance Administration (MAA) is correcting the licensure and prior authorization requirements for certain procedure codes. MAA is also adding a procedure code that was inadvertently deleted from the fee schedule when MAA published Numbered Memorandum 04-102 MAA. The published rates remain the same.

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 2005"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail salmobl@dshs.wa.gov.

February 22, 2005
Ann Myers, Manager
Rules and Publications Section

WSR 05-06-075
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed March 1, 2005, 4:08 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 05-06 MAA.
Subject: Wheelchairs and durable medical equipment (DME), and supplies: Fee schedule corrections.

Effective Date: January 1, 2005.

Document Description: **Retroactive to dates of service on and after January 1, 2005**, the Medical Assistance Administration (MAA) is correcting the two misplaced procedure codes and deleting certain discontinued procedure codes published in Numbered Memo 04-97 MAA for wheelchairs, durable medical equipment, and supplies. The published rates for these procedure codes remain the same.

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

2005"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail salmobl@dshs.wa.gov.

February 22, 2005
Ann Myers, Manager
Rules and Publications Section

WSR 05-06-076
INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed March 1, 2005, 4:09 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: Numbered Memorandum 05-05 MAA.
Subject: New covered medications for sterilizations of TAKE CHARGE and family planning only clients.

Effective Date: March 1, 2005.

Document Description: **Effective for dates of service on and after March 1, 2005**, the Medical Assistance Administration (MAA) will cover certain preoperative antianxiety medications and postoperative pain medications for TAKE CHARGE and Family Planning Only clients who undergo a sterilization procedure. MAA will update the current *Family Planning Services and Family Planning Only Program*, TAKE CHARGE, *Physician-Related Services*, and *Prescription Drug Program* billing instructions to reflect these changes.

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 2005"), TDD 1-800-848-5429, fax (360) 586-9727, e-mail salmobl@dshs.wa.gov.

February 22, 2005
Ann Myers, Manager
Rules and Publications Section

WSR 05-06-105
NOTICE OF PUBLIC MEETINGS
FISH AND WILDLIFE
COMMISSION
[Memorandum—March 2, 2005]

SPECIAL MEETING NOTICE
Public Hearing

TIME: 9:00 a.m. - 4:00 p.m.
DATE: May 14, 2005 (Saturday)
PLACE: Tyee Center
5757 Littlerock Road S.E.
Tumwater, WA 98512

MISC.

The Washington Fish and Wildlife Commission has scheduled a special meeting to receive public testimony regarding potential amendments to Washington Administrative Code (WAC) rules related to recreational crab fishery management: WAC 220-56-310 Shellfish—Daily limits, 220-56-315 Crabs, shrimp, crawfish—Unlawful acts, and 220-56-330 Crab—Areas and seasons.

Following public testimony, the commission will consider taking action on permanent rule amendments.

Written comments will be accepted through May 11 at the following address: Washington Fish and Wildlife Commission, 600 Capitol Way North, Olympia, WA 98501-1091, or via e-mail to commission@dfw.wa.gov.

For further information and to identify special accommodation needs for attendance at the hearing, contact Susan Yeager in the commission office at (360) 902-2267.

DIRECTIONS to the Tyee Center: From I-5: Take Exit 102, go west on Trosper Road S.W., and turn left onto Little-rock Road. Tyee Center (American Legion Post 166) is located on the right about a quarter of a mile and across from Costco.

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.

TABLE

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
3-20-300	REP-P	05-05-100	16-404-040	REP-X	05-06-100	16-448-200	REP-X	05-06-099
3-20-390	NEW-P	05-05-100	16-404-050	REP-X	05-06-100	16-470-103	AMD-P	05-05-099
3-20-400	NEW-P	05-05-100	16-404-060	REP-X	05-06-100	16-470-105	AMD-P	05-05-099
3-20-410	NEW-P	05-05-100	16-404-070	REP-X	05-06-100	16-470-900	PREP	05-06-109
4-25-530	PREP	05-02-051	16-409-005	NEW-X	05-06-102	16-470-905	PREP	05-06-109
4-25-530	AMD-P	05-06-038	16-409-015	AMD-X	05-06-102	16-470-910	PREP	05-06-109
10-20-010	NEW	05-03-003	16-409-020	AMD-X	05-06-102	16-470-911	PREP	05-06-109
10-20-020	NEW	05-03-003	16-409-022	NEW-X	05-06-102	16-470-912	PREP	05-06-109
10-20-030	NEW	05-03-003	16-409-024	NEW-X	05-06-102	16-470-915	PREP	05-06-109
16-218-010	REP-P	05-04-111	16-409-026	NEW-X	05-06-102	16-470-916	PREP	05-06-109
16-218-015	NEW-P	05-04-111	16-409-030	AMD-X	05-06-102	16-470-917	PREP	05-06-109
16-218-02001	REP-P	05-04-111	16-409-035	AMD-X	05-06-102	16-470-920	PREP	05-06-109
16-218-025	NEW-P	05-04-111	16-409-060	REP-X	05-06-102	16-470-921	PREP	05-06-109
16-218-030	REP-P	05-04-111	16-409-065	AMD-X	05-06-102	16-501-525	NEW-P	05-05-098
16-218-035	NEW-P	05-04-111	16-409-070	AMD-X	05-06-102	16-532	PREP	05-04-073
16-218-040	NEW-P	05-04-111	16-409-075	REP-X	05-06-102	16-623-001	AMD-P	05-06-112
16-229-010	AMD	05-05-036	16-409-085	REP-X	05-06-102	16-623-005	NEW-P	05-06-112
16-230-860	PREP-W	05-06-097	16-445-001	REP-X	05-06-101	16-623-010	AMD-P	05-06-112
16-239	PREP	05-04-078	16-445-015	NEW-X	05-06-101	16-623-015	NEW-P	05-06-112
16-240	PREP	05-04-078	16-445-025	NEW-X	05-06-101	16-623-020	AMD-P	05-06-112
16-303-020	PREP	05-05-050	16-445-040	AMD-X	05-06-101	16-623-030	AMD-P	05-06-112
16-303-200	PREP	05-05-050	16-445-045	NEW-X	05-06-101	16-623-040	AMD-P	05-06-112
16-303-210	PREP	05-05-050	16-445-050	REP-X	05-06-101	16-623-050	AMD-P	05-06-112
16-303-250	PREP	05-05-050	16-445-060	AMD-X	05-06-101	16-623-060	AMD-P	05-06-112
16-303-310	PREP	05-05-050	16-445-070	AMD-X	05-06-101	16-662-100	AMD-X	05-06-111
16-303-320	PREP	05-05-050	16-445-080	REP-X	05-06-101	16-662-105	AMD-X	05-06-111
16-303-340	AMD	05-05-052	16-445-090	REP-X	05-06-101	16-662-110	AMD-X	05-06-111
16-319-001	REP	05-05-051	16-448-130	REP-X	05-06-099	16-662-115	AMD-X	05-06-111
16-319-002	REP	05-05-051	16-448-135	REP-X	05-06-099	16-662-120	NEW-X	05-06-111
16-319-003	REP	05-05-051	16-448-140	REP-X	05-06-099	16-662-125	NEW-X	05-06-111
16-319-004	REP	05-05-051	16-448-145	REP-X	05-06-099	16-730-005	NEW-E	05-03-032
16-319-006	REP	05-05-051	16-448-150	REP-X	05-06-099	16-730-010	NEW-E	05-03-032
16-319-007	REP	05-05-051	16-448-155	REP-X	05-06-099	16-730-015	NEW-E	05-03-032
16-319-041	AMD	05-05-051	16-448-160	REP-X	05-06-099	16-730-020	NEW-E	05-03-032
16-350-035	AMD	05-03-042	16-448-165	REP-X	05-06-099	16-730-025	NEW-E	05-03-032
16-390	PREP	05-04-077	16-448-170	REP-X	05-06-099	16-730-030	NEW-E	05-03-032
16-401	PREP	05-06-110	16-448-175	REP-X	05-06-099	16-730-035	NEW-E	05-03-032
16-404-001	REP-X	05-06-100	16-448-180	REP-X	05-06-099	16-730-040	NEW-E	05-03-032
16-404-010	REP-X	05-06-100	16-448-185	REP-X	05-06-099	16-730-045	NEW-E	05-03-032
16-404-020	REP-X	05-06-100	16-448-190	REP-X	05-06-099	16-730-050	NEW-E	05-03-032
16-404-030	REP-X	05-06-100	16-448-195	REP-X	05-06-099	51-11-1437	AMD-W	05-06-056

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
51- 50-1707	NEW-W	05-06-055	67- 25-540	AMD-P	05-03-116	132C-120-040	AMD-P	05-06-029
51- 54-0300	AMD-E	05-06-046	67- 25-545	AMD-P	05-03-116	132C-120-050	AMD-P	05-06-029
51- 54-0400	NEW-E	05-06-046	67- 25-550	AMD-P	05-03-116	132C-120-060	AMD-P	05-06-029
51- 54-0800	NEW-E	05-06-046	67- 25-560	REP-P	05-03-116	132C-120-065	AMD-P	05-06-029
67- 25-005	AMD-P	05-03-116	67- 25-570	AMD-P	05-03-116	132C-120-071	NEW-P	05-06-029
67- 25-010	AMD-P	05-03-116	67- 25-590	AMD-P	05-03-116	132C-120-076	NEW-P	05-06-029
67- 25-015	AMD-P	05-03-116	82- 50-021	AMD-X	05-06-067	132C-120-100	AMD-P	05-06-029
67- 25-020	AMD-P	05-03-116	82- 60-010	RECOD	05-04-072	132C-120-110	AMD-P	05-06-029
67- 25-025	AMD-P	05-03-116	82- 60-020	RECOD	05-04-072	132C-120-115	AMD-P	05-06-029
67- 25-030	AMD-P	05-03-116	82- 60-030	RECOD	05-04-072	132C-120-120	AMD-P	05-06-029
67- 25-050	AMD-P	05-03-116	82- 60-031	RECOD	05-04-072	132C-120-125	AMD-P	05-06-029
67- 25-055	AMD-P	05-03-116	82- 60-032	RECOD	05-04-072	132C-120-130	AMD-P	05-06-029
67- 25-056	AMD-P	05-03-116	82- 60-033	RECOD	05-04-072	132C-120-135	AMD-P	05-06-029
67- 25-060	AMD-P	05-03-116	82- 60-034	RECOD	05-04-072	132C-120-140	AMD-P	05-06-029
67- 25-065	NEW-P	05-03-116	82- 60-035	RECOD	05-04-072	132C-120-145	AMD-P	05-06-029
67- 25-070	AMD-P	05-03-116	82- 60-036	RECOD	05-04-072	132C-120-150	AMD-P	05-06-029
67- 25-075	REP-P	05-03-116	82- 60-037	RECOD	05-04-072	132C-120-210	AMD-P	05-06-029
67- 25-077	AMD-P	05-03-116	82- 60-038	RECOD	05-04-072	132C-120-215	AMD-P	05-06-029
67- 25-080	REP-P	05-03-116	82- 60-039	NEW	05-04-072	132C-120-220	AMD-P	05-06-029
67- 25-085	REP-P	05-03-116	82- 60-040	RECOD	05-04-072	132C-120-225	AMD-P	05-06-029
67- 25-090	REP-P	05-03-116	82- 60-050	RECOD	05-04-072	132C-120-230	AMD-P	05-06-029
67- 25-095	REP-P	05-03-116	82- 60-060	RECOD	05-04-072	132H-136	PREP	05-05-096
67- 25-100	REP-P	05-03-116	82- 60-070	RECOD	05-04-072	132H-140-010	AMD-P	05-04-061
67- 25-110	REP-P	05-03-116	82- 60-080	RECOD	05-04-072	132H-140-020	AMD-P	05-04-061
67- 25-255	AMD-P	05-03-116	82- 60-080	RECOD	05-04-072	132H-140-025	NEW-P	05-04-061
67- 25-257	AMD-P	05-03-116	82- 60-100	RECOD	05-04-072	132H-140-030	AMD-P	05-04-061
67- 25-260	AMD-P	05-03-116	82- 60-200	RECOD	05-04-072	132H-140-030	AMD-P	05-04-061
67- 25-270	AMD-P	05-03-116	82- 60-210	RECOD	05-04-072	132H-140-050	AMD-P	05-04-061
67- 25-275	AMD-P	05-03-116	98	PREP	05-04-107	132H-140-065	AMD-P	05-04-061
67- 25-280	AMD-P	05-03-116	106- 72	AMD	05-05-057	132H-142-010	NEW-P	05-04-061
67- 25-284	AMD-P	05-03-116	106- 72-005	AMD	05-05-057	132H-142-015	NEW-P	05-04-061
67- 25-288	REP-P	05-03-116	106- 72-015	AMD	05-05-057	132H-142-020	NEW-P	05-04-061
67- 25-300	REP-P	05-03-116	106- 72-025	AMD	05-05-057	132H-142-030	NEW-P	05-04-061
67- 25-325	AMD-P	05-03-116	106- 72-130	AMD	05-05-057	132H-142-040	NEW-P	05-04-061
67- 25-326	REP-P	05-03-116	106- 72-150	REP	05-05-057	132H-142-050	NEW-P	05-04-061
67- 25-350	AMD-P	05-03-116	106- 72-200	REP	05-05-057	132H-142-060	NEW-P	05-04-061
67- 25-360	AMD-P	05-03-116	106- 72-220	REP	05-05-057	132H-142-070	NEW-P	05-04-061
67- 25-380	AMD-P	05-03-116	106- 72-400	AMD	05-05-057	132H-142-080	NEW-P	05-04-061
67- 25-384	AMD-P	05-03-116	106- 72-410	REP	05-05-057	132Z-104-010	AMD	05-06-003
67- 25-388	AMD-P	05-03-116	106- 72-420	REP	05-05-057	132Z-108-040	AMD	05-06-003
67- 25-390	AMD-P	05-03-116	106- 72-430	REP	05-05-057	132Z-112-010	AMD	05-06-003
67- 25-394	AMD-P	05-03-116	106- 72-440	REP	05-05-057	132Z-112-020	AMD	05-06-003
67- 25-395	REP-P	05-03-116	106- 72-450	REP	05-05-057	132Z-112-030	AMD	05-06-003
67- 25-396	AMD-P	05-03-116	106- 72-460	REP	05-05-057	132Z-112-040	AMD	05-06-003
67- 25-398	AMD-P	05-03-116	106- 72-470	REP	05-05-057	132Z-112-050	AMD	05-06-003
67- 25-399	AMD-P	05-03-116	106- 72-480	REP	05-05-057	132Z-112-060	NEW	05-06-003
67- 25-400	AMD-P	05-03-116	106- 72-480	REP	05-05-057	132Z-112-070	NEW	05-06-003
67- 25-404	AMD-P	05-03-116	106- 72-490	REP	05-05-057	132Z-112-080	NEW	05-06-003
67- 25-408	AMD-P	05-03-116	106- 72-500	REP	05-05-057	132Z-112-090	NEW	05-06-003
67- 25-412	AMD-P	05-03-116	106- 72-510	REP	05-05-057	132Z-112-100	NEW	05-06-003
67- 25-416	AMD-P	05-03-116	106- 72-520	REP	05-05-057	132Z-112-110	NEW	05-06-003
67- 25-418	AMD-P	05-03-116	106- 72-530	REP	05-05-057	132Z-112-120	NEW	05-06-003
67- 25-432	AMD-P	05-03-116	106- 72-540	REP	05-05-057	132Z-115-005	NEW	05-06-003
67- 25-436	AMD-P	05-03-116	106- 72-550	REP	05-05-057	132Z-115-010	AMD	05-06-003
67- 25-440	AMD-P	05-03-116	106- 72-560	REP	05-05-057	132Z-115-020	AMD	05-06-003
67- 25-444	AMD-P	05-03-116	106- 72-570	REP	05-05-057	132Z-115-050	AMD	05-06-003
67- 25-446	AMD-P	05-03-116	106- 72-580	REP	05-05-057	132Z-115-060	AMD	05-06-003
67- 25-448	AMD-P	05-03-116	106- 72-590	REP	05-05-057	132Z-115-080	AMD	05-06-003
67- 25-452	AMD-P	05-03-116	106- 72-600	REP	05-05-057	132Z-115-090	AMD	05-06-003
67- 25-460	AMD-P	05-03-116	106- 72-610	REP	05-05-057	132Z-115-110	AMD	05-06-003
67- 25-470	REP-P	05-03-116	131	PREP	05-05-018	132Z-115-120	AMD	05-06-003
67- 25-480	REP-P	05-03-116	131	PREP	05-05-019	132Z-115-130	AMD	05-06-003
			132C-120-015	AMD-P	05-06-029	132Z-115-140	AMD	05-06-003
			132C-120-030	REP-P	05-06-029			

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
132Z-115-150	AMD	05-06-003	173-400-104	AMD	05-03-033	173-526	PREP	05-06-114
132Z-115-160	AMD	05-06-003	173-400-105	AMD	05-03-033	173-527	PREP	05-06-115
132Z-115-180	AMD	05-06-003	173-400-110	AMD	05-03-033	173-528	PREP	05-06-116
132Z-115-190	AMD	05-06-003	173-400-112	AMD	05-03-033	173-546-010	NEW-P	05-06-117
132Z-115-200	AMD	05-06-003	173-400-113	AMD	05-03-033	173-546-020	NEW-P	05-06-117
132Z-115-240	NEW	05-06-003	173-400-115	AMD	05-03-033	173-546-030	NEW-P	05-06-117
132Z-133-010	AMD	05-06-003	173-400-116	AMD	05-03-033	173-546-040	NEW-P	05-06-117
132Z-134-010	AMD	05-06-003	173-400-117	AMD	05-03-033	173-546-050	NEW-P	05-06-117
132Z-276-030	AMD	05-06-003	173-400-118	AMD	05-03-033	173-546-060	NEW-P	05-06-117
132Z-276-070	AMD	05-06-003	173-400-120	AMD	05-03-033	173-546-070	NEW-P	05-06-117
132Z-276-120	AMD	05-06-003	173-400-131	AMD	05-03-033	173-546-080	NEW-P	05-06-117
136- 01-030	AMD-P	05-04-052	173-400-136	AMD	05-03-033	173-546-090	NEW-P	05-06-117
136-167-040	AMD-E	05-04-051	173-400-141	REP	05-03-033	173-546-100	NEW-P	05-06-117
137- 59-010	NEW-W	05-05-071	173-400-151	AMD	05-03-033	173-546-110	NEW-P	05-06-117
137- 59-020	NEW-W	05-05-071	173-400-171	AMD	05-03-033	173-546-120	NEW-P	05-06-117
137- 59-030	NEW-W	05-05-071	173-400-175	NEW	05-03-033	173-546-130	NEW-P	05-06-117
137- 59-040	NEW-W	05-05-071	173-400-200	AMD	05-03-033	173-546-140	NEW-P	05-06-117
137- 59-050	NEW-W	05-05-071	173-400-560	NEW	05-03-033	173-546-150	NEW-P	05-06-117
137- 59-060	NEW-W	05-05-071	173-400-700	NEW	05-03-033	180- 20-101	AMD-E	05-04-014
137- 59-070	NEW-W	05-05-071	173-400-710	NEW	05-03-033	180- 20-101	AMD-P	05-04-018
137- 59-080	NEW-W	05-05-071	173-400-720	NEW	05-03-033	180- 46-005	AMD-P	05-04-017
137- 70-040	AMD-E	05-05-074	173-400-730	NEW	05-03-033	180- 46-009	NEW-P	05-04-017
139- 02-020	AMD-P	05-03-025	173-400-740	NEW	05-03-033	180- 46-010	REP-P	05-04-017
139- 02-030	AMD-P	05-03-025	173-400-750	NEW	05-03-033	180- 46-015	REP-P	05-04-017
139- 02-050	AMD-P	05-03-025	173-503	PREP-W	05-05-075	180- 46-020	AMD-P	05-04-017
139- 02-060	REP-P	05-03-025	173-503-020	AMD-P	05-04-108	180- 46-025	AMD-P	05-04-017
139- 02-070	AMD-P	05-03-025	173-503-025	NEW-P	05-04-108	180- 46-030	REP-P	05-04-017
139- 02-080	AMD-P	05-03-025	173-503-051	NEW-P	05-04-108	180- 46-035	REP-P	05-04-017
139- 02-090	AMD-P	05-03-025	173-503-060	AMD-P	05-04-108	180- 46-040	REP-P	05-04-017
139- 02-100	REP-P	05-03-025	173-503-071	NEW-P	05-04-108	180- 46-045	REP-P	05-04-017
139- 02-110	AMD-P	05-03-025	173-503-073	NEW-P	05-04-108	180- 46-050	REP-P	05-04-017
139- 02-120	NEW-P	05-03-025	173-503-074	NEW-P	05-04-108	180- 46-055	AMD-P	05-04-017
139- 02-130	NEW-P	05-03-025	173-503-075	NEW-P	05-04-108	180- 46-065	REP-P	05-04-017
139- 03-010	AMD-P	05-03-024	173-503-080	REP-P	05-04-108	180- 55-005	AMD-P	05-04-075
139- 03-020	AMD-P	05-03-024	173-503-081	NEW-P	05-04-108	180- 55-015	AMD-P	05-04-075
139- 03-040	REP-P	05-03-024	173-503-090	AMD-P	05-04-108	180- 55-017	NEW-P	05-04-075
139- 03-045	NEW-P	05-03-024	173-503-100	AMD-P	05-04-108	180- 55-034	REP	05-04-016
139- 03-050	REP-P	05-03-024	173-503-110	NEW-P	05-04-108	180- 78A-100	AMD	05-04-056
139- 03-060	REP-P	05-03-024	173-503-120	NEW-P	05-04-108	180- 79A-030	AMD	05-04-055
139- 03-075	NEW-P	05-03-024	173-503-130	NEW-P	05-04-108	180- 79A-257	AMD	05-04-054
139- 05-200	PREP	05-05-012	173-503-140	NEW-P	05-04-108	180- 82-105	AMD-P	05-04-015
139- 05-210	PREP	05-05-012	173-503-150	NEW-P	05-04-108	181- 01-004	NEW	05-04-024
139- 05-220	PREP	05-05-012	173-503A	PREP	05-05-076	182- 08-120	AMD-W	05-02-060
139- 05-230	PREP	05-05-012	173-505-010	NEW-P	05-05-094	182- 16-040	AMD-W	05-02-060
139- 05-240	PREP	05-05-012	173-505-020	NEW-P	05-05-094	182- 16-050	AMD-W	05-02-060
139- 05-242	PREP	05-05-012	173-505-030	NEW-P	05-05-094	192- 35-010	NEW	05-02-094
139- 05-250	PREP	05-05-012	173-505-040	NEW-P	05-05-094	192- 35-020	NEW	05-02-094
139- 10-235	PREP	05-05-013	173-505-050	NEW-P	05-05-094	192- 35-030	NEW	05-02-094
139- 10-530	PREP	05-05-014	173-505-060	NEW-P	05-05-094	192- 35-040	NEW	05-02-094
139- 10-540	PREP	05-05-015	173-505-070	NEW-P	05-05-094	192- 35-050	NEW	05-02-094
143- 06	PREP	05-02-053	173-505-080	NEW-P	05-05-094	192- 35-060	NEW	05-02-094
148-100-010	AMD-P	05-06-103	173-505-090	NEW-P	05-05-094	192- 35-070	NEW	05-02-094
173-350-100	AMD-S	05-03-018	173-505-100	NEW-P	05-05-094	192- 35-080	NEW	05-02-094
173-400-030	AMD	05-03-033	173-505-110	NEW-P	05-05-094	192- 35-090	NEW	05-02-094
173-400-040	AMD	05-03-033	173-505-120	NEW-P	05-05-094	192- 35-100	NEW	05-02-094
173-400-050	AMD	05-03-033	173-505-130	NEW-P	05-05-094	192- 35-110	NEW	05-02-094
173-400-060	AMD	05-03-033	173-505-140	NEW-P	05-05-094	192- 35-120	NEW	05-02-094
173-400-070	AMD	05-03-033	173-505-150	NEW-P	05-05-094	192-110-015	AMD-E	05-03-011
173-400-075	AMD	05-03-033	173-505-160	NEW-P	05-05-094	192-110-017	NEW-E	05-03-011
173-400-099	AMD	05-03-033	173-505-170	NEW-P	05-05-094	192-170-060	NEW-E	05-03-011
173-400-100	AMD	05-03-033	173-505-180	NEW-P	05-05-094	192-180-013	NEW-E	05-03-011
173-400-102	AMD	05-03-033	173-525	PREP	05-06-113	192-300-050	AMD-E	05-03-011

