

**WSR 09-10-004**  
**PROPOSED RULES**  
**BOARD OF**  
**PILOTAGE COMMISSIONERS**

[Filed April 22, 2009, 1:42 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 363-116-185 Pilotage rates for the Grays Harbor pilotage district.

Hearing Location(s): 2901 Third Avenue, 1st Floor, Agate Conference Room, Seattle, WA 98121, on June 11, 2009, at 9:30 a.m.

Date of Intended Adoption: June 11, 2009.

Submit Written Comments to: Captain Harry Dudley, Chairman, 2901 Third Avenue, Suite 500, Seattle, WA 98121, e-mail [larsonp@wsdot.wa.gov](mailto:larsonp@wsdot.wa.gov), fax (206) 515-3906, by June 4, 2009.

Assistance for Persons with Disabilities: Contact Judy Bell by June 8, 2009, (206) 515-3647.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to establish a 2009-2010 Grays Harbor pilotage district annual tariff.

The proposed rule reflects an effective overall increase to the tariff of 2.8% or \$176 per pilotage job, as specified in the following tariff categories:

*Draft and Tonnage Charges, Harbor Shifts and Bridge Transits:* It is proposed that all items in these three categories be increased by 3%.

*Boarding Charge and Travel Allowance:* It is proposed that these two categories remain the same.

*Pension Charge:* It is proposed that the charge per pilotage assignment, including cancellations, be increased by \$29.00.

It is proposed that a new category be added to establish charges in a case where two pilots are employed for a single vessel movement.

Reasons Supporting Proposal: RCW 88.16.035 requires that a tariff be set annually.

Statutory Authority for Adoption: RCW 88.16.035.

Statute Being Implemented: Chapter 88.16 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: Current rates for the Grays Harbor pilotage district expire on July 31, 2009. New rates must be set accordingly.

All requirements necessary to amend the existing Grays Harbor pilotage district tariff as set forth in chapter 53.08 RCW have been met.

The board may adopt a rule that varies from the proposed rule upon consideration of presentations and written comments from the public and any other interested parties.

Name of Proponent: Port of Grays Harbor, public.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Board of Pilotage Commissioners, 2901 Third Avenue, Seattle, WA 98121, (206) 515-3904.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule is being considered in the context of the required annual revision to the rates charged for pilotage services. The application of the proposed increases is clear in the description of the proposal and its anticipated effects as well as the proposed tariff shown below.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this rule adoption. The Washington state board of pilotage commissioners is not a listed agency in RCW 34.05.328 (5)(a)(i).

April 22, 2009

Peggy Larson

Administrator

AMENDATORY SECTION (Amending WSR 08-14-073, filed 6/26/08, effective 8/1/08)

**WAC 363-116-185 Pilotage rates for the Grays Harbor pilotage district.** Effective 0001 hours August 1, ((2008)) 2009, through 2400 hours July 31, ((2009)) 2010.

**CLASSIFICATION**

**RATE**

Charges for piloting of vessels in the inland waters and tributaries of Grays Harbor shall consist of the following:

**Draft and Tonnage Charges:**

Each vessel shall be charged according to its draft and tonnage for each vessel movement inbound to the Grays Harbor pilotage district, and for each movement outbound from the district.

Draft

\$((~~97.20~~)) 100.12 per meter

or

\$((~~29.62~~)) 30.51 per foot

Tonnage

\$((~~0.279~~)) 0.287 per net registered ton

Minimum Net Registered Tonnage

\$((~~975.00~~)) 1,004.00

Extra Vessel (in case of tow)

\$((~~546.00~~)) 562.00

**CLASSIFICATION**

**RATE**

Provided that, due to unique circumstances in the Grays Harbor pilotage district, vessels that call, and load or discharge cargo, at Port of Grays Harbor Terminal No. 2 shall be charged ~~\$(5,400.00)~~ 5,562.00 per movement for each vessel movement inbound to the district for vessels that go directly to Terminal No. 2, or that go to anchor and then go directly to Terminal No. 2, or because Terminal No. 2 is not available upon arrival that go to layberth at Terminal No. 4 (without loading or discharging cargo) and then go directly to Terminal No. 2, and for each vessel movement outbound from the district from Terminal No. 2, and that this charge shall be in lieu of only the draft and tonnage charges listed above.

**Boarding Charge:**

Per each boarding/deboarding from a boat or helicopter \$1,030.00

**Harbor Shifts:**

For each shift from dock to dock, dock to anchorage, anchorage to dock, or anchorage to anchorage ~~\$(679.00)~~ 699.00

Delays per hour ~~\$(159.00)~~ 164.00

Cancellation charge (pilot only) ~~\$(266.00)~~ 274.00

Cancellation charge (boat or helicopter only) ~~\$(798.00)~~ 822.00

**Two Pilots Required:**

When two pilots are employed for a single vessel transit, the second pilot charge shall include the harbor shift charge of \$699.00 and in addition, when a bridge is transited the bridge transit charge of \$301.00 shall apply.

**Pension Charge:**

Charge per pilotage assignment, including cancellations ~~\$(197.00)~~ 226.00

**Travel Allowance:**

Transportation charge per assignment \$100.00

Pilot when traveling to an outlying port to join a vessel or returning through an outlying port from a vessel which has been piloted to sea shall be paid \$931.00 for each day or fraction thereof, and the travel expense incurred.

**Bridge Transit:**

Charge for each bridge transited ~~\$(292.00)~~ 301.00

Additional surcharge for each bridge transited for vessels in excess of 27.5 meters in beam ~~\$(809.00)~~ 833.00

**Miscellaneous:**

The balance of amounts due for pilotage rates not paid within 30 days of invoice will be assessed at 1 1/2% per month late charge.

**WSR 09-10-008**

**WITHDRAWAL OF PROPOSED RULES**

**DEPARTMENT OF  
EARLY LEARNING**

[Filed April 23, 2009, 4:09 p.m.]

The department of early learning (DEL) is withdrawing proposed amendments to chapter 170-292 WAC, Seasonal child care program, filed on November 5, 2008, as WSR 08-22-102.

DEL is revising the seasonal child care subsidy rules, and the department intends to file the revisions as a proposed rule in June 2009. The proposal will combine the seasonal child care rules with revised DEL working connections child care regulations in chapter 170-290 WAC. When the revised rules are adopted as final, DEL intends to repeal the rules in chapter 170-292 WAC.

A preliminary draft of the revised seasonal and working connections rules is available for public review and comment

through May 10, 2009, on the DEL web site at <http://www.del.wa.gov/Default.aspx>.

More information about these rules is available on the DEL web site, by e-mailing [Rules@del.wa.gov](mailto:Rules@del.wa.gov) or by writing the DEL Rules Coordinator, P.O. Box 40970, Olympia, WA 98