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
192-310-030	AMD-E	05-03-011	212- 80-105	DECOD	05-05-006	220- 52-04600X	NEW-E	05-03-063
192-320-005	NEW-E	05-03-011	212- 80-108	RECOD	05-05-006	220- 52-04600X	REP-E	05-05-041
192-320-010	NEW-E	05-03-011	212- 80-110	AMD	05-05-006	220- 52-04600Y	NEW-E	05-04-061
192-320-020	NEW-E	05-03-011	212- 80-110	DECOD	05-05-006	220- 52-04600Z	NEW-E	05-05-041
208-680A-040	AMD	05-03-038	212- 80-113	RECOD	05-05-006	220- 52-04600Z	REP-E	05-06-034
208-680E-025	NEW	05-03-038	212- 80-115	AMD	05-05-006	220- 52-07100L	NEW-E	05-05-040
208-680F-020	AMD	05-03-038	212- 80-115	DECOD	05-05-006	220- 52-07100L	REP-E	05-06-009
208-680G-050	AMD	05-03-037	212- 80-118	RECOD	05-05-006	220- 52-07100M	NEW-E	05-06-009
212- 80-001	AMD	05-05-006	212- 80-120	AMD	05-05-006	220- 52-07300Q	REP-E	05-03-068
212- 80-005	AMD	05-05-006	212- 80-120	DECOD	05-05-006	220- 52-07300R	NEW-E	05-03-068
212- 80-010	AMD	05-05-006	212- 80-123	RECOD	05-05-006	220- 52-07300R	REP-E	05-05-039
212- 80-015	AMD	05-05-006	212- 80-125	AMD	05-05-006	220- 52-07300S	NEW-E	05-05-039
212- 80-018	NEW	05-05-006	212- 80-125	DECOD	05-05-006	220- 56-115	AMD	05-05-035
212- 80-023	RECOD	05-05-006	212- 80-128	RECOD	05-05-006	220- 56-118	AMD	05-05-035
212- 80-025	AMD	05-05-006	212- 80-130	AMD	05-05-006	220- 56-128	AMD	05-05-035
212- 80-025	DECOD	05-05-006	212- 80-130	DECOD	05-05-006	220- 56-129	AMD	05-05-035
212- 80-028	RECOD	05-05-006	212- 80-135	AMD	05-05-006	220- 56-130	AMD	05-05-035
212- 80-030	AMD	05-05-006	212- 80-135	DECOD	05-05-006	220- 56-156	AMD	05-05-046
212- 80-030	DECOD	05-05-006	212- 80-200	RECOD	05-05-006	220- 56-25000H	NEW-E	05-06-008
212- 80-033	RECOD	05-05-006	212- 80-205	RECOD	05-05-006	220- 56-27000W	REP-E	05-06-043
212- 80-035	AMD	05-05-006	212- 80-210	NEW	05-05-006	220- 56-27000X	NEW-E	05-06-043
212- 80-035	DECOD	05-05-006	212- 80-215	NEW	05-05-006	220- 56-27000X	REP-E	05-06-043
212- 80-038	RECOD	05-05-006	212- 80-220	NEW	05-05-006	220- 56-282	AMD	05-05-035
212- 80-040	AMD	05-05-006	212- 80-225	NEW	05-05-006	220- 56-28200H	NEW-E	05-06-006
212- 80-040	DECOD	05-05-006	212- 80-230	NEW	05-05-006	220- 56-310	AMD	05-05-035
212- 80-043	RECOD	05-05-006	212- 80-235	NEW	05-05-006	220- 56-315	AMD	05-05-035
212- 80-045	AMD	05-05-006	212- 80-240	NEW	05-05-006	220- 56-320	AMD	05-05-035
212- 80-045	DECOD	05-05-006	212- 80-245	NEW	05-05-006	220- 56-325	AMD	05-05-035
212- 80-048	NEW	05-05-006	212- 80-250	NEW	05-05-006	220- 56-326	AMD	05-05-035
212- 80-050	AMD	05-05-006	212- 80-255	NEW	05-05-006	220- 56-330	AMD	05-05-035
212- 80-050	DECOD	05-05-006	212- 80-260	NEW	05-05-006	220- 56-350	AMD	05-05-035
212- 80-053	RECOD	05-05-006	212- 80-265	NEW	05-05-006	220- 56-35000U	REP-E	05-06-007
212- 80-055	AMD	05-05-006	220- 20-010	AMD-P	05-03-117	220- 56-35000V	NEW-E	05-06-007
212- 80-055	DECOD	05-05-006	220- 20-05100A	REP-E	05-03-013	220- 56-36000E	NEW-E	05-02-047
212- 80-058	RECOD	05-05-006	220- 20-05100B	NEW-E	05-03-013	220- 56-36000E	REP-E	05-02-047
212- 80-060	AMD	05-05-006	220- 20-05100B	REP-E	05-03-013	220- 56-36000F	NEW-E	05-04-064
212- 80-060	DECOD	05-05-006	220- 32-05100G	REP-E	05-04-068	220- 56-36000F	REP-E	05-04-064
212- 80-063	RECOD	05-05-006	220- 32-05100H	NEW-E	05-03-061	220- 56-36000G	NEW-E	05-06-071
212- 80-065	AMD	05-05-006	220- 32-05100H	REP-E	05-03-061	220- 56-36000G	REP-E	05-06-071
212- 80-065	DECOD	05-05-006	220- 32-05100H	REP-E	05-04-068	220- 56-380	AMD	05-05-035
212- 80-068	RECOD	05-05-006	220- 32-05100I	NEW-E	05-04-068	220- 69-236	AMD	05-05-035
212- 80-070	AMD	05-05-006	220- 32-05100I	REP-E	05-04-068	220- 69-26401	AMD	05-05-026
212- 80-070	DECOD	05-05-006	220- 33-01000S	NEW-E	05-05-091	220- 88C-030	AMD-P	05-03-117
212- 80-073	RECOD	05-05-006	220- 33-01000S	REP-E	05-06-010	220- 88C-040	AMD-P	05-03-117
212- 80-075	AMD	05-05-006	220- 33-01000T	NEW-E	05-06-010	220- 88C-050	AMD-P	05-03-117
212- 80-075	DECOD	05-05-006	220- 33-01000T	REP-E	05-06-072	222	AMD-S	05-04-007
212- 80-078	RECOD	05-05-006	220- 33-01000U	NEW-E	05-06-072	222- 10-030	AMD-P	05-06-096
212- 80-080	AMD	05-05-006	220- 33-04000W	REP-E	05-06-042	222- 10-040	AMD-P	05-06-096
212- 80-080	DECOD	05-05-006	220- 33-04000X	NEW-E	05-06-042	222- 12-040	AMD-P	05-06-096
212- 80-083	RECOD	05-05-006	220- 48-01500V	REP-E	05-06-042	222- 12-045	AMD-P	05-06-096
212- 80-085	AMD	05-05-006	220- 52-030	NEW-E	05-05-090	222- 12-046	AMD-P	05-06-096
212- 80-085	DECOD	05-05-006	220- 52-04000F	AMD	05-05-027	222- 12-080	AMD-P	05-06-096
212- 80-088	RECOD	05-05-006	220- 52-04000F	REP-E	05-03-039	222- 12-090	AMD-P	05-06-096
212- 80-090	AMD	05-05-006	220- 52-04000H	NEW-E	05-03-039	222- 16-010	AMD-P	05-06-096
212- 80-090	DECOD	05-05-006	220- 52-04000H	REP-E	05-06-034	222- 16-030	AMD-P	05-06-096
212- 80-093	RECOD	05-05-006	220- 52-04000I	NEW-E	05-04-065	222- 16-031	AMD-P	05-06-096
212- 80-095	AMD	05-05-006	220- 52-04000I	REP-E	05-04-065	222- 16-050	AMD-P	05-06-096
212- 80-095	DECOD	05-05-006	220- 52-04000J	NEW-E	05-06-034	222- 16-070	AMD-P	05-06-096
212- 80-098	RECOD	05-05-006	220- 52-04600A	NEW-E	05-06-034	222- 16-080	AMD-P	05-06-096
212- 80-100	DECOD	05-05-006	220- 52-04600R	REP-E	05-03-063	222- 20-010	AMD-P	05-06-096
212- 80-103	RECOD	05-05-006	220- 52-04600T	REP-E	05-04-065	222- 20-020	AMD-P	05-06-096
212- 80-105	AMD	05-05-006	220- 52-04600W	REP-E	05-02-048	222- 20-040	AMD-P	05-06-096

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
222- 20-050	AMD-P	05-06-096	236- 22-036	AMD	05-04-072	246-272-12501	REP-P	05-02-082
222- 20-060	AMD-P	05-06-096	236- 22-036	DECOD	05-04-072	246-272-13501	REP-P	05-02-082
222- 20-075	NEW-P	05-06-096	236- 22-037	AMD	05-04-072	246-272-14501	REP-P	05-02-082
222- 21-030	AMD-P	05-06-096	236- 22-037	DECOD	05-04-072	246-272-15501	REP-P	05-02-082
222- 22-010	AMD-P	05-06-096	236- 22-038	AMD	05-04-072	246-272-16501	REP-P	05-02-082
222- 22-070	AMD-P	05-06-096	236- 22-038	DECOD	05-04-072	246-272-17501	REP-P	05-02-082
222- 22-090	AMD-P	05-06-096	236- 22-040	DECOD	05-04-072	246-272-18501	REP-P	05-02-082
222- 23-020	AMD-P	05-06-096	236- 22-050	AMD	05-04-072	246-272-19501	REP-P	05-02-082
222- 23-025	AMD-P	05-06-096	236- 22-050	DECOD	05-04-072	246-272-20501	REP-P	05-02-082
222- 24-010	AMD-P	05-06-096	236- 22-060	AMD	05-04-072	246-272-21501	REP-P	05-02-082
222- 24-051	AMD-P	05-06-096	236- 22-060	DECOD	05-04-072	246-272-22501	REP-P	05-02-082
222- 30-020	AMD-P	05-06-096	236- 22-070	AMD	05-04-072	246-272-23501	REP-P	05-02-082
222- 30-021	AMD-P	05-06-096	236- 22-070	DECOD	05-04-072	246-272-24001	REP-P	05-02-082
222- 30-022	AMD-P	05-06-096	236- 22-080	AMD	05-04-072	246-272-25001	REP-P	05-02-082
222- 30-023	AMD-P	05-06-096	236- 22-080	DECOD	05-04-072	246-272-26001	REP-P	05-02-082
222- 30-025	AMD-P	05-06-096	236- 22-100	AMD	05-04-072	246-272-27001	REP-P	05-02-082
222- 30-050	AMD-P	05-06-096	236- 22-100	DECOD	05-04-072	246-272-28001	REP-P	05-02-082
222- 30-110	AMD-P	05-06-096	236- 22-200	AMD	05-04-072	246-272A-0001	NEW-P	05-02-082
222- 34-010	AMD-P	05-06-096	236- 22-200	DECOD	05-04-072	246-272A-0005	NEW-P	05-02-082
222- 34-020	AMD-P	05-06-096	236- 22-210	AMD	05-04-072	246-272A-0010	NEW-P	05-02-082
230- 20-115	AMD-P	05-03-115	236- 22-210	DECOD	05-04-072	246-272A-0015	NEW-P	05-02-082
230- 20-335	AMD-P	05-03-114	246- 08-400	AMD-P	05-06-121	246-272A-0020	NEW-P	05-02-082
232- 12-021	AMD	05-02-046	246-100-011	AMD-P	05-06-123	246-272A-0025	NEW-P	05-02-082
232- 12-129	AMD	05-05-008	246-100-072	AMD-P	05-06-123	246-272A-0100	NEW-P	05-02-082
232- 12-619	AMD	05-05-035	246-100-166	PREP	05-03-054	246-272A-0110	NEW-P	05-02-082
232- 28-248	AMD	05-02-046	246-100-166	AMD-P	05-04-113	246-272A-0120	NEW-P	05-02-082
232- 28-248	AMD-P	05-06-108	246-100-202	NEW-P	05-06-123	246-272A-0125	NEW-P	05-02-082
232- 28-266	AMD-P	05-06-108	246-100-203	NEW-P	05-06-123	246-272A-0130	NEW-P	05-02-082
232- 28-271	AMD	05-02-046	246-100-204	NEW-P	05-06-123	246-272A-0135	NEW-P	05-02-082
232- 28-273	AMD-P	05-06-108	246-100-205	NEW-P	05-06-123	246-272A-0140	NEW-P	05-02-082
232- 28-282	AMD-P	05-06-108	246-100-206	AMD-P	05-06-123	246-272A-0145	NEW-P	05-02-082
232- 28-284	NEW	05-02-046	246-100-207	AMD-P	05-06-123	246-272A-0150	NEW-P	05-02-082
232- 28-291	AMD	05-02-046	246-100-208	AMD-P	05-06-123	246-272A-0170	NEW-P	05-02-082
232- 28-333	AMD	05-02-046	246-100-209	AMD-P	05-06-123	246-272A-0175	NEW-P	05-02-082
232- 28-333	AMD-P	05-06-108	246-101-015	AMD	05-03-055	246-272A-0200	NEW-P	05-02-082
232- 28-335	AMD-P	05-06-108	246-101-101	AMD	05-03-055	246-272A-0210	NEW-P	05-02-082
232- 28-337	AMD-P	05-06-108	246-101-201	AMD	05-03-055	246-272A-0220	NEW-P	05-02-082
232- 28-341	AMD-P	05-06-108	246-101-301	AMD	05-03-055	246-272A-0230	NEW-P	05-02-082
232- 28-351	AMD-P	05-06-106	246-101-505	AMD-P	05-06-123	246-272A-0232	NEW-P	05-02-082
232- 28-352	AMD-P	05-06-107	246-101-520	AMD-P	05-06-123	246-272A-0234	NEW-P	05-02-082
232- 28-619	AMD	05-03-005	246-130	PREP	05-06-119	246-272A-0238	NEW-P	05-02-082
232- 28-619	AMD	05-05-035	246-140-001	NEW	05-04-112	246-272A-0240	NEW-P	05-02-082
232- 28-61900B	NEW-E	05-03-062	246-140-010	NEW	05-04-112	246-272A-0250	NEW-P	05-02-082
232- 28-61900C	NEW-E	05-04-003	246-140-020	NEW	05-04-112	246-272A-0260	NEW-P	05-02-082
232- 28-61900D	NEW-E	05-05-002	246-260-031	AMD-X	05-03-057	246-272A-0265	NEW-P	05-02-082
232- 28-61900D	REP-E	05-05-002	246-260-041	AMD-X	05-03-057	246-272A-0270	NEW-P	05-02-082
232- 28-61900Y	REP-E	05-03-062	246-260-061	AMD-X	05-03-057	246-272A-0275	NEW-P	05-02-082
232-288-61900E	NEW-E	05-05-089	246-260-091	AMD-X	05-03-057	246-272A-0280	NEW-P	05-02-082
232-288-61900E	REP-E	05-05-089	246-260-131	AMD-X	05-03-057	246-272A-0290	NEW-P	05-02-082
236- 22-010	AMD	05-04-072	246-260-171	AMD-X	05-03-057	246-272A-0300	NEW-P	05-02-082
236- 22-010	DECOD	05-04-072	246-272-00101	REP-P	05-02-082	246-272A-0310	NEW-P	05-02-082
236- 22-020	AMD	05-04-072	246-272-00501	REP-P	05-02-082	246-272A-0320	NEW-P	05-02-082
236- 22-020	DECOD	05-04-072	246-272-01001	REP-P	05-02-082	246-272A-0340	NEW-P	05-02-082
236- 22-030	AMD	05-04-072	246-272-02001	REP-P	05-02-082	246-272A-0400	NEW-P	05-02-082
236- 22-030	DECOD	05-04-072	246-272-03001	REP-P	05-02-082	246-272A-0410	NEW-P	05-02-082
236- 22-031	AMD	05-04-072	246-272-04001	REP-P	05-02-082	246-272A-0420	NEW-P	05-02-082
236- 22-031	DECOD	05-04-072	246-272-05001	REP-P	05-02-082	246-272A-0425	NEW-P	05-02-082
236- 22-032	DECOD	05-04-072	246-272-07001	REP-P	05-02-082	246-272A-0430	NEW-P	05-02-082
236- 22-033	DECOD	05-04-072	246-272-08001	REP-P	05-02-082	246-272A-0440	NEW-P	05-02-082
236- 22-034	AMD	05-04-072	246-272-09001	REP-P	05-02-082	246-272A-0450	NEW-P	05-02-082
236- 22-034	DECOD	05-04-072	246-272-09501	REP-P	05-02-082	246-272A-990	NEW-P	05-02-082
236- 22-035	DECOD	05-04-072	246-272-11001	REP-P	05-02-082	246-292-010	AMD	05-06-122

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-292-031	NEW	05-06-122	260- 34	AMD-P	05-04-085	260- 84-060	AMD-P	05-04-083
246-292-085	AMD	05-06-122	260- 34-010	AMD-P	05-04-085	260- 84-070	AMD-P	05-04-083
246-292-090	AMD	05-06-122	260- 34-020	AMD-P	05-04-085	260- 84-090	NEW-P	05-04-083
246-292-100	AMD	05-06-122	260- 34-030	AMD-P	05-04-085	260- 84-100	NEW-P	05-04-083
246-338-010	AMD	05-04-040	260- 34-035	NEW-P	05-04-085	260- 84-110	NEW-P	05-04-083
246-338-028	AMD	05-04-040	260- 34-040	REP-P	05-04-085	260- 84-120	NEW-P	05-04-083
246-338-040	AMD	05-04-040	260- 34-045	NEW-P	05-04-085	260- 84-130	NEW-P	05-04-083
246-338-050	AMD	05-04-040	260- 34-050	REP-P	05-04-085	260- 88-010	REP	05-05-049
246-338-060	AMD	05-04-040	260- 34-060	AMD-P	05-04-085	284- 13-580	AMD	05-02-075
246-338-070	AMD	05-04-040	260- 34-070	AMD-P	05-04-085	284- 17-200	AMD-P	05-03-110
246-338-080	AMD	05-04-040	260- 34-080	AMD-P	05-04-085	284- 17-210	AMD-P	05-03-110
246-338-090	AMD	05-04-040	260- 34-090	AMD-P	05-04-085	284- 17-220	AMD-P	05-03-110
246-360-990	AMD	05-05-072	260- 34-100	AMD-P	05-04-085	284- 17-222	NEW-P	05-03-110
246-562	PREP	05-03-010	260- 34-110	REP-P	05-04-085	284- 17-224	NEW-P	05-03-110
246-564-001	NEW-P	05-03-007	260- 34-120	REP-P	05-04-085	284- 17-226	NEW-P	05-03-110
246-564-010	NEW-P	05-03-007	260- 34-130	REP-P	05-04-085	284- 17-228	NEW-P	05-03-110
246-650	PREP	05-06-030	260- 34-140	REP-P	05-04-085	284- 17-230	AMD-P	05-03-110
246-790	PREP	05-03-056	260- 34-150	REP-P	05-04-085	284- 17-232	NEW-P	05-03-110
246-802-060	AMD-P	05-06-120	260- 34-160	REP-P	05-04-085	284- 17-234	NEW-P	05-03-110
246-802-130	AMD-P	05-06-120	260- 34-170	REP-P	05-04-085	284- 17-235	REP-P	05-03-110
246-834-250	AMD	05-06-118	260- 34-180	AMD-P	05-04-085	284- 17-236	NEW-P	05-03-110
246-915-040	AMD	05-06-022	260- 34-190	REP-P	05-04-085	284- 17-238	NEW-P	05-03-110
246-915-050	AMD	05-03-009	260- 36-085	AMD-W	05-02-052	284- 17-240	AMD-P	05-03-110
246-915-100	AMD	05-06-020	260- 36-085	PREP	05-05-011	284- 17-242	NEW-P	05-03-110
246-915-105	NEW	05-06-021	260- 36-120	AMD	05-05-047	284- 17-244	NEW-P	05-03-110
246-915-180	AMD	05-06-023	260- 36-180	AMD-P	05-02-078	284- 17-246	NEW-P	05-03-110
246-915-350	NEW-P	05-03-008	260- 36-180	AMD	05-05-043	284- 17-248	NEW-P	05-03-110
246-915-990	AMD-P	05-03-008	260- 36-200	AMD-P	05-05-048	284- 17-250	AMD-P	05-03-110
247- 02-050	AMD-X	05-06-045	260- 56-030	REP	05-05-044	284- 17-252	NEW-P	05-03-110
250- 83-010	NEW-P	05-05-073	260- 60-300	AMD-P	05-03-028	284- 17-254	NEW-P	05-03-110
250- 83-020	NEW-P	05-05-073	260- 60-320	REP-P	05-03-028	284- 17-256	NEW-P	05-03-110
250- 83-030	NEW-P	05-05-073	260- 70-520	AMD-P	05-04-086	284- 17-258	NEW-P	05-03-110
250- 83-040	NEW-P	05-05-073	260- 70-530	AMD-P	05-04-086	284- 17-260	AMD-P	05-03-110
250- 83-050	NEW-P	05-05-073	260- 70-540	AMD-P	05-04-086	284- 17-262	NEW-P	05-03-110
250- 83-060	NEW-P	05-05-073	260- 70-545	AMD-P	05-04-086	284- 17-264	NEW-P	05-03-110
250- 83-070	NEW-P	05-05-073	260- 70-550	AMD-P	05-04-086	284- 17-270	AMD-P	05-03-110
251- 06-070	AMD	05-04-042	260- 70-560	AMD-P	05-04-086	284- 17-272	NEW-P	05-03-110
251- 06-072	NEW	05-04-042	260- 70-570	AMD-P	05-04-086	284- 17-274	NEW-P	05-03-110
260- 08-005	AMD	05-05-049	260- 70-580	AMD-P	05-04-086	284- 17-275	REP-P	05-03-110
260- 08-670	REP	05-05-049	260- 70-600	AMD-P	05-04-086	284- 17-276	NEW-P	05-03-110
260- 08-671	NEW	05-05-049	260- 70-610	AMD-P	05-04-086	284- 17-278	NEW-P	05-03-110
260- 08-673	NEW	05-05-049	260- 70-620	AMD-P	05-04-086	284- 17-280	AMD-P	05-03-110
260- 08-675	NEW	05-05-049	260- 70-630	AMD-P	05-04-086	284- 17-282	NEW-P	05-03-110
260- 08-677	NEW	05-05-049	260- 70-640	AMD-P	05-04-086	284- 17-284	NEW-P	05-03-110
260- 08-680	REP	05-05-049	260- 70-645	NEW-P	05-04-086	284- 17-286	NEW-P	05-03-110
260- 08-690	REP	05-05-049	260- 70-650	AMD-P	05-04-086	284- 17-288	NEW-P	05-03-110
260- 08-700	REP	05-05-049	260- 70-660	AMD-P	05-04-086	284- 17-290	AMD-P	05-03-110
260- 08-710	REP	05-05-049	260- 70-670	REP-P	05-04-086	284- 17-292	NEW-P	05-03-110
260- 08-720	REP	05-05-049	260- 70-680	AMD-P	05-04-086	284- 17-294	NEW-P	05-03-110
260- 08-730	REP	05-05-049	260- 70-690	REP-P	05-04-086	284- 17-296	NEW-P	05-03-110
260- 08-740	REP	05-05-049	260- 70-700	REP-P	05-04-086	284- 17-298	NEW-P	05-03-110
260- 08-750	REP	05-05-049	260- 70-720	AMD-P	05-04-086	284- 17-301	NEW-P	05-03-110
260- 08-760	REP	05-05-049	260- 70-730	AMD-P	05-04-086	284- 17-302	NEW-P	05-03-110
260- 08-770	REP	05-05-049	260- 72-050	NEW-P	05-02-077	284- 17-304	NEW-P	05-03-110
260- 08-780	REP	05-05-049	260- 72-050	NEW	05-05-045	284- 17-306	NEW-P	05-03-110
260- 08-790	REP	05-05-049	260- 75-030	AMD	05-05-042	284- 17-308	NEW-P	05-03-110
260- 08-800	REP	05-05-049	260- 75-040	NEW	05-05-042	284- 17-310	AMD-P	05-03-110
260- 08-810	REP	05-05-049	260- 84	AMD-P	05-04-083	284- 17-312	NEW-P	05-03-110
260- 08-820	REP	05-05-049	260- 84-010	REP-P	05-04-083	284- 17-320	AMD-P	05-03-110
260- 08-830	REP	05-05-049	260- 84-020	REP-P	05-04-083	284- 24A-005	AMD-W	05-06-054
260- 24-500	AMD-P	05-04-084	260- 84-030	REP-P	05-04-083	284- 24A-010	AMD-W	05-06-054
260- 24-510	AMD-P	05-04-084	260- 84-050	AMD-P	05-04-083	284- 24A-033	NEW-W	05-06-054

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
284- 24A-045	AMD-W	05-06-054	296- 24-67515	AMD	05-03-093	296-304-02003	AMD	05-03-093
284- 24A-050	AMD-W	05-06-054	296- 24-67517	AMD	05-03-093	296-304-03001	AMD	05-03-093
284- 24A-055	AMD-W	05-06-054	296- 24-71515	AMD	05-03-093	296-304-03005	AMD	05-03-093
284- 24A-065	AMD-W	05-06-054	296- 24-71519	AMD	05-03-093	296-304-03007	AMD	05-03-093
284- 34-010	REP	05-02-076	296- 30-090	AMD-W	05-06-058	296-304-04001	AMD	05-03-093
284- 34-020	REP	05-02-076	296- 45	PREP	05-03-092	296-304-09007	AMD	05-03-093
284- 34-030	REP	05-02-076	296- 54-51150	AMD	05-03-093	296-305-02501	AMD	05-03-093
284- 34-040	REP	05-02-076	296- 56-60001	AMD	05-03-093	296-305-04001	AMD	05-03-093
284- 34-050	REP	05-02-076	296- 56-60005	AMD	05-03-093	296-305-05503	AMD	05-03-093
284- 34-060	REP	05-02-076	296- 56-60053	AMD	05-03-093	296-307-688	NEW-W	05-05-070
284- 34-070	REP	05-02-076	296- 56-60057	AMD	05-03-093	296-307-68805	NEW-W	05-05-070
284- 34-100	NEW	05-02-076	296- 56-60107	AMD	05-03-093	296-307-68810	NEW-W	05-05-070
284- 34-110	NEW	05-02-076	296- 56-60110	AMD	05-03-093	296-307-690	NEW-W	05-05-070
284- 34-120	NEW	05-02-076	296- 56-60235	AMD	05-03-093	296-307-69005	NEW-W	05-05-070
284- 34-130	NEW	05-02-076	296- 62	PREP	05-03-091	296-307-69010	NEW-W	05-05-070
284- 34-140	NEW	05-02-076	296- 62-07306	AMD	05-03-093	296-307-69015	NEW-W	05-05-070
284- 34-150	NEW	05-02-076	296- 62-07329	AMD	05-03-093	296-307-692	NEW-W	05-05-070
284- 34-160	NEW	05-02-076	296- 62-07336	AMD	05-03-093	296-307-69205	NEW-W	05-05-070
284- 34-170	NEW	05-02-076	296- 62-07342	AMD	05-03-093	296-307-69210	NEW-W	05-05-070
284- 34-180	NEW	05-02-076	296- 62-07367	AMD	05-03-093	296-307-694	NEW-W	05-05-070
284- 34-190	NEW	05-02-076	296- 62-07413	AMD	05-03-093	296-307-69405	NEW-W	05-05-070
284- 34-200	NEW	05-02-076	296- 62-07460	AMD	05-03-093	296-307-69410	NEW-W	05-05-070
284- 34-210	NEW	05-02-076	296- 62-07521	AMD	05-03-093	296-307-69415	NEW-W	05-05-070
284- 34-220	NEW	05-02-076	296- 62-07540	AMD	05-03-093	296-307-69420	NEW-W	05-05-070
284- 34-230	NEW	05-02-076	296- 62-07615	AMD	05-03-093	296-307-69425	NEW-W	05-05-070
284- 34-240	NEW	05-02-076	296- 62-07722	AMD	05-03-093	296-307-69430	NEW-W	05-05-070
284- 34-250	NEW	05-02-076	296- 62-14533	AMD	05-03-093	296-307-69435	NEW-W	05-05-070
284- 34-260	NEW	05-02-076	296- 62-20011	AMD	05-03-093	296-307-69440	NEW-W	05-05-070
284- 49-010	AMD	05-02-074	296- 62-20019	AMD	05-03-093	296-307-696	NEW-W	05-05-070
284- 49-020	REP	05-02-074	296- 62-3060	AMD	05-03-093	296-307-69605	NEW-W	05-05-070
284- 49-050	REP	05-02-074	296- 62-3195	AMD	05-03-093	296-307-69610	NEW-W	05-05-070
284- 49-100	REP	05-02-074	296- 62-40001	AMD	05-03-093	296-307-69615	NEW-W	05-05-070
284- 49-115	REP	05-02-074	296- 62-40007	AMD	05-03-093	296-307-69620	NEW-W	05-05-070
284- 49-300	REP	05-02-074	296- 78-665	AMD	05-03-093	296-307-69625	NEW-W	05-05-070
284- 49-330	REP	05-02-074	296- 78-71015	AMD	05-03-093	296-307-69630	NEW-W	05-05-070
284- 49-500	REP	05-02-074	296- 78-71019	AMD	05-03-093	296-307-698	NEW-W	05-05-070
284- 49-510	REP	05-02-074	296- 78-84005	AMD	05-03-093	296-307-69805	NEW-W	05-05-070
284- 49-520	REP	05-02-074	296- 79-29007	AMD	05-03-093	296-307-69810	NEW-W	05-05-070
284- 49-900	REP	05-02-074	296- 96	PREP	05-05-066	296-307-69815	NEW-W	05-05-070
284- 49-999	REP	05-02-074	296- 104	PREP	05-05-068	296-307-69820	NEW-W	05-05-070
284- 54-750	AMD-X	05-03-111	296-104	PREP	05-05-069	296-307-69825	NEW-W	05-05-070
296- 05-303	AMD	05-04-093	296-150C	PREP	05-05-066	296-307-69830	NEW-W	05-05-070
296- 05-316	AMD-P	05-04-092	296-150F	PREP	05-05-066	296-307-700	NEW-W	05-05-070
296- 17	PREP	05-03-090	296-150M	PREP	05-05-066	296-307-70005	NEW-W	05-05-070
296- 17-310041	NEW-W	05-03-088	296-150P	PREP	05-05-066	296-307-702	NEW-W	05-05-070
296- 17-310042	NEW-W	05-03-088	296-150R	PREP	05-05-066	296-400A	PREP	05-05-066
296- 17-310043	NEW-W	05-03-088	296-150T	PREP	05-05-066	296-400A-005	AMD-P	05-06-062
296- 17-310044	NEW-W	05-03-088	296-150V	PREP	05-05-066	296-400A-021	AMD-P	05-06-062
296- 17-310045	NEW-W	05-03-088	296-155-160	AMD	05-03-093	296-400A-022	NEW-P	05-06-062
296- 17-310046	NEW-W	05-03-088	296-155-17317	AMD	05-03-093	296-400A-045	AMD-P	05-06-062
296- 17-310047	NEW-W	05-03-088	296-155-174	AMD	05-03-093	296-46B	PREP	05-05-066
296- 17-31031	NEW-W	05-03-088	296-155-17613	AMD	05-03-093	296-46B-010	AMD-P	05-06-063
296- 17-31032	NEW-W	05-03-088	296-155-17625	AMD	05-03-093	296-46B-020	AMD-P	05-06-063
296- 17-31033	NEW-W	05-03-088	296-155-17652	AMD	05-03-093	296-46B-030	AMD-P	05-06-063
296- 20-010	AMD-P	05-05-065	296-155-20301	AMD	05-03-093	296-46B-110	AMD-P	05-06-063
296- 20-135	AMD-P	05-05-064	296-155-220	AMD	05-03-093	296-46B-210	AMD-P	05-06-063
296- 23-220	AMD-P	05-05-064	296-155-367	AMD	05-03-093	296-46B-220	AMD-P	05-06-063
296- 23-230	AMD-P	05-05-064	296-155-525	AMD	05-03-093	296-46B-225	AMD-P	05-06-063
296- 24	PREP	05-05-067	296-155-655	AMD	05-03-093	296-46B-230	AMD-P	05-06-063
296- 24-58513	AMD	05-03-093	296-155-730	AMD	05-03-093	296-46B-250	AMD-P	05-06-063
296- 24-58515	AMD	05-03-093	296-200A	PREP	05-05-066	296-46B-300	AMD-P	05-06-063
296- 24-58517	AMD	05-03-093	296-301-220	AMD	05-03-093	296-46B-314	AMD-P	05-06-063

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-46B-334	AMD-P	05-06-063	308- 19-315	NEW-P	05-04-105	315- 34-060	AMD-E	05-04-1010
296-46B-410	AMD-P	05-06-063	308- 19-320	NEW-P	05-04-105	315- 34-060	AMD-P	05-04-081
296-46B-527	REP-P	05-06-063	308- 19-400	AMD-P	05-04-105	315- 34-070	REP-E	05-04-01
296-46B-590	NEW-P	05-06-063	308- 19-410	AMD-P	05-04-105	315- 34-070	REP-P	05-04-081
296-46B-700	AMD-P	05-06-063	308- 19-420	AMD-P	05-04-105	315- 34-080	REP-E	05-04-010
296-46B-760	NEW-P	05-06-063	308- 19-430	AMD-P	05-04-105	315- 34-080	REP-P	05-04-081
296-46B-800	AMD-P	05-06-063	308- 19-445	NEW-P	05-04-105	315- 34-090	REP-E	05-04-010
296-46B-900	AMD-P	05-06-063	308- 19-450	NEW-P	05-04-105	315- 34-090	REP-P	05-04-081
296-46B-915	AMD-P	05-06-063	308- 19-455	NEW-P	05-04-105	315- 34-100	REP-E	05-04-010
296-46B-920	AMD-P	05-06-063	308- 19-460	NEW-P	05-04-105	315- 34-100	REP-P	05-04-081
296-46B-925	AMD-P	05-06-063	308- 20-123	NEW	05-04-012	315- 36-010	REP-X	05-05-059
296-46B-930	AMD-P	05-06-063	308- 48-810	PREP	05-04-106	315- 36-020	REP-X	05-05-059
296-46B-935	AMD-P	05-06-063	308- 48-820	PREP	05-04-106	315- 36-030	REP-X	05-05-059
296-46B-940	AMD-P	05-06-063	308- 48-830	PREP	05-04-106	315- 36-040	REP-X	05-05-059
296-46B-945	AMD-P	05-06-063	308- 56A-500	AMD-W	05-02-069AA	315- 36-050	REP-X	05-05-059
296-46B-950	AMD-P	05-06-063	308- 56A-500	AMD-P	05-03-106	315- 36-060	REP-X	05-05-059
296-46B-951	REP-P	05-06-063	308- 56A-530	AMD-W	05-02-069AA	315- 36-070	REP-X	05-05-059
296-46B-955	AMD-P	05-06-063	308- 56A-530	AMD-P	05-03-106	315- 36-080	REP-X	05-05-059
296-46B-960	AMD-P	05-06-063	308- 96A-307	PREP-W	05-03-059	315- 36-080	REP-X	05-05-059
296-46B-965	AMD-P	05-06-063	308- 96A-311	AMD-P	05-03-105	315- 36-090	REP-X	05-05-059
296-46B-970	AMD-P	05-06-063	308- 96A-314	AMD-P	05-03-105	315- 36-100	REP-X	05-05-059
296-46B-998	AMD-P	05-06-063	308-124A-460	PREP	05-03-041	315- 36-110	REP-X	05-05-059
296-46B-999	AMD-P	05-06-063	308-125-200	AMD-P	05-02-095	315- 36-120	REP-X	05-05-059
296-800-160	AMD	05-03-093	308-125-200	AMD	05-05-097	315- 36-130	REP-X	05-05-059
296-824-20005	AMD	05-03-093	308-300-110	AMD	05-05-029	315- 36-140	REP-X	05-05-059
296-824-40005	AMD	05-03-093	315- 10-010	AMD-P	05-04-079	315- 36-150	REP-X	05-05-059
296-824-60005	AMD	05-03-093	315- 10-020	AMD-P	05-04-079	315- 37-010	REP-X	05-03-060
296-824-70005	AMD	05-03-093	315- 10-022	AMD-P	05-04-079	315- 37-020	REP-X	05-03-060
296-824-800	AMD	05-03-093	315- 10-023	AMD-P	05-04-079	315- 37-030	REP-X	05-03-060
296-826	PREP	05-05-067	315- 10-024	AMD-P	05-04-079	315- 37-040	REP-X	05-03-060
296-835-11045	AMD	05-03-093	315- 10-024	AMD-P	05-04-079	315- 37-050	REP-X	05-03-060
296-839-30005	AMD	05-03-093	315- 10-030	AMD-P	05-04-079	315- 37-060	REP-X	05-03-060
296-839-500	AMD	05-03-093	315- 10-035	AMD-P	05-04-079	315- 37-070	REP-X	05-03-060
296-855	PREP	05-03-091	315- 10-040	AMD-P	05-04-079	315- 37-080	REP-X	05-03-060
308- 13-150	AMD	05-04-050	315- 10-055	AMD-P	05-04-079	315- 37-090	REP-X	05-03-060
308- 18-020	AMD-P	05-06-004	315- 10-070	AMD-P	05-04-079	315- 37-100	REP-X	05-03-060
308- 18-240	AMD-P	05-06-004	315- 10-075	AMD-P	05-04-079	315- 37-110	REP-X	05-03-060
308- 18-300	AMD-P	05-06-004	315- 33A-010	AMD-E	05-04-019	315- 37-120	REP-X	05-03-060
308- 18-305	NEW-P	05-06-004	315- 33A-010	AMD-P	05-04-080	315- 38	PREP	05-06-026
308- 19-010	AMD-P	05-04-105	315- 33A-020	AMD-E	05-04-019	332- 30-151	PREP	05-06-098
308- 19-020	AMD-P	05-04-105	315- 33A-020	AMD-P	05-04-080	332-120	PREP	05-02-073
308- 19-030	AMD-P	05-04-105	315- 33A-030	AMD-E	05-04-019	332-130	PREP	05-02-073
308- 19-100	AMD-P	05-04-105	315- 33A-030	AMD-P	05-04-080	352- 28	PREP	05-06-125
308- 19-101	NEW-P	05-04-105	315- 33A-040	AMD-E	05-04-019	356- 10-060	AMD	05-04-043
308- 19-102	NEW-P	05-04-105	315- 33A-040	AMD-P	05-04-080	356- 10-065	NEW	05-04-043
308- 19-105	AMD-P	05-04-105	315- 33A-050	AMD-E	05-04-019	357- 01-255	NEW-W	05-02-061
308- 19-107	AMD-P	05-04-105	315- 33A-050	AMD-P	05-04-080	357- 43-045	NEW-W	05-02-062
308- 19-110	AMD-P	05-04-105	315- 33A-060	AMD-E	05-04-019	357- 58-005	NEW-P	05-04-087
308- 19-120	AMD-P	05-04-105	315- 33A-060	AMD-P	05-04-080	357- 58-010	NEW-P	05-04-087
308- 19-130	AMD-P	05-04-105	315- 33A-070	REP-E	05-04-019	357- 58-015	NEW-P	05-04-087
308- 19-140	AMD-P	05-04-105	315- 34-010	REP-P	05-04-080	357- 58-020	NEW-P	05-04-087
308- 19-150	AMD-P	05-04-105	315- 34-010	AMD-E	05-04-010	357- 58-025	NEW-P	05-04-087
308- 19-160	AMD-P	05-04-105	315- 34-010	AMD-P	05-04-081	357- 58-030	NEW-P	05-04-087
308- 19-160	AMD-P	05-04-105	315- 34-020	AMD-E	05-04-010	357- 58-035	NEW-P	05-04-087
308- 19-200	AMD-P	05-04-105	315- 34-020	AMD-P	05-04-081	357- 58-040	NEW-P	05-04-087
308- 19-210	AMD-P	05-04-105	315- 34-020	AMD-P	05-04-081	357- 58-045	NEW-P	05-04-087
308- 19-220	AMD-P	05-04-105	315- 34-030	AMD-E	05-04-010	357- 58-045	NEW-P	05-04-087
308- 19-220	AMD-P	05-04-105	315- 34-030	AMD-P	05-04-081	357- 58-050	NEW-P	05-04-087
308- 19-230	AMD-P	05-04-105	315- 34-040	AMD-E	05-04-010	357- 58-055	NEW-P	05-04-087
308- 19-240	AMD-P	05-04-105	315- 34-040	AMD-P	05-04-081	357- 58-060	NEW-P	05-04-087
308- 19-250	AMD-P	05-04-105	315- 34-040	AMD-P	05-04-081	357- 58-065	NEW-P	05-04-087
308- 19-300	AMD-P	05-04-105	315- 34-050	AMD-E	05-04-010	357- 58-065	NEW-P	05-04-087
308- 19-300	AMD-P	05-04-105	315- 34-050	AMD-P	05-04-081	357- 58-070	NEW-P	05-04-087
308- 19-305	NEW-P	05-04-105	315- 34-057	AMD-E	05-04-010	357- 58-075	NEW-P	05-04-087
308- 19-310	NEW-P	05-04-105	315- 34-057	AMD-P	05-04-081	357- 58-075	NEW-P	05-04-087
						357- 58-080	NEW-P	05-04-087

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
357-58-085	NEW-P	05-04-087	357-58-395	NEW-P	05-04-089	388-14A-8600	NEW-E	05-03-095
357-58-090	NEW-P	05-04-087	357-58-400	NEW-P	05-04-089	388-25-0225	AMD-P	05-03-082
357-58-095	NEW-P	05-04-087	357-58-405	NEW-P	05-04-091	388-25-0225	AMD	05-06-091
357-58-100	NEW-P	05-04-087	357-58-410	NEW-P	05-04-091	388-25-0225	AMD-E	05-06-093
357-58-105	NEW-P	05-04-087	357-58-415	NEW-P	05-04-091	388-25-0226	NEW-P	05-03-082
357-58-110	NEW-P	05-04-087	357-58-420	NEW-P	05-04-091	388-25-0226	NEW	05-06-091
357-58-115	NEW-P	05-04-087	357-58-425	NEW-P	05-04-091	388-25-0226	NEW-E	05-06-093
357-58-120	NEW-P	05-04-088	357-58-430	NEW-P	05-04-091	388-25-0227	NEW-P	05-03-082
357-58-125	NEW-P	05-04-088	357-58-435	NEW-P	05-04-091	388-25-0227	NEW	05-06-091
357-58-130	NEW-P	05-04-088	357-58-440	NEW-P	05-04-091	388-25-0227	NEW-E	05-06-093
357-58-135	NEW-P	05-04-088	357-58-445	NEW-P	05-04-091	388-25-0228	NEW-P	05-03-082
357-58-140	NEW-P	05-04-088	357-58-450	NEW-P	05-04-091	388-25-0228	NEW	05-06-091
357-58-145	NEW-P	05-04-088	357-58-455	NEW-P	05-04-091	388-25-0228	NEW-E	05-06-093
357-58-150	NEW-P	05-04-088	357-58-460	NEW-P	05-04-091	388-25-0229	NEW-P	05-03-082
357-58-155	NEW-P	05-04-088	357-58-465	NEW-P	05-04-091	388-25-0229	NEW	05-06-091
357-58-160	NEW-P	05-04-088	357-58-470	NEW-P	05-04-091	388-25-0229	NEW-E	05-06-093
357-58-165	NEW-P	05-04-088	357-58-475	NEW-P	05-04-091	388-25-0230	REP-P	05-03-082
357-58-170	NEW-P	05-04-088	357-58-480	NEW-P	05-04-091	388-25-0230	REP	05-06-091
357-58-175	NEW-P	05-04-088	357-58-485	NEW-P	05-04-091	388-25-0230	REP-E	05-06-093
357-58-180	NEW-P	05-04-088	357-58-490	NEW-P	05-04-091	388-25-0231	NEW-P	05-03-082
357-58-185	NEW-P	05-04-088	357-58-495	NEW-P	05-04-091	388-25-0231	NEW	05-06-091
357-58-190	NEW-P	05-04-088	357-58-500	NEW-P	05-04-090	388-25-0231	NEW-E	05-06-093
357-58-195	NEW-P	05-04-088	357-58-505	NEW-P	05-04-090	388-25-1000	NEW-P	05-06-086
357-58-200	NEW-P	05-04-088	357-58-510	NEW-P	05-04-090	388-25-1000	NEW-E	05-06-094
357-58-205	NEW-P	05-04-088	357-58-515	NEW-P	05-04-090	388-25-1010	NEW-P	05-06-086
357-58-210	NEW-P	05-04-088	357-58-520	NEW-P	05-04-090	388-25-1010	NEW-E	05-06-094
357-58-215	NEW-P	05-04-088	357-58-525	NEW-P	05-04-090	388-25-1020	NEW-P	05-06-086
357-58-220	NEW-P	05-04-088	357-58-530	NEW-P	05-04-090	388-25-1020	NEW-E	05-06-094
357-58-225	NEW-P	05-04-088	357-58-535	NEW-P	05-04-090	388-25-1030	NEW-P	05-06-086
357-58-230	NEW-P	05-04-088	357-58-540	NEW-P	05-04-090	388-25-1030	NEW-E	05-06-094
357-58-235	NEW-P	05-04-088	357-58-545	NEW-P	05-04-090	388-25-1040	NEW-P	05-06-086
357-58-240	NEW-P	05-04-089	363-116	PREP	05-04-094	388-25-1040	NEW-E	05-06-094
357-58-245	NEW-P	05-04-089	363-116-082	AMD	05-04-028	388-25-1050	NEW-P	05-06-086
357-58-250	NEW-P	05-04-089	365-110-035	AMD-W	05-06-057	388-25-1050	NEW-E	05-06-094
357-58-255	NEW-P	05-04-089	371-08-305	AMD-E	05-05-005	388-71-0194	REP-P	05-03-096
357-58-260	NEW-P	05-04-089	371-08-335	AMD-E	05-05-005	388-71-0202	REP-P	05-03-096
357-58-265	NEW-P	05-04-089	371-08-345	AMD-E	05-05-005	388-71-0203	REP-P	05-03-096
357-58-270	NEW-P	05-04-089	388-02-0215	PREP	05-06-081	388-71-0205	REP-P	05-03-096
357-58-275	NEW-P	05-04-089	388-14A-3304	AMD-P	05-03-095	388-71-0210	REP-P	05-03-096
357-58-280	NEW-P	05-04-089	388-14A-3310	AMD-P	05-03-095	388-71-0215	REP-P	05-03-096
357-58-285	NEW-P	05-04-089	388-14A-3317	NEW-P	05-03-095	388-71-0220	REP-P	05-03-096
357-58-290	NEW-P	05-04-089	388-14A-3320	AMD-P	05-03-095	388-71-0225	REP-P	05-03-096
357-58-295	NEW-P	05-04-089	388-14A-3321	NEW-E	05-03-095	388-71-0230	REP-P	05-03-096
357-58-300	NEW-P	05-04-089	388-14A-4119	NEW-E	05-03-094	388-71-0235	REP-P	05-03-096
357-58-305	NEW-P	05-04-089	388-14A-4180	NEW-E	05-03-094	388-71-0240	REP-P	05-03-096
357-58-310	NEW-P	05-04-089	388-14A-5000	AMD-P	05-02-063	388-71-0245	REP-P	05-03-096
357-58-315	NEW-P	05-04-089	388-14A-5000	AMD	05-06-014	388-71-0250	REP-P	05-03-096
357-58-320	NEW-P	05-04-089	388-14A-5001	AMD-P	05-02-063	388-71-0255	REP-P	05-03-096
357-58-325	NEW-P	05-04-089	388-14A-5001	AMD	05-06-014	388-71-0260	REP-P	05-03-096
357-58-330	NEW-P	05-04-089	388-14A-5005	AMD-P	05-02-063	388-71-0400	REP-P	05-03-096
357-58-335	NEW-P	05-04-089	388-14A-5005	AMD	05-06-014	388-71-0405	REP-P	05-03-096
357-58-340	NEW-P	05-04-089	388-14A-5008	AMD-P	05-02-063	388-71-0410	REP-P	05-03-096
357-58-345	NEW-P	05-04-089	388-14A-5008	AMD	05-06-014	388-71-0415	REP-P	05-03-096
357-58-350	NEW-P	05-04-089	388-14A-5009	NEW-P	05-02-063	388-71-0420	REP-P	05-03-096
357-58-355	NEW-P	05-04-089	388-14A-5009	NEW	05-06-014	388-71-0425	REP-P	05-03-096
357-58-360	NEW-P	05-04-089	388-14A-5010	NEW-P	05-02-063	388-71-0430	REP-P	05-03-096
357-58-365	NEW-P	05-04-089	388-14A-5010	NEW	05-06-014	388-71-0435	REP-P	05-03-096
357-58-370	NEW-P	05-04-089	388-14A-7100	AMD-P	05-03-095	388-71-0440	REP-P	05-03-096
357-58-375	NEW-P	05-04-089	388-14A-7110	NEW-E	05-03-095	388-71-0442	REP-P	05-03-096
357-58-380	NEW-P	05-04-089	388-14A-7115	NEW-E	05-03-095	388-71-0445	REP-P	05-03-096
357-58-385	NEW-P	05-04-089	388-14A-7117	NEW-E	05-03-095	388-71-0450	REP-P	05-03-096
357-58-390	NEW-P	05-04-089	388-14A-7120	NEW-E	05-03-095	388-71-0455	REP-P	05-03-096

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-101-2350	RECOD	05-05-077	388-106-0515	NEW-P	05-03-096	388-290-0100	PREP	05-06-078
388-101-2360	RECOD	05-05-077	388-106-0520	NEW-P	05-03-096	388-290-0105	PREP	05-06-078
388-101-2370	RECOD	05-05-077	388-106-0525	NEW-P	05-03-096	388-290-0110	PREP	05-06-078
388-101-2380	RECOD	05-05-077	388-106-0530	NEW-P	05-03-096	388-290-0120	PREP	05-06-078
388-106	PREP	05-05-080	388-106-0535	NEW-P	05-03-096	388-290-0200	AMD-E	05-05-024
388-106	PREP	05-06-082	388-106-0600	NEW-P	05-03-096	388-290-0205	AMD-E	05-05-024
388-106	PREP	05-06-083	388-106-0610	NEW-P	05-03-096	388-410-0001	AMD-P	05-05-081
388-106-0005	NEW-P	05-03-096	388-106-0615	NEW-P	05-03-096	388-416-0005	AMD-P	05-05-081
388-106-0010	NEW-P	05-03-096	388-106-0620	NEW-P	05-03-096	388-416-0015	PREP	05-05-079
388-106-0015	NEW-P	05-03-096	388-106-0625	NEW-P	05-03-096	388-418-0005	AMD-P	05-06-089
388-106-0020	NEW-P	05-03-096	388-106-0630	NEW-P	05-03-096	388-418-0011	PREP	05-05-079
388-106-0025	NEW-P	05-03-096	388-106-0650	NEW-P	05-03-096	388-418-0011	AMD-P	05-06-088
388-106-0030	NEW-P	05-03-096	388-106-0655	NEW-P	05-03-096	388-418-0020	AMD-P	05-06-088
388-106-0035	NEW-P	05-03-096	388-106-0700	NEW-P	05-03-096	388-450-0015	AMD	05-03-078
388-106-0040	NEW-P	05-03-096	388-106-0705	NEW-P	05-03-096	388-450-0020	PREP-W	05-02-068
388-106-0045	NEW-P	05-03-096	388-106-0710	NEW-P	05-03-096	388-450-0195	AMD-P	05-06-085
388-106-0050	NEW-P	05-03-096	388-106-0715	NEW-P	05-03-096	388-450-0200	AMD-E	05-03-079
388-106-0055	NEW-P	05-03-096	388-106-0800	NEW-P	05-03-096	388-450-0200	AMD	05-05-025
388-106-0060	NEW-P	05-03-096	388-106-0805	NEW-P	05-03-096	388-462-0015	AMD-P	05-03-081
388-106-0065	NEW-P	05-03-096	388-106-0810	NEW-P	05-03-096	388-475-0550	AMD-E	05-05-088
388-106-0070	NEW-P	05-03-096	388-106-0815	NEW-P	05-03-096	388-475-0700	AMD-E	05-05-088
388-106-0075	NEW-P	05-03-096	388-106-0900	NEW-P	05-03-096	388-475-0800	AMD-E	05-05-088
388-106-0080	NEW-P	05-03-096	388-106-0905	NEW-P	05-03-096	388-475-0820	AMD-E	05-05-088
388-106-0085	NEW-P	05-03-096	388-106-0950	NEW-P	05-03-096	388-475-0860	AMD-E	05-05-088
388-106-0090	NEW-P	05-03-096	388-106-0955	NEW-P	05-03-096	388-478-0070	AMD-P	05-02-091
388-106-0095	NEW-P	05-03-096	388-106-1000	NEW-P	05-03-096	388-478-0070	AMD	05-06-090
388-106-0100	NEW-P	05-03-096	388-106-1005	NEW-P	05-03-096	388-478-0080	AMD-P	05-02-091
388-106-0105	NEW-P	05-03-096	388-106-1010	NEW-P	05-03-096	388-478-0080	AMD	05-06-090
388-106-0110	NEW-P	05-03-096	388-106-1015	NEW-P	05-03-096	388-492-0040	AMD-P	05-05-087
388-106-0115	NEW-P	05-03-096	388-106-1020	NEW-P	05-03-096	388-492-0070	AMD-P	05-05-086
388-106-0120	NEW-P	05-03-096	388-106-1025	NEW-P	05-03-096	388-501-0135	PREP	05-06-079
388-106-0125	NEW-P	05-03-096	388-106-1030	NEW-P	05-03-096	388-501-0200	PREP-W	05-02-068
388-106-0130	NEW-P	05-03-096	388-106-1035	NEW-P	05-03-096	388-513-1325	PREP-W	05-02-068
388-106-0135	NEW-P	05-03-096	388-106-1040	NEW-P	05-03-096	388-513-1340	PREP-W	05-02-068
388-106-0140	NEW-P	05-03-096	388-106-1045	NEW-P	05-03-096	388-513-1350	AMD-P	05-03-109
388-106-0200	NEW-P	05-03-096	388-106-1050	NEW-P	05-03-096	388-513-1380	AMD-P	05-03-109
388-106-0210	NEW-P	05-03-096	388-106-1055	NEW-P	05-03-096	388-515-1505	AMD	05-03-077
388-106-0213	NEW-P	05-03-096	388-106-1100	NEW-P	05-03-096	388-515-1505	PREP	05-06-084
388-106-0220	NEW-P	05-03-096	388-106-1105	NEW-P	05-03-096	388-515-1540	AMD-P	05-03-096
388-106-0225	NEW-P	05-03-096	388-106-1110	NEW-P	05-03-096	388-515-1550	AMD-P	05-03-096
388-106-0230	NEW-P	05-03-096	388-106-1115	NEW-P	05-03-096	388-519-0110	AMD-P	05-05-083
388-106-0235	NEW-P	05-03-096	388-106-1120	NEW-P	05-03-096	388-530-1280	AMD-X	05-06-095
388-106-0300	NEW-P	05-03-096	388-106-1200	NEW-P	05-03-096	388-533-0710	AMD-P	05-05-085
388-106-0305	NEW-P	05-03-096	388-106-1205	NEW-P	05-03-096	388-533-0720	AMD-P	05-05-085
388-106-0310	NEW-P	05-03-096	388-106-1210	NEW-P	05-03-096	388-533-0730	AMD-P	05-05-085
388-106-0315	NEW-P	05-03-096	388-106-1215	NEW-P	05-03-096	388-535-1070	AMD-P	05-03-080
388-106-0320	NEW-P	05-03-096	388-106-1220	NEW-P	05-03-096	388-535-1070	AMD	05-06-092
388-106-0325	NEW-P	05-03-096	388-106-1225	NEW-P	05-03-096	388-538	PREP	05-04-082
388-106-0330	NEW-P	05-03-096	388-106-1230	NEW-P	05-03-096	388-538-112	AMD-E	05-05-038
388-106-0335	NEW-P	05-03-096	388-106-1300	NEW-P	05-03-096	388-546	PREP-W	05-02-068
388-106-0350	NEW-P	05-03-096	388-106-1305	NEW-P	05-03-096	388-550-3300	PREP	05-06-080
388-106-0355	NEW-P	05-03-096	388-106-1310	NEW-P	05-03-096	388-550-3800	AMD	05-06-044
388-106-0360	NEW-P	05-03-096	388-14A-3102	PREP	05-05-078	388-550-4300	PREP	05-06-080
388-106-0400	NEW-P	05-03-096	388-14A-3120	PREP	05-05-078	388-550-4600	PREP	05-06-080
388-106-0410	NEW-P	05-03-096	388-14A-4119	NEW-P	05-05-082	388-550-4800	PREP	05-06-080
388-106-0415	NEW-P	05-03-096	388-14A-4180	NEW-P	05-05-082	388-554-100	NEW	05-04-059
388-106-0420	NEW-P	05-03-096	388-273-0035	AMD-E	05-06-024	388-554-200	NEW	05-04-059
388-106-0425	NEW-P	05-03-096	388-273-0035	PREP	05-06-077	388-554-300	NEW	05-04-059
388-106-0430	NEW-P	05-03-096	388-290-0010	PREP	05-06-078	388-554-400	NEW	05-04-059
388-106-0435	NEW-P	05-03-096	388-290-0025	PREP	05-06-078	388-554-500	NEW	05-04-059
388-106-0500	NEW-P	05-03-096	388-290-0075	PREP	05-06-078	388-554-600	NEW	05-04-059
388-106-0510	NEW-P	05-03-096	388-290-0095	PREP	05-06-078	388-554-700	NEW	05-04-059

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-554-800	NEW	05-04-059	388-820-555	DECOD	05-05-077	388-823-0615	NEW-P	05-04-057
388-555	PREP-W	05-03-083	388-820-560	DECOD	05-05-077	388-823-0700	NEW-P	05-04-057
388-800	PREP	05-02-065	388-820-570	DECOD	05-05-077	388-823-0710	NEW-P	05-04-057
388-820-010	DECOD	05-05-077	388-820-580	DECOD	05-05-077	388-823-0800	NEW-P	05-04-057
388-820-020	DECOD	05-05-077	388-820-590	DECOD	05-05-077	388-823-0810	NEW-P	05-04-057
388-820-030	DECOD	05-05-077	388-820-600	DECOD	05-05-077	388-823-0820	NEW-P	05-04-057
388-820-040	DECOD	05-05-077	388-820-610	DECOD	05-05-077	388-823-0830	NEW-P	05-04-057
388-820-050	DECOD	05-05-077	388-820-620	DECOD	05-05-077	388-823-0840	NEW-P	05-04-057
388-820-060	DECOD	05-05-077	388-820-630	DECOD	05-05-077	388-823-0850	NEW-P	05-04-057
388-820-070	DECOD	05-05-077	388-820-640	DECOD	05-05-077	388-823-0900	NEW-P	05-04-057
388-820-076	DECOD	05-05-077	388-820-650	DECOD	05-05-077	388-823-0910	NEW-P	05-04-057
388-820-080	DECOD	05-05-077	388-820-660	DECOD	05-05-077	388-823-0920	NEW-P	05-04-057
388-820-086	DECOD	05-05-077	388-820-670	DECOD	05-05-077	388-823-0930	NEW-P	05-04-057
388-820-090	DECOD	05-05-077	388-820-680	DECOD	05-05-077	388-823-0940	NEW-P	05-04-057
388-820-100	DECOD	05-05-077	388-820-690	DECOD	05-05-077	388-823-1000	NEW-P	05-04-057
388-820-1010	DECOD	05-05-077	388-820-700	DECOD	05-05-077	388-823-1005	NEW-P	05-04-057
388-820-110	DECOD	05-05-077	388-820-710	DECOD	05-05-077	388-823-1010	NEW-P	05-04-057
388-820-120	DECOD	05-05-077	388-820-720	DECOD	05-05-077	388-823-1015	NEW-P	05-04-057
388-820-130	DECOD	05-05-077	388-820-730	DECOD	05-05-077	388-823-1020	NEW-P	05-04-057
388-820-140	DECOD	05-05-077	388-820-740	DECOD	05-05-077	388-823-1030	NEW-P	05-04-057
388-820-150	DECOD	05-05-077	388-820-750	DECOD	05-05-077	388-823-1040	NEW-P	05-04-057
388-820-160	DECOD	05-05-077	388-820-880	DECOD	05-05-077	388-823-1050	NEW-P	05-04-057
388-820-170	DECOD	05-05-077	388-820-890	DECOD	05-05-077	388-823-1060	NEW-P	05-04-057
388-820-180	DECOD	05-05-077	388-820-900	DECOD	05-05-077	388-823-1070	NEW-P	05-04-057
388-820-190	DECOD	05-05-077	388-820-910	DECOD	05-05-077	388-823-1080	NEW-P	05-04-057
388-820-200	DECOD	05-05-077	388-820-920	DECOD	05-05-077	388-823-1090	NEW-P	05-04-057
388-820-210	DECOD	05-05-077	388-820-930	DECOD	05-05-077	388-823-1095	NEW-P	05-04-057
388-820-220	DECOD	05-05-077	388-823-0010	NEW-P	05-04-057	388-823-1100	NEW-P	05-04-057
388-820-230	DECOD	05-05-077	388-823-0020	NEW-P	05-04-057	388-825-030	REP-P	05-04-057
388-820-240	DECOD	05-05-077	388-823-0030	NEW-P	05-04-057	388-825-035	REP-P	05-04-057
388-820-250	DECOD	05-05-077	388-823-0040	NEW-P	05-04-057	388-825-040	REP-P	05-04-057
388-820-260	DECOD	05-05-077	388-823-0050	NEW-P	05-04-057	388-825-055	AMD-P	05-05-084
388-820-270	DECOD	05-05-077	388-823-0060	NEW-P	05-04-057	388-825-060	REP-P	05-05-084
388-820-280	DECOD	05-05-077	388-823-0070	NEW-P	05-04-057	388-825-064	REP-P	05-05-084
388-820-290	DECOD	05-05-077	388-823-0080	NEW-P	05-04-057	388-825-070	REP-P	05-05-084
388-820-300	DECOD	05-05-077	388-823-0090	NEW-P	05-04-057	388-825-075	REP-P	05-05-084
388-820-310	DECOD	05-05-077	388-823-0100	NEW-P	05-04-057	388-825-076	REP-P	05-05-084
388-820-320	DECOD	05-05-077	388-823-0105	NEW-P	05-04-057	388-825-077	REP-P	05-05-084
388-820-330	DECOD	05-05-077	388-823-0110	NEW-P	05-04-057	388-825-078	REP-P	05-05-084
388-820-340	DECOD	05-05-077	388-823-0120	NEW-P	05-04-057	388-825-085	REP-P	05-05-084
388-820-350	DECOD	05-05-077	388-823-0130	NEW-P	05-04-057	388-825-086	REP-P	05-05-084
388-820-360	DECOD	05-05-077	388-823-0140	NEW-P	05-04-057	388-825-087	REP-P	05-05-084
388-820-370	DECOD	05-05-077	388-823-0150	NEW-P	05-04-057	388-825-090	REP-P	05-05-084
388-820-380	DECOD	05-05-077	388-823-0160	NEW-P	05-04-057	388-825-095	REP-P	05-05-084
388-820-390	DECOD	05-05-077	388-823-0170	NEW-P	05-04-057	388-825-103	AMD-P	05-05-084
388-820-400	DECOD	05-05-077	388-823-0200	NEW-P	05-04-057	388-827	PREP-W	05-02-066
388-820-405	DECOD	05-05-077	388-823-0210	NEW-P	05-04-057	388-827	PREP	05-02-067
388-820-410	DECOD	05-05-077	388-823-0215	NEW-P	05-04-057	388-827-0115	AMD-E	05-05-023
388-820-420	DECOD	05-05-077	388-823-0220	NEW-P	05-04-057	388-827-0115	AMD-P	05-06-087
388-820-430	DECOD	05-05-077	388-823-0230	NEW-P	05-04-057	388-827-0145	AMD-E	05-05-023
388-820-440	DECOD	05-05-077	388-823-0300	NEW-P	05-04-057	388-827-0145	AMD-P	05-06-087
388-820-450	DECOD	05-05-077	388-823-0310	NEW-P	05-04-057	388-845-0005	NEW-E	05-04-020
388-820-460	DECOD	05-05-077	388-823-0320	NEW-P	05-04-057	388-845-0010	NEW-E	05-04-020
388-820-470	DECOD	05-05-077	388-823-0330	NEW-P	05-04-057	388-845-0015	NEW-E	05-04-020
388-820-480	DECOD	05-05-077	388-823-0400	NEW-P	05-04-057	388-845-0020	NEW-E	05-04-020
388-820-490	DECOD	05-05-077	388-823-0410	NEW-P	05-04-057	388-845-0025	NEW-E	05-04-020
388-820-500	DECOD	05-05-077	388-823-0420	NEW-P	05-04-057	388-845-0030	NEW-E	05-04-020
388-820-510	DECOD	05-05-077	388-823-0500	NEW-P	05-04-057	388-845-0035	NEW-E	05-04-020
388-820-520	DECOD	05-05-077	388-823-0510	NEW-P	05-04-057	388-845-0040	NEW-E	05-04-020
388-820-530	DECOD	05-05-077	388-823-0515	NEW-P	05-04-057	388-845-0041	NEW-E	05-04-020
388-820-540	DECOD	05-05-077	388-823-0600	NEW-P	05-04-057	388-845-0045	NEW-E	05-04-020
388-820-550	DECOD	05-05-077	388-823-0610	NEW-P	05-04-057	388-845-0050	NEW-E	05-04-020

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-845-0051	NEW-E	05-04-020	388-845-1500	NEW-E	05-04-020	390- 19-030	AMD-P	05-06-068
388-845-0055	NEW-E	05-04-020	388-845-1505	NEW-E	05-04-020	390- 20-0101	AMD	05-06-070
388-845-0056	NEW-E	05-04-020	388-845-1510	NEW-E	05-04-020	390- 20-110	AMD	05-06-070
388-845-0060	NEW-E	05-04-020	388-845-1515	NEW-E	05-04-020	390- 20-130	AMD-P	05-06-069
388-845-0065	NEW-E	05-04-020	388-845-1600	NEW-E	05-04-020	390- 24-010	AMD	05-06-070
388-845-0070	NEW-E	05-04-020	388-845-1605	NEW-E	05-04-020	390- 24-020	AMD	05-06-070
388-845-0075	NEW-E	05-04-020	388-845-1606	NEW-E	05-04-020	390- 37-060	AMD-P	05-06-068
388-845-0080	NEW-E	05-04-020	388-845-1610	NEW-E	05-04-020	390- 37-090	AMD-P	05-06-068
388-845-0085	NEW-E	05-04-020	388-845-1615	NEW-E	05-04-020	390- 37-160	AMD	05-04-038
388-845-0090	NEW-E	05-04-020	388-845-1620	NEW-E	05-04-020	390- 37-165	AMD	05-04-038
388-845-0095	NEW-E	05-04-020	388-845-1700	NEW-E	05-04-020	390- 37-170	AMD	05-04-038
388-845-0096	NEW-E	05-04-020	388-845-1705	NEW-E	05-04-020	390- 37-175	AMD	05-04-038
388-845-0100	NEW-E	05-04-020	388-845-1710	NEW-E	05-04-020	392-121	PREP	05-06-065
388-845-0105	NEW-E	05-04-020	388-845-1800	NEW-E	05-04-020	392-126	PREP	05-06-027
388-845-0110	NEW-E	05-04-020	388-845-1805	NEW-E	05-04-020	392-139	PREP	05-04-044
388-845-0115	NEW-E	05-04-020	388-845-1810	NEW-E	05-04-020	392-168-110	AMD-P	05-06-066
388-845-0120	NEW-E	05-04-020	388-845-1900	NEW-E	05-04-020	392-168-115	AMD-P	05-06-066
388-845-0200	NEW-E	05-04-020	388-845-1905	NEW-E	05-04-020	392-168-120	REP-P	05-06-066
388-845-0205	NEW-E	05-04-020	388-845-1910	NEW-E	05-04-020	392-168-125	AMD-P	05-06-066
388-845-0210	NEW-E	05-04-020	388-845-2000	NEW-E	05-04-020	392-168-132	AMD-P	05-06-066
388-845-0215	NEW-E	05-04-020	388-845-2005	NEW-E	05-04-020	392-168-135	AMD-P	05-06-066
388-845-0220	NEW-E	05-04-020	388-845-2010	NEW-E	05-04-020	392-168-140	AMD-P	05-06-066
388-845-0300	NEW-E	05-04-020	388-845-2100	NEW-E	05-04-020	392-168-145	AMD-P	05-06-066
388-845-0305	NEW-E	05-04-020	388-845-2105	NEW-E	05-04-020	392-168-155	AMD-P	05-06-066
388-845-0310	NEW-E	05-04-020	388-845-2110	NEW-E	05-04-020	392-168-160	REP-P	05-06-066
388-845-0400	NEW-E	05-04-020	388-845-2200	NEW-E	05-04-020	392-168-165	REP-P	05-06-066
388-845-0405	NEW-E	05-04-020	388-845-2205	NEW-E	05-04-020	392-168-167	REP-P	05-06-066
388-845-0410	NEW-E	05-04-020	388-845-2210	NEW-E	05-04-020	392-168-170	REP-P	05-06-066
388-845-0500	NEW-E	05-04-020	388-845-3000	NEW-E	05-04-020	392-168-180	AMD-P	05-06-066
388-845-0505	NEW-E	05-04-020	388-845-3005	NEW-E	05-04-020	415-108	PREP	05-06-040
388-845-0510	NEW-E	05-04-020	388-845-3010	NEW-E	05-04-020	415-108-728	AMD	05-03-001
388-845-0600	NEW-E	05-04-020	388-845-3015	NEW-E	05-04-020	415-110	PREP	05-06-041
388-845-0605	NEW-E	05-04-020	388-845-3020	NEW-E	05-04-020	415-111-310	PREP	05-04-011
388-845-0610	NEW-E	05-04-020	388-845-3025	NEW-E	05-04-020	415-112-155	AMD	05-03-001
388-845-0700	NEW-E	05-04-020	388-845-3030	NEW-E	05-04-020	415-112-541	AMD	05-03-006
388-845-0705	NEW-E	05-04-020	388-845-3035	NEW-E	05-04-020	434- 04-017	AMD-E	05-06-001
388-845-0710	NEW-E	05-04-020	388-845-3040	NEW-E	05-04-020	434-230-175	NEW-E	05-05-033
388-845-0800	NEW-E	05-04-020	388-845-3045	NEW-E	05-04-020	434-230-177	NEW-E	05-05-033
388-845-0805	NEW-E	05-04-020	388-845-3050	NEW-E	05-04-020	434-253-043	AMD	05-06-035
388-845-0810	NEW-E	05-04-020	388-845-3055	NEW-E	05-04-020	434-253-045	AMD	05-06-035
388-845-0820	NEW-E	05-04-020	388-845-3060	NEW-E	05-04-020	434-253-047	AMD	05-06-035
388-845-0900	NEW-E	05-04-020	388-845-3065	NEW-E	05-04-020	434-253-048	NEW	05-06-035
388-845-0905	NEW-E	05-04-020	388-845-3070	NEW-E	05-04-020	434-253-049	AMD	05-06-035
388-845-0910	NEW-E	05-04-020	388-845-3075	NEW-E	05-04-020	434-253-085	NEW-E	05-05-033
388-845-1000	NEW-E	05-04-020	388-845-3080	NEW-E	05-04-020	434-253-160	AMD	05-06-035
388-845-1010	NEW-E	05-04-020	388-845-3085	NEW-E	05-04-020	434-253-165	NEW	05-06-035
388-845-1015	NEW-E	05-04-020	388-845-3090	NEW-E	05-04-020	434-253-203	NEW	05-06-035
388-845-1100	NEW-E	05-04-020	388-845-3095	NEW-E	05-04-020	434-260-300	AMD	05-06-036
388-845-1105	NEW-E	05-04-020	388-845-4000	NEW-E	05-04-020	434-261-045	NEW-E	05-05-033
388-845-1110	NEW-E	05-04-020	388-845-4005	NEW-E	05-04-020	434-261-110	NEW	05-06-035
388-845-1150	NEW-E	05-04-020	388-845-4010	NEW-E	05-04-020	434-262-203	NEW	05-06-035
388-845-1155	NEW-E	05-04-020	388-845-4015	NEW-E	05-04-020	434-262-204	NEW	05-06-035
388-845-1160	NEW-E	05-04-020	388-850-035	AMD-P	05-05-084	434-333-010	AMD-E	05-05-033
388-845-1200	NEW-E	05-04-020	388-850-045	AMD-P	05-05-084	434-333-010	REP-P	05-05-034
388-845-1205	NEW-E	05-04-020	390	PREP	05-04-037	434-333-013	NEW-E	05-05-033
388-845-1210	NEW-E	05-04-020	390- 16-011	AMD	05-06-070	434-333-015	AMD-E	05-05-033
388-845-1300	NEW-E	05-04-020	390- 16-012	AMD	05-06-070	434-333-015	REP-P	05-05-034
388-845-1305	NEW-E	05-04-020	390- 16-105	AMD-P	05-06-068	434-333-020	AMD-E	05-05-033
388-845-1310	NEW-E	05-04-020	390- 16-125	AMD-P	05-06-068	434-333-020	REP-P	05-05-034
388-845-1400	NEW-E	05-04-020	390- 16-310	AMD	05-06-070	434-333-025	AMD-E	05-05-033
388-845-1405	NEW-E	05-04-020	390- 16-311	REP	05-06-070	434-333-025	REP-P	05-05-034
388-845-1410	NEW-E	05-04-020	390- 17-310	AMD	05-04-039	434-333-030	REP-P	05-05-034

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
434-333-035	AMD-E	05-05-033	434-333-195	NEW-E	05-05-033	434-335-410	NEW-P	05-05-034
434-333-035	REP-P	05-05-034	434-333-200	NEW-E	05-05-033	434-335-420	NEW-P	05-05-034
434-333-040	REP-P	05-05-034	434-333-205	NEW-E	05-05-033	434-335-430	NEW-P	05-05-034
434-333-045	AMD-E	05-05-033	434-333-210	NEW-E	05-05-033	434-335-440	NEW-P	05-05-034
434-333-045	REP-P	05-05-034	434-333-215	NEW-E	05-05-033	434-335-450	NEW-P	05-05-034
434-333-050	AMD-E	05-05-033	434-333-220	NEW-E	05-05-033	434-335-460	NEW-P	05-05-034
434-333-050	REP-P	05-05-034	434-333-225	NEW-E	05-05-033	434-335-470	NEW-P	05-05-034
434-333-055	AMD-E	05-05-033	434-333-230	NEW-E	05-05-033	434-335-480	NEW-P	05-05-034
434-333-055	REP-P	05-05-034	434-333-235	NEW-E	05-05-033	434-335-490	NEW-P	05-05-034
434-333-060	AMD-E	05-05-033	434-333-240	NEW-E	05-05-033	434-335-500	NEW-P	05-05-034
434-333-060	REP-P	05-05-034	434-333-245	NEW-E	05-05-033	434-335-510	NEW-P	05-05-034
434-333-063	REP-P	05-05-034	434-333-250	NEW-E	05-05-033	434-335-520	NEW-P	05-05-034
434-333-065	AMD-E	05-05-033	434-333-255	NEW-E	05-05-033	434-335-530	NEW-P	05-05-034
434-333-065	REP-P	05-05-034	434-333-260	NEW-E	05-05-033	434-335-540	NEW-P	05-05-034
434-333-070	AMD-E	05-05-033	434-333-265	NEW-E	05-05-033	434-335-550	NEW-P	05-05-034
434-333-070	REP-P	05-05-034	434-333-270	NEW-E	05-05-033	434-335-560	NEW-P	05-05-034
434-333-075	AMD-E	05-05-033	434-333-275	NEW-E	05-05-033	434-335-570	NEW-P	05-05-034
434-333-075	REP-P	05-05-034	434-333-280	NEW-E	05-05-033	434-335-580	NEW-P	05-05-034
434-333-080	NEW-E	05-05-033	434-333-285	NEW-E	05-05-033	434-335-590	NEW-P	05-05-034
434-333-082	REP-P	05-05-034	434-333-290	NEW-E	05-05-033	434-335-600	NEW-P	05-05-034
434-333-085	AMD-E	05-05-033	434-333-295	NEW-E	05-05-033	434-335-610	NEW-P	05-05-034
434-333-085	REP-P	05-05-034	434-333-300	NEW-E	05-05-033	434-335-620	NEW-P	05-05-034
434-333-090	AMD-E	05-05-033	434-335-010	NEW-P	05-05-034	434-335-630	NEW-P	05-05-034
434-333-090	REP-P	05-05-034	434-335-020	NEW-P	05-05-034	434-335-640	NEW-P	05-05-034
434-333-095	AMD-E	05-05-033	434-335-030	NEW-P	05-05-034	446- 20-600	AMD	05-03-034
434-333-095	REP-P	05-05-034	434-335-040	NEW-P	05-05-034	446- 20-610	AMD-P	05-03-036
434-333-100	AMD-E	05-05-033	434-335-050	NEW-P	05-05-034	446- 20-630	AMD-P	05-03-035
434-333-100	REP-P	05-05-034	434-335-060	NEW-P	05-05-034	446- 65-010	AMD	05-04-002
434-333-105	AMD-E	05-05-033	434-335-070	NEW-P	05-05-034	458- 12-342	PREP	05-06-017
434-333-105	REP-P	05-05-034	434-335-080	NEW-P	05-05-034	458- 16-1000	NEW-E	05-04-047
434-333-107	NEW-E	05-05-033	434-335-090	NEW-P	05-05-034	458- 16-1000	NEW-P	05-05-063
434-333-110	AMD-E	05-05-033	434-335-100	NEW-P	05-05-034	458- 20-141	AMD	05-03-053
434-333-110	REP-P	05-05-034	434-335-110	NEW-P	05-05-034	458- 20-144	AMD	05-03-052
434-333-115	NEW-E	05-05-033	434-335-120	NEW-P	05-05-034	458- 20-168	AMD-P	05-06-019
434-333-120	AMD-E	05-05-033	434-335-130	NEW-P	05-05-034	458- 20-177	AMD-P	05-06-018
434-333-120	REP-P	05-05-034	434-335-140	NEW-P	05-05-034	458- 20-17803	NEW	05-03-051
434-333-125	AMD-E	05-05-033	434-335-150	NEW-P	05-05-034	458- 20-190	AMD	05-03-002
434-333-125	REP-P	05-05-034	434-335-160	NEW-P	05-05-034	458- 20-191	REP	05-03-002
434-333-127	REP-P	05-05-034	434-335-170	NEW-P	05-05-034	458- 20-194	PREP	05-06-124
434-333-130	AMD-E	05-05-033	434-335-180	NEW-P	05-05-034	458- 20-196	AMD	05-04-048
434-333-130	REP-P	05-05-034	434-335-190	NEW-P	05-05-034	458- 20-198	AMD	05-04-048
434-333-135	AMD-E	05-05-033	434-335-200	NEW-P	05-05-034	458- 20-24001	PREP	05-05-061
434-333-135	REP-P	05-05-034	434-335-210	NEW-P	05-05-034	458- 20-24001A	PREP	05-05-061
434-333-140	AMD-E	05-05-033	434-335-220	NEW-P	05-05-034	458- 20-24003	PREP	05-05-062
434-333-140	REP-P	05-05-034	434-335-230	NEW-P	05-05-034	458- 20-267	NEW-E	05-03-016
434-333-145	AMD-E	05-05-033	434-335-240	NEW-P	05-05-034	458- 20-268	NEW-E	05-03-017
434-333-145	REP-P	05-05-034	434-335-250	NEW-P	05-05-034	458- 20-99999	REP	05-03-002
434-333-150	AMD-E	05-05-033	434-335-260	NEW-P	05-05-034	458- 40-660	PREP	05-06-059
434-333-150	REP-P	05-05-034	434-335-270	NEW-P	05-05-034	460- 24A-105	PREP	05-03-104
434-333-155	AMD-E	05-05-033	434-335-280	NEW-P	05-05-034	463- 60-382	RECOD-W	05-03-087
434-333-155	REP-P	05-05-034	434-335-290	NEW-P	05-05-034	463- 60-385	RECOD-W	05-03-087
434-333-160	AMD-E	05-05-033	434-335-300	NEW-P	05-05-034	463- 60-435	RECOD-W	05-03-087
434-333-160	REP-P	05-05-034	434-335-310	NEW-P	05-05-034	463- 60-525	RECOD-W	05-03-087
434-333-165	AMD-E	05-05-033	434-335-320	NEW-P	05-05-034	463- 60-625	RECOD-W	05-03-087
434-333-165	REP-P	05-05-034	434-335-330	NEW-P	05-05-034	463- 60-645	RECOD-W	05-03-087
434-333-170	AMD-E	05-05-033	434-335-340	NEW-P	05-05-034	463- 60-655	RECOD-W	05-03-087
434-333-170	REP-P	05-05-034	434-335-350	NEW-P	05-05-034	463- 60-665	RECOD-W	05-03-087
434-333-175	AMD-E	05-05-033	434-335-360	NEW-P	05-05-034	463- 60-675	RECOD-W	05-03-087
434-333-175	REP-P	05-05-034	434-335-370	NEW-P	05-05-034	463- 60-680	RECOD-W	05-03-087
434-333-180	NEW-E	05-05-033	434-335-380	NEW-P	05-05-034	463- 60-685	RECOD-W	05-03-087
434-333-185	NEW-E	05-05-033	434-335-390	NEW-P	05-05-034	463- 60-690	RECOD-W	05-03-087
434-333-190	NEW-E	05-05-033	434-335-400	NEW-P	05-05-034	463- 64-060	NEW-W	05-03-087

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
463-66-010	RECOD-W	05-03-087	478-118-100	AMD-P	05-03-071	480-93-010	REP-S	05-02-096
463-70-080	RECOD-W	05-03-087	478-118-200	AMD-P	05-03-071	480-93-012	NEW-S	05-02-096
463-76-020	RECOD-W	05-03-087	478-118-210	AMD-P	05-03-071	480-93-015	AMD-S	05-02-096
463-76-030	RECOD-W	05-03-087	478-118-270	AMD-P	05-03-071	480-93-017	AMD-S	05-02-096
463-76-040	RECOD-W	05-03-087	478-118-290	NEW-P	05-03-071	480-93-018	AMD-S	05-02-096
463-76-050	RECOD-W	05-03-087	478-118-300	NEW-P	05-03-071	480-93-020	AMD-S	05-02-096
463-76-060	RECOD-W	05-03-087	478-118-400	AMD-P	05-03-071	480-93-030	REP-S	05-02-096
468-38	AMD	05-04-053	478-118-410	AMD-P	05-03-071	480-93-040	AMD-S	05-02-096
468-38-001	NEW	05-04-053	478-118-420	AMD-P	05-03-071	480-93-080	AMD-S	05-02-096
468-38-005	NEW	05-04-053	478-118-510	REP-P	05-03-071	480-93-082	REP-S	05-02-096
468-38-010	REP	05-04-053	479-12-150	AMD	05-05-004	480-93-100	AMD-S	05-02-096
468-38-020	REP	05-04-053	479-14-180	AMD	05-05-004	480-93-110	AMD-S	05-02-096
468-38-030	AMD	05-04-053	480-62-218	NEW-W	05-04-008	480-93-111	REP-S	05-02-096
468-38-040	REP	05-04-053	480-70-041	AMD	05-06-051	480-93-112	REP-S	05-02-096
468-38-050	AMD	05-04-053	480-70-051	AMD	05-06-051	480-93-115	AMD-S	05-02-096
468-38-060	REP	05-04-053	480-70-077	NEW	05-06-051	480-93-120	REP-S	05-02-096
468-38-070	AMD	05-04-053	480-70-078	NEW	05-06-051	480-93-124	AMD-S	05-02-096
468-38-071	AMD	05-04-053	480-70-079	NEW	05-06-051	480-93-130	AMD-S	05-02-096
468-38-075	AMD	05-04-053	480-73-010	NEW	05-06-051	480-93-140	AMD-S	05-02-096
468-38-080	AMD	05-04-053	480-73-020	NEW	05-06-051	480-93-150	REP-S	05-02-096
468-38-095	NEW	05-04-053	480-73-030	NEW	05-06-051	480-93-155	AMD-S	05-02-096
468-38-100	AMD	05-04-053	480-73-040	NEW	05-06-051	480-93-160	AMD-S	05-02-096
468-38-110	REP	05-04-053	480-73-050	NEW	05-06-051	480-93-170	AMD-S	05-02-096
468-38-120	AMD	05-04-053	480-73-060	NEW	05-06-051	480-93-175	AMD-S	05-02-096
468-38-130	REP	05-04-053	480-73-110	NEW	05-06-051	480-93-178	NEW-S	05-02-096
468-38-135	REP	05-04-053	480-73-120	NEW	05-06-051	480-93-180	AMD-S	05-02-096
468-38-140	REP	05-04-053	480-73-130	NEW	05-06-051	480-93-183	REP-S	05-02-096
468-38-155	NEW	05-04-053	480-73-140	NEW	05-06-051	480-93-184	REP-S	05-02-096
468-38-160	REP	05-04-053	480-73-150	NEW	05-06-051	480-93-185	AMD-S	05-02-096
468-38-175	NEW	05-04-053	480-73-160	NEW	05-06-051	480-93-186	AMD-S	05-02-096
468-38-180	REP	05-04-053	480-73-180	NEW	05-06-051	480-93-18601	AMD-S	05-02-096
468-38-190	REP	05-04-053	480-73-190	NEW	05-06-051	480-93-187	AMD-S	05-02-096
468-38-200	REP	05-04-053	480-73-210	NEW	05-06-051	480-93-188	AMD-S	05-02-096
468-38-220	REP	05-04-053	480-73-999	NEW	05-06-051	480-93-190	REP-S	05-02-096
468-38-230	REP	05-04-053	480-80-123	AMD	05-03-031	480-93-200	AMD-S	05-02-096
468-38-235	REP	05-04-053	480-80-204	AMD	05-03-031	480-93-210	REP-S	05-02-096
468-38-240	REP	05-04-053	480-80-206	AMD	05-03-031	480-93-220	REP-S	05-02-096
468-38-250	REP	05-04-053	480-90-008	AMD	05-06-051	480-93-223	AMD-S	05-02-096
468-38-260	REP	05-04-053	480-90-023	AMD	05-06-051	480-93-230	AMD-S	05-02-096
468-38-280	AMD	05-04-053	480-90-207	NEW	05-06-051	480-93-999	AMD-S	05-02-096
468-38-290	AMD	05-04-053	480-90-208	REP	05-06-051	480-100-008	AMD	05-06-051
468-38-300	REP	05-04-053	480-90-209	NEW	05-06-051	480-100-023	AMD	05-06-051
468-38-310	REP	05-04-053	480-90-218	REP	05-06-051	480-100-207	NEW	05-06-051
468-38-320	REP	05-04-053	480-90-244	NEW	05-06-051	480-100-208	REP	05-06-051
468-38-330	REP	05-04-053	480-90-245	NEW	05-06-051	480-100-209	NEW	05-06-051
468-38-340	REP	05-04-053	480-90-248	NEW	05-06-051	480-100-218	REP	05-06-051
468-38-350	REP	05-04-053	480-90-252	NEW	05-06-051	480-100-244	NEW	05-06-051
468-38-360	AMD	05-04-053	480-90-257	NEW	05-06-051	480-100-245	NEW	05-06-051
468-38-390	REP	05-04-053	480-90-264	NEW	05-06-051	480-100-248	NEW	05-06-051
468-38-405	AMD	05-04-053	480-90-268	NEW	05-06-051	480-100-252	NEW	05-06-051
468-38-420	AMD	05-04-053	480-90-275	NEW	05-06-051	480-100-257	NEW	05-06-051
468-300-010	AMD-P	05-05-058	480-90-999	AMD	05-06-051	480-100-264	NEW	05-06-051
468-300-020	AMD-P	05-05-058	480-92-016	AMD	05-06-051	480-100-268	NEW	05-06-051
468-300-040	AMD-P	05-05-058	480-92-021	AMD	05-06-051	480-100-275	NEW	05-06-051
468-300-220	AMD-P	05-05-058	480-92-050	AMD	05-06-051	480-100-999	AMD	05-06-051
478-118-010	AMD-P	05-03-071	480-92-055	NEW	05-06-051	480-110-205	AMD-P	05-04-063
478-118-020	AMD-P	05-03-071	480-93	AMD-C	05-06-064	480-110-205	AMD	05-06-051
478-118-045	NEW-P	05-03-071	480-93-002	REP-S	05-02-096	480-110-215	AMD	05-06-051
478-118-050	AMD-P	05-03-071	480-93-005	AMD-S	05-02-096	480-110-225	AMD	05-06-051
478-118-055	NEW-P	05-03-071	480-93-007	NEW-S	05-02-096	480-110-227	NEW	05-06-051
478-118-060	AMD-P	05-03-071	480-93-008	NEW-S	05-02-096	480-110-235	AMD	05-06-051
478-118-080	AMD-P	05-03-071	480-93-009	NEW-S	05-02-096	480-110-245	AMD	05-06-051

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
480-110-255	AMD-P	05-04-063	480-120-303	REP	05-06-051	504- 25-045	AMD-P	05-03-103
480-110-261	NEW	05-06-051	480-120-304	REP	05-06-051	504- 25-050	AMD-P	05-03-103
480-110-265	REP	05-06-051	480-120-305	REP	05-06-051	504- 25-051	AMD-P	05-03-103
480-110-275	REP	05-06-051	480-120-311	REP	05-06-051	504- 25-055	AMD-P	05-03-103
480-110-285	REP	05-06-051	480-120-321	REP	05-06-051	504- 25-060	AMD-P	05-03-103
480-110-295	REP	05-06-051	480-120-322	REP	05-03-031	504- 25-065	AMD-P	05-03-103
480-110-335	AMD	05-06-051	480-120-323	REP	05-06-051	504- 25-070	AMD-P	05-03-103
480-110-355	AMD	05-06-051	480-120-325	NEW	05-06-051	504- 25-085	AMD-P	05-03-103
480-110-365	AMD	05-06-051	480-120-331	NEW	05-06-051	504- 25-090	AMD-P	05-03-103
480-110-375	AMD	05-06-051	480-120-335	NEW	05-06-051	504- 25-095	REP-P	05-03-103
480-110-385	AMD	05-06-051	480-120-339	NEW	05-06-051	504- 25-115	AMD-P	05-03-103
480-110-395	AMD	05-06-051	480-120-344	NEW	05-06-051	504- 25-135	AMD-P	05-03-103
480-110-415	AMD	05-06-051	480-120-349	NEW	05-03-031	504- 25-138	AMD-P	05-03-103
480-110-425	AMD	05-06-051	480-120-352	NEW	05-06-051	504- 25-200	AMD-P	05-03-103
480-110-431	NEW	05-06-051	480-120-355	NEW	05-06-051	504- 25-201	AMD-P	05-03-103
480-110-433	NEW	05-06-051	480-120-359	NEW	05-03-031	504- 25-202	AMD-P	05-03-103
480-110-445	AMD	05-06-051	480-120-369	NEW	05-06-051	504- 25-203	AMD-P	05-03-103
480-110-456	NEW	05-06-051	480-120-375	NEW	05-06-051	504- 25-205	REP-P	05-03-103
480-110-457	NEW	05-06-051	480-120-379	NEW	05-06-051	504- 25-211	NEW-P	05-03-103
480-110-459	NEW	05-06-051	480-120-382	NEW	05-06-051	504- 25-215	AMD-P	05-03-103
480-110-465	AMD	05-06-051	480-120-385	NEW	05-06-051	504- 25-221	AMD-P	05-03-103
480-110-475	REP	05-06-051	480-120-395	NEW	05-06-051	504- 25-223	AMD-P	05-03-103
480-110-485	AMD	05-06-051	480-120-399	NEW	05-06-051	504- 25-224	REP-P	05-03-103
480-110-495	REP	05-06-051	480-120-402	AMD	05-03-031	504- 25-226	AMD-P	05-03-103
480-110-505	NEW	05-06-051	480-120-414	AMD	05-03-031	504- 25-227	AMD-P	05-03-103
480-110-515	NEW	05-06-051	480-120-439	AMD	05-03-031	504- 25-228	REP-P	05-03-103
480-110-535	NEW	05-06-051	480-120-450	AMD	05-03-031	504- 25-229	REP-P	05-03-103
480-110-545	NEW	05-06-051	480-120-540	AMD	05-03-031	504- 25-230	AMD-P	05-03-103
480-110-555	NEW	05-06-051	480-120-999	AMD	05-03-031	504- 25-245	AMD-P	05-03-103
480-110-575	NEW	05-06-051	480-121-063	AMD	05-06-051			
480-120-015	AMD	05-06-051	480-122-020	AMD	05-03-031			
480-120-021	AMD	05-03-031	480-122-060	REP	05-03-031			
480-120-034	NEW	05-03-031	480-146	AMD	05-06-051			
480-120-112	AMD	05-03-031	480-146-350	REP	05-06-051			
480-120-122	AMD	05-03-031	480-146-360	REP	05-06-051			
480-120-128	AMD	05-03-031	495B-116-030	AMD	05-06-011			
480-120-147	AMD	05-03-031	495B-116-040	AMD	05-06-011			
480-120-161	AMD	05-03-031	495B-116-050	AMD	05-06-011			
480-120-166	AMD	05-03-031	495B-116-060	AMD	05-06-011			
480-120-172	AMD	05-03-031	495B-116-080	AMD	05-06-011			
480-120-173	AMD	05-03-031	495B-116-090	AMD	05-06-011			
480-120-174	AMD	05-03-031	495B-116-120	AMD	05-06-011			
480-120-196	AMD	05-03-031	495B-116-150	AMD	05-06-011			
480-120-201	REP	05-03-031	495B-116-160	AMD	05-06-011			
480-120-202	NEW	05-03-031	495B-116-170	AMD	05-06-011			
480-120-203	REP	05-03-031	495B-116-210	AMD	05-06-011			
480-120-204	REP	05-03-031	504- 25-001	AMD-P	05-03-103			
480-120-205	REP	05-03-031	504- 25-002	REP-P	05-03-103			
480-120-206	REP	05-03-031	504- 25-003	AMD-P	05-03-103			
480-120-207	REP	05-03-031	504- 25-011	AMD-P	05-03-103			
480-120-208	REP	05-03-031	504- 25-013	AMD-P	05-03-103			
480-120-209	REP	05-03-031	504- 25-015	REP-P	05-03-103			
480-120-211	REP	05-03-031	504- 25-018	REP-P	05-03-103			
480-120-212	REP	05-03-031	504- 25-020	AMD-P	05-03-103			
480-120-213	REP	05-03-031	504- 25-025	AMD-P	05-03-103			
480-120-214	REP	05-03-031	504- 25-030	AMD-P	05-03-103			
480-120-215	REP	05-03-031	504- 25-032	NEW-P	05-03-103			
480-120-216	REP	05-03-031	504- 25-035	AMD-P	05-03-103			
480-120-253	AMD	05-03-031	504- 25-040	AMD-P	05-03-103			
480-120-262	AMD	05-03-031	504- 25-041	AMD-P	05-03-103			
480-120-301	REP	05-06-051	504- 25-042	AMD-P	05-03-103			
480-120-302	REP	05-03-031	504- 25-043	AMD-P	05-03-103			

Subject/Agency Index

(Citation in bold type refer to material in this issue)

ACADEMIC ACHIEVEMENT AND ACCOUNTABILITY COMMISSION Graduation rate goals	PROP	05-05-100	meetings	MISC	05-05-095
ACCOUNTANCY, BOARD OF Entry requirements Fees	PERM PERM PREP PROP MISC	05-01-135 05-01-136 05-02-051 05-06-038 05-01-138	AIR POLLUTION (See ECOLOGY, DEPARTMENT OF ; individual air pollution control agencies)		
Meetings Rules review and updates	PERM	05-01-137	ATHLETICS (See LICENSING, DEPARTMENT OF)		
ADMINISTRATIVE HEARINGS, OFFICE OF Firearms in facilities	PERM	05-03-003	ATTORNEY GENERAL Notice of request for opinion	MISC MISC MISC	05-03-040 05-06-052 05-06-053
ADVANCED TUITION PAYMENT, COMMITTEE ON Meetings	MISC	05-04-030	BAIL AND BOND AGENCIES (See LICENSING, DEPARTMENT OF)		
AFRICAN AMERICAN AFFAIRS, COMMISSION ON Meetings	MISC MISC	05-01-025 05-02-080	BASIC HEALTH PLAN (See HEALTH CARE AUTHORITY)		
AGING AND ADULT SERVICES (See SOCIAL AND HEATH SERVICES, DEPARTMENT OF)			BATES TECHNICAL COLLEGE Meetings	MISC MISC MISC MISC	05-03-022 05-05-001 05-05-053 05-05-054
AGRICULTURE, DEPARTMENT OF Alfalfa seed commission Apples Asparagus	MISC EXPE PREP EMER EXPE	05-02-022 05-06-100 05-02-004 05-03-032 05-06-102	BELLEVUE COMMUNITY COLLEGE Facilities for first amendment activities Library media center Meetings	PROP PREP MISC	05-04-061 05-05-096 05-01-164
Barley commission meetings	MISC MISC	05-05-056 05-06-012	BELLINGHAM TECHNICAL COLLEGE Meetings	MISC MISC MISC PERM	05-01-024 05-03-030 05-05-010 05-06-011
Blueberry commission meetings Commission Merchant Act Commodity commission elections	MISC PROP EMER PREP EMER PROP MISC PREP MISC MISC	05-05-0104 05-06-112 05-01-031 05-01-159 05-01-160 05-05-098 05-01-101 05-04-077 05-03-014 05-03-098	Parking and traffic		
Dairy products commission Fruit and vegetable inspection program Fryer commission	PREP PROP PERM PROP MISC PREP MISC MISC	05-04-078 05-01-147 05-05-036 05-01-231 05-01-133 05-04-073 05-04-074 05-04-074 05-04-111 EXPE 05-06-101	BIG BEND COMMUNITY COLLEGE Meetings	MISC	05-05-017
Grain and chemical grain inspection program Kaolin clay	PREP PROP PERM PROP MISC PREP PREP PREP PREP	05-04-078 05-01-147 05-05-036 05-01-231 05-01-133 05-04-073 05-04-074 05-04-074 05-04-111 EXPE 05-06-101	BLIND, DEPARTMENT OF SERVICES FOR THE Public hearings Vocational rehabilitation and services	MISC PROP	05-04-021 05-03-116
warehouses Hop commission	PREP PROP MISC PREP PREP PREP PREP	05-04-078 05-01-147 05-05-036 05-01-231 05-01-133 05-04-073 05-04-074 05-04-074 05-04-111 EXPE 05-06-101	BUILDING CODE COUNCIL Building code, international Energy code Fire code, international	PERM PERM PERM EMER PERM MISC MISC	05-01-014 05-01-013 05-01-016 05-06-046 05-01-015 05-01-099 05-04-110
Hops	PREP PROP PREP PREP	05-04-074 05-04-074 05-04-111 EXPE 05-06-101	Mechanical code, international Meetings Public hearings Rules withdrawals	PROP PROP PROP	05-06-055 05-06-056 05-06-057
Italian prunes Noxious weed control board meetings	MISC MISC PERM PREP EXPE	05-01-046 05-04-104 05-01-012 05-06-110 05-06-099	CASCADIA COMMUNITY COLLEGE Rules address and policy compliance updates	PROP PERM	05-01-178 05-06-003
noxious weed list Nursery inspection fees Potatoes Quarantine apple maggot fees and charges	PREP PERM PREP PREP PREP PREP PREP PREP PREP PREP	05-01-179 05-01-180 05-06-109 05-01-179 05-05-099 05-02-056 05-04-062 05-06-097 05-01-230 05-01-232 05-03-042 05-05-050 05-05-051 05-05-052 EXPE 05-06-111 MISC 05-04-027	CENTRAL WASHINGTON UNIVERSITY Equal opportunity/affirmative action	PROP PERM	05-01-155 05-05-057
plum curculio	PREP PERM PREP PROP MISC	05-01-179 05-01-180 05-06-109 05-01-179 05-05-099 05-02-056	CHILD SUPPORT (See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)		
Red raspberry commission Rules agenda withdrawals Seeds and planting stock certification	MISC PREP PROP PROP PERM PERM PERM PERM PERM EXPE MISC	05-04-062 05-06-097 05-01-230 05-01-232 05-03-042 05-05-050 05-05-051 05-05-052 05-06-111 05-04-027	CHIROPRACTIC QUALITY ASSURANCE COMMISSION (See HEALTH, DEPARTMENT OF)		
Weights and measures Wheat commission Wine commission	EXPE MISC	05-06-111 05-04-027	CODE REVISER'S OFFICE Quarterly reports 04-19 - 04-24 See Issue 05-01		
			COLUMBIA BASIN COLLEGE Meetings	MISC	05-02-055
			COLUMBIA RIVER GORGE COMMISSION Scenic area land use ordinance Klickitat County	PROP	05-02-059

Subject/Agency Index

(Citation in bold type refer to material in this issue)

COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, DEPARTMENT OF		Lower and Upper Skagit Salmon-Washougal	PROP 05-04-108 PREP 05-06-116
Community economic revitalization board	MISC	05-06-031	
Public works board	MISC	05-05-030	
COMMUNITY AND TECHNICAL COLLEGES, STATE BOARD FOR		EDMONDS COMMUNITY COLLEGE	
Retirement	PREP	05-05-018	MISC 05-04-034
Ungraded courses, tuition	PREP	05-05-019	
CONVENTION AND TRADE CENTER		EDUCATION, STATE BOARD OF	
Meetings	MISC	05-03-073	
CORRECTIONS, DEPARTMENT OF		Approval standards	
Costs reimbursement, local jurisdictions	EMER	05-05-074	PERM 05-04-056
Meetings	MISC	05-01-134	PROP 05-04-015
	MISC	05-02-049	EMER 05-04-014
Rules			PROP 05-04-018
withdrawals	PROP	05-05-071	PROP 05-04-017
		Library media	MISC 05-01-022
COUNTY ROAD ADMINISTRATION BOARD		Meetings	PERM 05-04-016
Meetings	MISC	05-01-057	PROP 05-04-075
	MISC	05-04-031	PERM 05-04-054
Organization and operation	PROP	05-04-052	
RATA		School accreditation	
construction deadline	EMER	05-04-051	Standards for certification
CRIMINAL JUSTICE TRAINING COMMISSION			
Academy curriculum			EDUCATOR STANDARDS BOARD, PROFESSIONAL
basic community corrections officer	PREP	05-05-014	Exceptions to WEST-B and WEST-E
basic institutional corrections counselor	PREP	05-05-015	PERM 05-04-024
basic misdemeanant probation/classification	PREP	05-05-013	
Corrections	PERM	05-01-111	ELECTIONS
Law enforcement	PERM	05-01-110	(See SECRETARY OF STATE)
	PERM	05-01-112	
	PERM	05-01-114	EMERGENCY SERVICES
	PREP	05-05-012	(See MILITARY DEPARTMENT)
Procedures	PROP	05-03-024	
Public disclosure	PROP	05-03-025	EMPLOYMENT SECURITY, DEPARTMENT OF
Public records	PERM	05-01-109	People with disabilities, employment
DAIRY PRODUCTS COMMISSION			opportunities
(See AGRICULTURE, DEPARTMENT OF)			Rules
DEAF, WASHINGTON STATE SCHOOL FOR THE			agenda
Meetings	MISC	05-06-013	Unemployment insurance program revisions
	PROP	05-06-103	
EASTERN WASHINGTON UNIVERSITY			ENERGY FACILITY SITE EVALUATION COUNCIL
Meetings	MISC	05-04-070	Air rules
ECOLOGY, DEPARTMENT OF			Meetings
Air pollution sources, generally	PERM	05-03-033	Rules
Carbon dioxide mitigation	PERM	05-01-237	withdrawals
Commercial low-level radioactive waste site use			
permit fees	MISC	05-01-086	ENGINEERS
General permit, issuance	MISC	05-01-236	(See LICENSING, DEPARTMENT OF)
	MISC	05-03-100	
	MISC	05-04-109	ENVIRONMENTAL HEARINGS OFFICE
	MISC	05-05-093	Appeals
Instream resources protection program			
Samish River sub-basin	PREP	05-05-076	EVERETT COMMUNITY COLLEGE
Stillaguamish River basin	PROP	05-05-094	Meetings
Natural resource damage assessment committee			
(NRDA)	MISC	05-01-020	EVERGREEN STATE COLLEGE, THE
Policy statements	MISC	05-04-029	Meetings
Public hearings	MISC	05-05-037	MISC 05-03-021
	MISC	05-06-037	FACTORY ASSEMBLED STRUCTURES
Rules			(See LICENSING, DEPARTMENT OF)
agenda	MISC	05-02-081	
withdrawals	PREP	05-01-019	FINANCIAL INSTITUTIONS, DEPARTMENT OF
	PREP	05-05-075	Escrow agents
Solid waste handling standards	PROP	05-01-235	
	PROP	05-03-018	Investment advisors
Toxics cleanup program	MISC	05-01-047	Mortgage broker commission
Water quality management plan	MISC	05-03-108	Rules
Water resources program			agenda
Columbia River	PROP	05-01-140	
Cowlitz	PREP	05-06-114	FINANCIAL MANAGEMENT, OFFICE OF
Entiat River watershed	PROP	05-06-117	Pay dates
Grays-Elochoman	PREP	05-06-113	Public records, disclosure of
Lewis	PREP	05-06-115	Rules
			agenda
			Self-insurance requirements, local governments
			FISH AND WILDLIFE, DEPARTMENT OF
			Aquatic farms
			Commission, fish and wildlife
			meetings
			Fishing, commercial
			aquatic farms
			bottom fish
			catch reporting and accountability

Subject/Agency Index
(Citation in bold type refer to material in this issue)

crab	EMER 05-01-087	Rules	
	EMER 05-02-002	agenda	MISC 05-02-032
	EMER 05-02-028		MISC 05-04-005
	EMER 05-02-048	updates and clarification	PROP 05-06-096
	EMER 05-03-013		
	EMER 05-03-039	GAMBLING COMMISSION	
	EMER 05-03-063	Activity reporting for all licensees	PREP 05-04-103
	EMER 05-04-065	Bingo	PROP 05-03-115
	EMER 05-05-041	Card games	PERM 05-01-023A
	EMER 05-06-034		PREP 05-04-099
geoducks	PROP 05-01-157		PREP 05-04-101
	PERM 05-05-026		PREP 05-06-033
pilchard	PREP 05-01-089	Hearings	PREP 05-01-008
	PROP 05-03-117	Licenses	PREP 05-03-074
salmon	EMER 05-04-068	Nonsufficient funds checks	PREP 05-04-100
	EMER 05-05-091	Promotions related to gambling	PREP 05-04-102
	EMER 05-06-072	Raffles	PROP 05-03-114
sea cucumber	PREP 05-02-045		PREP 05-04-098
	EMER 05-05-040	Recreational activities	PREP 05-06-032
	EMER 05-06-009	Temporary licenses	PREP 05-04-097
sea urchins	EMER 05-01-067		
	EMER 05-01-078	GENERAL ADMINISTRATION, DEPARTMENT OF	
	EMER 05-02-023	Capitol grounds	
	EMER 05-03-068	design advisory committee	MISC 05-01-104
	EMER 05-05-039	state capitol committee	MISC 05-03-066
shellfish		GOVERNOR, OFFICE OF THE	
clams, razor	PROP 05-01-156	Clemency and pardons board	MISC 05-04-022
	PERM 05-05-027		MISC 05-04-033
wild clams, mussels, and oyster fishery	PROP 05-01-234		
smelt	EMER 05-01-176A	GRAYS HARBOR COLLEGE	
	EMER 05-06-042	Meetings	MISC 05-03-004
sturgeon	EMER 05-02-003		MISC 05-05-020
	EMER 05-03-061		
	EMER 05-06-010		
Fishing, recreational		GUARANTEED EDUCATION TUITION COMMITTEE	
Canadian origin fish, delivery	PERM 05-05-046	(See ADVANCED TUITION PAYMENT, COMMISSION ON)	
clams		HEALTH, DEPARTMENT OF	
other than razor	EMER 05-01-131	Blood-borne pathogens	PERM 05-04-112
	EMER 05-06-007	Communicable diseases	PREP 05-03-054
razor	EMER 05-01-029		PERM 05-03-055
	EMER 05-02-047		PROP 05-06-123
	EMER 05-04-064	Dental hygienists	PERM 05-01-018
	EMER 05-06-071	Facility standards and licensing	
crab	EMER 05-01-117	medical test sites	PERM 05-04-040
	EMER 05-01-118	transient accommodations	PERM 05-05-072
	PREP 05-03-067	Health promotion and chronic disease prevention	PROP 05-03-007
exception to statewide rules	PERM 05-03-005		PREP 05-03-010
lingcod	EMER 05-06-008	HIV	
Rat Lake	EMER 05-05-002	early intervention	PREP 05-06-119
rules, areas and seasons	PERM 05-05-035	Immunization of children	PROP 05-04-113
smelt	EMER 05-01-177	Medical records	
	EMER 05-06-043	fees for searching and duplicating	PROP 05-06-121
steelhead	EMER 05-03-062	Newborn screening	PREP 05-06-030
	EMER 05-04-003	Parent/child health	PREP 05-03-056
	EMER 05-05-089	Professional standards and licensing	
sturgeon	EMER 05-01-228	acupuncturists	PROP 05-06-120
	EMER 05-06-006	medical quality assurance commission	PREP 05-01-097
trout	EMER 05-01-088		EXPE 05-01-098
Hunting		midwives	PERM 05-06-118
deer	PROP 05-06-106	physical therapists	PROP 05-03-008
elk	PROP 05-06-107		PERM 05-03-009
game management units	PERM 05-02-046		PERM 05-06-020
	PREP 05-02-092		PERM 05-06-021
seasons and limits	PREP 05-02-092		PERM 05-06-022
	PROP 05-06-108		PERM 05-06-023
Marine preserves	EXPE 05-01-233	vision care, consumer access to	PREP 05-01-017
Public review and comment		Recreational water	EXPE 05-03-057
hatchery and genetic management plans	MISC 05-02-093	Rules	
Raptors, captive propagation	PERM 05-05-008	agenda	MISC 05-01-223
Rock doves	PERM 05-01-113	withdrawals	PREP 05-01-222
Rules		Sewer systems	
agenda	MISC 05-02-007	on-site systems	PROP 05-02-082
Unclassified marine invertebrates, unlawful		Trauma/emergency medical services	
possession and sale	PERM 05-01-132	definitions	PERM 05-01-221
Wildlife		Water systems	
dead nonresident, importation and retention	EMER 05-01-176	public water supplies	PROP 05-01-095
dogs harassing deer and elk	EMER 05-01-093		PREP 05-01-096
			PERM 05-06-122
FOREST PRACTICES BOARD		HEALTH CARE AUTHORITY	
Cultural resources protection	PROP 05-04-007	Pharmacy and therapeutics committee	MISC 05-03-015
Meetings	MISC 05-01-151		
	MISC 05-05-016		

Subject/Agency Index

(Citation in bold type refer to material in this issue)

Public employees benefits board (PEBB) meetings	MISC	05-01-009	Biodiversity council	MISC	05-03-027
Rules withdrawals	PROP	05-02-060	Governor's forum on monitoring	MISC	05-04-066
HEALTH CARE FACILITIES AUTHORITY Signature on bonds, notes, and coupons	EXPE	05-06-045	Interagency committee for outdoor recreation meetings	MISC	05-03-026
HIGHER EDUCATION CONSORTIUM Meetings	MISC	05-03-058		MISC	05-03-070
HIGHER EDUCATION COORDINATING BOARD Admission standards for freshmen	PREP	05-01-145	Rules agenda	MISC	05-01-005
	PROP	05-05-073	Salmon recovery funding board meetings	MISC	05-02-021
HIGHLINE COMMUNITY COLLEGE Meetings	MISC	05-01-165		MISC	05-03-069
	MISC	05-04-023		MISC	05-06-028
HISPANIC AFFAIRS, COMMISSION ON Meetings	MISC	05-01-092	Watershed health and salmon recovery, governor's forum	MISC	05-03-099
HOME CARE QUALITY AUTHORITY Safety training, individual providers	PERM	05-01-158		MISC	05-01-006
HORSE RACING COMMISSION Appeals	PROP	05-01-211	INTEREST RATES (See inside front cover)	MISC	05-02-005
Claiming	PERM	05-05-049		MISC	05-04-067
Communications to and from grounds	PROP	05-03-028	JAIL INDUSTRIES BOARD Meetings	MISC	05-01-056
Controlled medication program	PROP	05-02-077	JUDICIAL CONDUCT, COMMISSION ON Meetings	MISC	05-01-072
Drug and alcohol testing	PERM	05-05-045	Public records	PERM	05-01-021
Fines and suspensions	PROP	05-04-086	LABOR AND INDUSTRIES, DEPARTMENT OF Agriculture		
General rules	PROP	05-04-085	safety standards	PERM	05-01-166
denial of admissions to grounds	PROP	05-01-214	Anhydrous ammonia	PREP	05-05-067
Interpretive/policy statement	PERM	05-05-047	Apprenticeship		
Objections and protests	MISC	05-01-163	geographic expansion, program sponsors	PROP	05-04-092
Occupational permits and licenses	PROP	05-01-213	limited training agent	PERM	05-04-093
	PERM	05-05-044	Arsenic	PERM	05-01-173
Provisional owner's licenses	PROP	05-02-078	Benzene	PERM	05-01-172
	PREP	05-05-011	Boiler rules, board of		
Rules	PERM	05-05-043	fees	PREP	05-05-068
withdrawals	PREP	05-01-154	rules		
Satellite locations	EXPE	05-02-052	clarification	PREP	05-05-069
	PROP	05-01-212	Crime victims' compensation program	PROP	05-01-170
Stewards	PERM	05-05-042		EMER	05-02-031
	PROP	05-04-084	Electrical safety standards, administration, and installation	PROP	05-06-063
HUNTING (See FISH AND WILDLIFE, DEPARTMENT OF)			Electrical workers	PREP	05-03-092
HYDRAULIC APPEALS BOARD (See ENVIRONMENTAL APPEALS OFFICE)			Employer-worker reemployment incentives	PERM	05-01-105
INDUSTRIAL INSURANCE (See LABOR AND INDUSTRIES, DEPARTMENT OF)			Ethylene oxide	PREP	05-03-091
INFORMATION SERVICES, DEPARTMENT OF Meetings	MISC	05-01-153	Explosives	PROP	05-01-171
Public records	PREP	05-02-053	Factory assembled structures		
INSURANCE COMMISSIONER Basic coverage policy (small group)	PERM	05-02-074	codes and standards	PERM	05-01-102
Credit life, credit accident and health insurance	PERM	05-02-076	Fees	PREP	05-05-066
Licensing			Lead	PREP	05-01-169
continuing education	PROP	05-03-110	Medical aid	PREP	05-01-168
Reinsurance contract	EXPE	05-03-111	Physical therapy	PROP	05-05-065
Rules	PERM	05-02-075	Plumbers	PREP	05-01-167
agenda	MISC	05-03-113	Policy and interpretive statements	PROP	05-05-064
withdrawals	PROP	05-06-054	Prevaling wage rates	PROP	05-06-062
Scoring	PERM	05-02-026	Respiratory hazards	MISC	05-02-030
Technical assistance advisory	MISC	05-01-161	Rules	MISC	05-03-089
	MISC	05-01-220	agenda	MISC	05-04-076
	MISC	05-03-112	withdrawals	PROP	05-03-093
INTERAGENCY COMMITTEE, OFFICE OF THE Aquatic lands enhancement account program (ALEA)	PERM	05-01-030	Scaffolds		
			Worker's compensation classifications	PERM	05-01-054
			LAND SURVEYORS (See LICENSING, DEPARTMENT OF)		
			LAW ENFORCEMENT OFFICERS' AND FIREFIGHTERS' PLAN 2 RETIREMENT BOARD		
			Meetings	MISC	05-01-103
				MISC	05-05-031

Subject/Agency Index
(Citation in bold type refer to material in this issue)

LICENSING, DEPARTMENT OF

Bail bond agents PROP 05-04-105
 Brief adjudicative proceedings PERM 05-02-006
 Cemeteries PREP 05-04-107
 Collection agencies **PREP 05-06-005**
 Cosmetologists, barbers, manicurists, and
 estheticians PERM 05-04-012
 Funeral directors and embalmers PREP 05-04-106
 Geologists PERM 05-01-174
 MISC 05-04-032
 Interpretive statements MISC 05-04-013
 Landscape architects PROP 05-01-094
 PERM 05-04-050
 Manufactured homes
 certificate of title PERM 05-01-209
 Master licenses PERM 05-05-029
 Motor vehicles
 certificates of title PROP 05-01-226
 PROP 05-03-106
 PERM 05-01-001
 licenses PERM 05-01-002
 PERM 05-01-003
 PROP 05-03-105
 On-site wastewater treatment
 fees for designers and inspectors PREP 05-01-143
 reciprocity PERM 05-01-048
 Private security guards **PROP 05-06-004**
 Real estate
 appraisers PROP 05-02-095
 PERM 05-05-097
 PROP 05-02-095
 PREP 05-03-041
 brokers and salespersons
 Rules
 agenda MISC 05-02-058
 withdrawals PROP 05-02-069A
 PREP 05-03-059
 PERM 05-01-090
 Snowmobiles
 Special license plates
 Help Kids Speak PERM 05-01-210
 Wreckers PROP 05-01-227

LIQUOR CONTROL BOARD

Rules
 coordinator MISC 05-04-071

LOTTERY COMMISSION

General lottery rules PREP 05-01-084
 Instant games
 games commencing at 100
 general rules PREP 05-01-082
 PREP 05-01-083
 PROP 05-04-079
 Lotto 6 of 49 PREP 05-01-080
 EMER 05-04-010
 PROP 05-04-081
 Lotto Plus EXPE 05-03-060
 Lucky for Life EXPE 05-05-059
 Meetings MISC 05-03-023
 Mega Million **PREP 05-06-026**
 Quinto PREP 05-01-081
 EMER 05-04-019
 PROP 05-04-080

LOWER COLUMBIA COLLEGE

Meetings MISC 05-01-149

MANUFACTURED HOMES

(See LICENSING, DEPARTMENT OF)

MEDICAL ASSISTANCE

(See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)

MEDICAL CARE

(See HEALTH, DEPARTMENT OF)

MINORITY AND WOMEN'S BUSINESS ENTERPRISES, OFFICE OF

Rules
 agenda MISC 05-04-001

NATURAL RESOURCES, DEPARTMENT OF

Aquatic lands **PREP 05-06-098**
 Meetings MISC 05-01-023

Rules
 agenda MISC 05-02-024
 coordinator MISC 05-04-009
 Stray logs PERM 05-01-116
 Surveys
 monuments, removal or destruction PREP 05-02-073
 standards PREP 05-02-073

NOXIOUS WEED CONTROL BOARD
(See AGRICULTURE, DEPARTMENT OF)

NURSING CARE
(See HEALTH, DEPARTMENT OF)

OLYMPIC COLLEGE

Meetings MISC 05-01-077
 Student conduct code **PREP 05-01-107**
 PROP 05-06-029

OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR
(See INTERAGENCY COMMITTEE, OFFICE OF THE)

PARKS AND RECREATION COMMISSION

Meetings MISC 05-01-085
 MISC 05-01-108
 Nonmarine edible plants and edible fruiting
 bodies **PREP 05-06-125**
 Ocean beaches PERM 05-01-068
 Public use of state park areas PERM 05-01-069

PENINSULA COLLEGE

Meetings MISC 05-02-079

PERSONNEL, DEPARTMENT OF

Director's meetings MISC 05-04-041
 General government
 allocation reviews PERM 05-04-043
 classification PROP 05-01-243
 Higher education
 allocation appeals PERM 05-04-042
 classification PROP 05-01-241
 Personnel resources board
 affirmative action PERM 05-01-197
 appeals and hearings PERM 05-01-190
 PERM 05-01-191
 appointment and reemployment PERM 05-01-192
 PERM 05-01-199
 PERM 05-01-206
 classification PERM 05-01-201
 combined fund drive PROP 05-01-240
 PROP 05-01-245
 compensation PERM 05-01-205
 definitions PERM 05-01-204
 PROP 05-01-244
 director's review PERM 05-01-182
 PERM 05-01-183
 employee business units PERM 05-01-185
 PERM 05-01-186
 PERM 05-01-193
 employee training and development
 general provisions PERM 05-01-195
 layoff and separation PERM 05-01-203
 PERM 05-01-184
 PERM 05-01-189
 PROP 05-01-242
 PROP 05-01-246
 PROP 05-01-247
 PROP 05-01-248
 PROP 05-01-249
 PROP 05-01-250
 management service employees PROP 05-04-087
 PROP 05-04-088
 PROP 05-04-089
 PROP 05-04-090
 PROP 05-04-091
 performance management PERM 05-01-194
 personnel files PERM 05-01-198
 public records PERM 05-01-202
 reasonable accommodation PERM 05-01-196
 recruitment, assessment, and certification
 PERM 05-01-187
 PERM 05-01-188
 PERM 05-01-200

Subject/Agency Index

(Citation in bold type refer to material in this issue)

<p>Rules withdrawals</p>	<p>PROP 05-01-238 PROP 05-01-239 PROP 05-02-061 PROP 05-02-062</p>	<p>Meetings Rules unnecessary rules, repeal</p>	<p>MISC 05-01-106 PROP 05-03-102 PERM 05-06-050</p>
PERSONNEL RESOURCES BOARD (See PERSONNEL, DEPARTMENT OF)			
PIERCE COLLEGE Meetings			
	MISC 05-01-034 MISC 05-06-047		
PILOTAGE COMMISSIONERS, BOARD OF Licenses qualifications and procedures Limitations on new pilots Meetings Workshops and committee meetings			
	PREP 05-04-094 PERM 05-04-028 MISC 05-06-048 MISC 05-06-061		
PLUMBERS, ADVISORY BOARD OF (See LABOR AND INDUSTRIES, DEPARTMENT OF)			
POLLUTION CONTROL HEARINGS BOARD (See ENVIRONMENTAL HEARINGS BOARD)			
PRISONS AND PRISONERS (See CORRECTIONS, DEPARTMENT OF)			
PROFESSIONAL EDUCATOR STANDARDS BOARD (See EDUCATOR STANDARDS BOARD, PROFESSIONAL)			
PROPERTY TAX (See REVENUE, DEPARTMENT OF)			
PUBLIC ASSISTANCE (See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)			
PUBLIC DISCLOSURE COMMISSION Affiliated entities and contribution limits Doing business in Washington, definition Enforcement hearing (adjudicative procedure) rules			
	PREP 05-04-037 PERM 05-04-039 PREP 05-01-027 PROP 05-01-028 PERM 05-04-038 PROP 05-06-068		
Forms campaign financing reporting, contributions			
	EXPE 05-01-139 PERM 05-06-070		
lobbying reports, elected officials and legislators			
	EXPE 05-01-139 PREP 05-02-008 PROP 05-06-069		
Meetings Rules agenda			
	MISC 05-01-049 MISC 05-04-069		
PUBLIC EMPLOYEES BENEFITS BOARD (See HEALTH CARE AUTHORITY)			
PUBLIC EMPLOYMENT RELATIONS COMMISSION Meetings			
	MISC 05-01-070		
PUBLIC HEALTH BENEFITS BOARD (See HEALTH CARE AUTHORITY)			
PUBLIC INSTRUCTION, SUPERINTENDENT OF Complaint resolution procedure			
	PREP 05-01-175 PROP 05-06-066		
Finance general apportionment maintenance and operation levies shared leave Rules coordinator			
	PREP 05-06-065 PREP 05-04-044 PREP 05-06-027 MISC 05-03-012		
PUBLIC WORKS BOARD (See COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)			
PUGET SOUND CLEAN AIR AGENCY Asbestos			
	PERM 05-01-141		
QUARTERLY REPORTS (See CODE REVISER'S OFFICE)			
REAL ESTATE APPRAISERS (See LICENSING, DEPARTMENT OF)			
RENTON TECHNICAL COLLEGE Meetings			
		MISC 05-01-152	
RETIREMENT SYSTEMS, DEPARTMENT OF Plan 3, defined contribution plans Public employees' retirement system clarifications and updates TRS and PERS concurrent employment Rules agenda School employee's retirement system clarifications and updates Teachers' retirement system school year			
		PREP 05-04-011 PREP 05-06-040 PERM 05-03-001 MISC 05-01-100 PREP 05-06-041 PERM 05-03-006	
REVENUE, DEPARTMENT OF Excise tax alternative energy, tax exemption annual reports for the tax adjustments annual surveys for tax adjustments bad debt and credit losses carbonated beverage syrup cigarettes doing business inside and outside the state duplicating activities and mailing bureaus freight and delivery charges health care facilities high technology businesses, tax incentives manufacturing and research/development activities in rural counties manufacturing and research/development facilities nonresidents, vehicle sales to printing industry promotional material, use tax sales to and by the USA Forest land and timber			
		PERM 05-02-036 EMER 05-03-016 EMER 05-03-017 PERM 05-04-048 PERM 05-02-009 PERM 05-02-035 PREP 05-06-124 PERM 05-03-053 PERM 05-02-039 PROP 05-06-019 PREP 05-05-062 PERM 05-01-079 PROP 05-06-018 PERM 05-03-052 PERM 05-03-051 PERM 05-03-002 PERM 05-02-037 PERM 05-02-040 PREP 05-06-059 MISC 05-01-010 MISC 05-01-011 MISC 05-01-050 MISC 05-02-070 MISC 05-02-071 MISC 05-02-072 MISC 05-04-045 MISC 05-04-046 MISC 05-05-007 MISC 05-05-060 MISC 05-06-060 PERM 05-01-051 PERM 05-01-052	
			Interpretive statements
			Open space taxation
			Property tax assessments and assessors
			Indian tribes, exemptions
			Real property appraisers Rules agenda
			MISC 05-02-097
RULES COORDINATORS Liquor control board Public instruction, superintendent of Shoreline Community College Walla Walla Community College (See Issue 05-01 for complete list designated as of 12/27/2004)			
		MISC 05-04-071 MISC 05-03-012 MISC 05-02-054 MISC 05-04-035	

Subject/Agency Index

(Citation in bold type refer to material in this issue)

SALARIES FOR ELECTED OFFICIALS, WASHINGTON

CITIZENS' COMMISSION ON
 Meetings MISC 05-01-162
 MISC 05-02-069

SCHOOLS (See EDUCATION, DEPARTMENT OF)

SEATTLE COMMUNITY COLLEGE
 Meetings MISC 05-04-060

SECRETARY OF STATE

Address confidentiality program PROP 05-02-001
 Elections administrators PROP 05-01-207
 PERM 05-06-036
 PROP 05-01-208
 PERM 05-06-035
 PREP 05-03-076
 Help America Vote Act
 local government grant program
 statewide voter registration list
 reimbursement for development costs
 voting systems PREP 05-05-032
 EMER 05-05-033
 PROP 05-05-034
 EMER 05-06-001
 Flag, state flag contract
 Initiatives filing PREP 05-06-002

SHORELINE COMMUNITY COLLEGE

Meetings MISC 05-06-015
 MISC 05-06-016
 Rules coordinator MISC 05-02-054

SKAGIT VALLEY COLLEGE

Meetings MISC 05-01-148
 MISC 05-05-028
 MISC 05-06-049

SOCIAL AND HEALTH SERVICES, DEPARTMENT OF

Aging and adult services
 adult family home licensing PROP 05-04-058
 community residential services and support MISC 05-05-077
 comprehensive assessment reporting evaluation tool (CARE) PROP 05-03-096
 home and community services PERM 05-02-064
 long-term care services PREP 05-01-128
 PREP 05-06-082
 PREP 05-06-083
 PREP 05-05-080
 PREP 05-02-065
 new freedom waiver
 Alcohol and substance abuse Assistance programs
 assistance units PERM 05-02-017
 PROP 05-05-081
 benefit error PERM 05-02-015
 benefit issuance PERM 05-01-126
 certification periods PREP 05-05-079
 change of circumstance PROP 05-06-088
 PROP 05-06-089
 food assistance PERM 05-02-016
 PROP 05-05-081
 PROP 05-06-085
 income PROP 05-01-073
 PERM 05-03-078
 EMER 05-03-079
 PERM 05-05-025
 EMER 05-05-088
 SSI-related medical standards for payment PERM 05-01-074
 EMER 05-01-125
 PROP 05-02-091
 PERM 05-06-090
 EMER 05-06-024
 PREP 05-06-077
 telephone assistance
 Washington combined application project (WASHCAP) PROP 05-05-086
 PROP 05-05-087
 working connections child care (WCCC) EMER 05-05-024
 PERM 05-06-078
 Child care agencies/licensing requirements
 pregnant and parenting teen programs and facilities PERM 05-01-075
 Child support EXPE 05-02-019
 PROP 05-02-063

Child welfare services foster care

EMER 05-03-094
 PROP 05-03-095
 PREP 05-05-078
 PROP 05-05-082
 PERM 05-06-014

PROP 05-03-082
 PROP 05-06-086
 PERM 05-06-091
 EMER 05-06-093
 EMER 05-06-094

Developmental disabilities services community residential services and support county plan home and community based service waivers service rules

PREP 05-01-127
 PROP 05-05-084
 EMER 05-04-020
 EMER 05-01-123
 PROP 05-04-057
 PROP 05-05-084
 EMER 05-01-124
 PREP 05-02-067
 EMER 05-05-023
 PROP 05-06-087
 PERM 05-02-018
 PREP 05-06-081

state supplemental payment (SSP)

Hearing rules

Medical assistance administration

general
 alternate living - institutional medical

PREP 05-06-079
 EMER 05-01-219
 PERM 05-03-077
 PREP 05-06-084
 EMER 05-02-043
 PROP 05-03-109
 PROP 05-03-080
 PERM 05-06-092
 PERM 05-04-059
 PERM 05-01-026
 PREP 05-01-129
 PERM 05-06-044
 PREP 05-06-080

client not in home

dental-related services

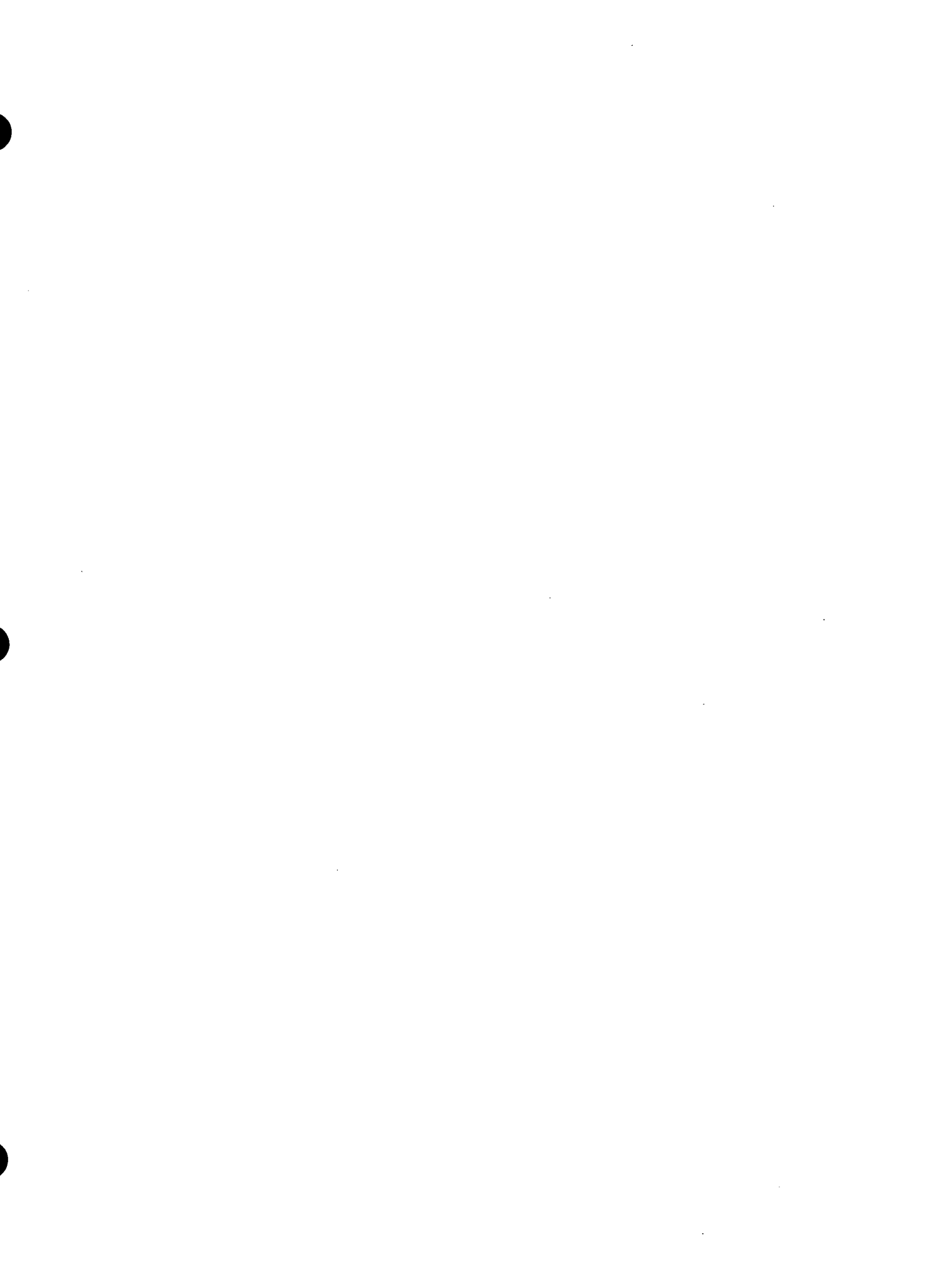
enteral nutrition program hospital services

MISC 05-01-058
 MISC 05-01-059
 MISC 05-01-060
 MISC 05-01-061
 MISC 05-01-062
 MISC 05-01-063
 MISC 05-01-119
 MISC 05-01-120
 MISC 05-01-121
 MISC 05-01-122
 MISC 05-01-215
 MISC 05-01-216
 MISC 05-01-217
 MISC 05-01-218
 MISC 05-02-011
 MISC 05-02-083
 MISC 05-02-084
 MISC 05-02-085
 MISC 05-02-086
 MISC 05-02-087
 MISC 05-02-088
 MISC 05-02-089
 MISC 05-02-090
 MISC 05-03-044
 MISC 05-03-045
 MISC 05-03-046
 MISC 05-03-047
 MISC 05-03-048
 MISC 05-03-049
 MISC 05-03-050
 MISC 05-03-084
 MISC 05-03-085
 MISC 05-03-086
 MISC 05-05-021
 MISC 05-05-022
 MISC 05-06-025
 MISC 05-06-074
 MISC 05-06-075
 MISC 05-06-076
 PERM 05-01-066
 PREP 05-04-082
 EMER 05-05-038

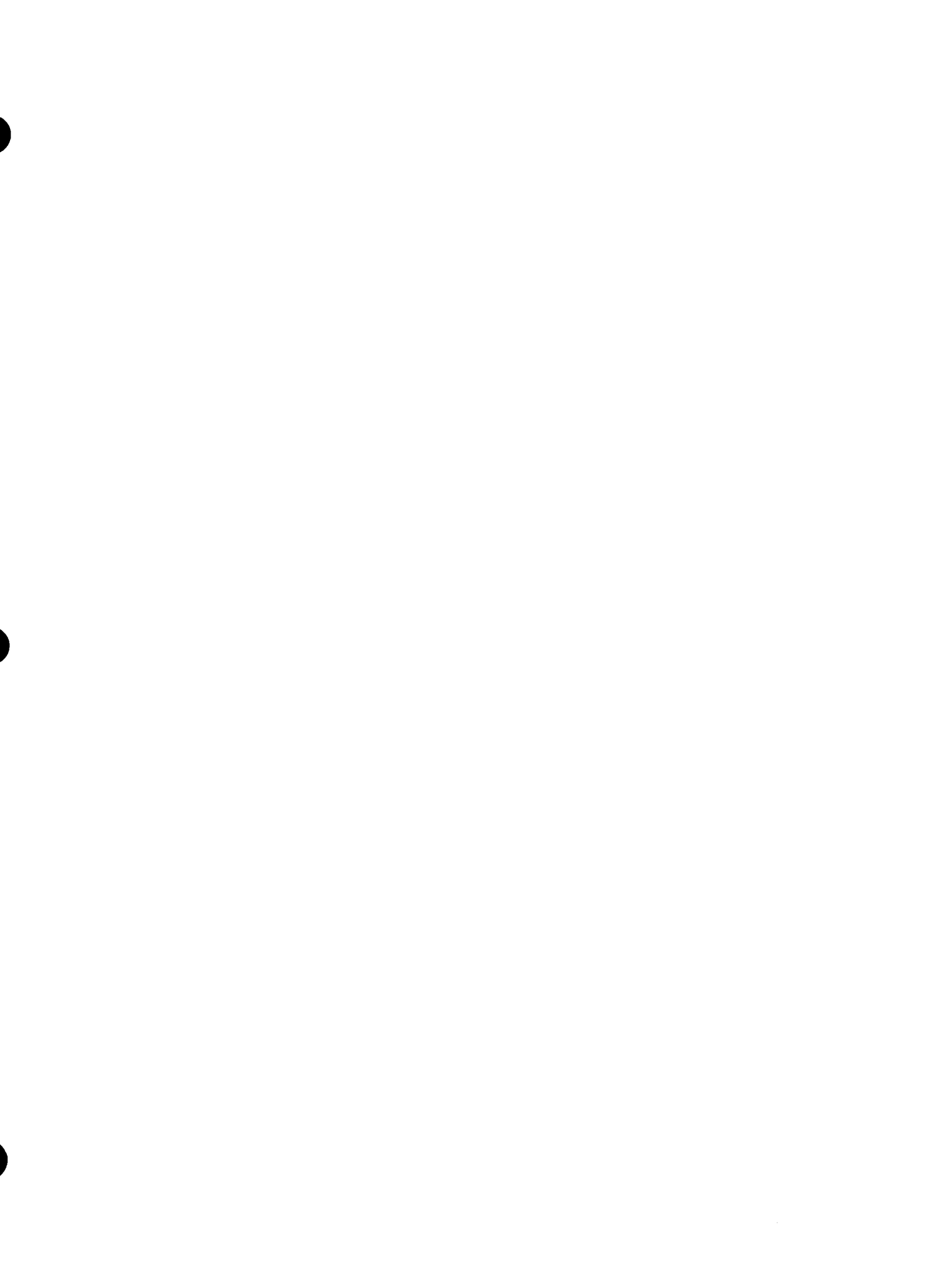
managed care

Subject/Agency Index
(Citation in bold type refer to material in this issue)

maternity-related services	PERM 05-01-065		MISC 05-05-009
	PROP 05-05-085		MISC 05-05-055
orthodontic services	PERM 05-01-064		
pharmacy services	PERM 05-02-044	Parking and traffic	PROP 05-03-071
	EXPE 05-06-095	Tacoma campus	MISC 05-03-072
pregnancy	PROP 05-03-081	Policy statements	
spenddown	PROP 05-05-083	Rules	
SSI-related medical	EMER 05-05-088	agenda	MISC 05-03-019
Rules		updates	EXPE 05-02-025
agenda	MISC 05-03-043		
withdrawals	PREP 05-01-130	USURY RATE	
	PREP 05-02-066	(See inside cover)	
	PREP 05-02-068		
	PREP 05-03-083	UTILITIES AND TRANSPORTATION COMMISSION	
WASHCAP	PREP 05-02-012	Gas companies	PROP 05-02-096
	EMER 05-02-013		PROP 05-06-064
	PREP 05-02-041	Reporting of transactions	PROP 05-01-224
	EMER 05-02-042		PERM 05-06-051
WorkFirst	PERM 05-02-014	Rules	
		agenda	MISC 05-01-225
SOUTH PUGET SOUND COMMUNITY COLLEGE		withdrawals	PROP 05-04-008
Meetings	MISC 05-02-050	Telephone companies	PERM 05-03-031
		Water companies	PROP 05-04-063
SPORTS, PROFESSIONAL			
(See LICENSING, DEPARTMENT OF; HORSE RACING		VOLUNTEER FIREFIGHTERS AND RESERVE OFFICERS,	
COMMISSION)		BOARD FOR	
		Meetings	MISC 05-01-150
SUPREME COURT, STATE		WALLA WALLA COMMUNITY COLLEGE	
General application, rules of	MISC 05-01-037	Meetings	MISC 05-01-032
	MISC 05-01-038		MISC 05-01-033
	MISC 05-01-039		MISC 05-04-036
	MISC 05-01-040	Rules	
	MISC 05-01-042	coordinator	MISC 05-04-035
	MISC 05-01-044		
	MISC 05-01-045	WASHINGTON STATE PATROL	
Limited jurisdiction, courts of	MISC 05-01-041	Background checks	
	MISC 05-01-043	fees	PERM 05-03-034
	MISC 05-01-044		PROP 05-03-035
Superior court	MISC 05-01-041		PROP 05-03-036
TACOMA COMMUNITY COLLEGE		Commercial vehicles	
Meetings	MISC 05-02-057	federal enforcement regulations	PERM 05-04-002
	MISC 05-04-095	Fire protection policy board	MISC 05-03-065
		Fire sprinkler system contractors	PERM 05-05-006
		School bus warning lamps	PERM 05-02-020
TAX APPEALS, BOARD OF		WASHINGTON STATE UNIVERSITY	
Meetings	MISC 05-01-071	Conduct for students, standards	PROP 05-03-103
TOXICOLOGIST, STATE		WASTEWATER	
Portable breath test devices	PREP 05-01-142	(See ECOLOGY, DEPARTMENT OF; LICENSING, DEPARTMENT	
		OF)	
TRANSPORTATION, DEPARTMENT OF		WATER	
Commission meetings	PERM 05-01-115	(See ECOLOGY, DEPARTMENT OF)	
Ferries and toll bridges, state	PREP 05-01-105A		
	PROP 05-05-058	WENATCHEE VALLEY COLLEGE	
Specialized mobile equipment	PREP 05-05-092	Meetings	MISC 05-01-091
Vehicle size and weight	PROP 05-01-146		
	PREP 05-03-075	WHATCOM COMMUNITY COLLEGE	
	PERM 05-04-053	Meetings	MISC 05-01-144
			MISC 05-03-097
TRANSPORTATION COMMISSION			
Meetings	MISC 05-04-096		
TRANSPORTATION IMPROVEMENT BOARD			
Arterial improvement program	PERM 05-05-004		
TREASURER'S OFFICE			
Usury rate (See inside cover)			
UNEMPLOYMENT COMPENSATION			
(See EMPLOYMENT SECURITY DEPARTMENT)			
UNIFORM COMMERCIAL CODE			
(See LICENSING, DEPARTMENT OF)			
UNIVERSITY OF WASHINGTON			
Meetings	MISC 05-02-033		
	MISC 05-03-020		
	MISC 05-03-029		
	MISC 05-03-101		
	MISC 05-04-004		
	MISC 05-04-049		







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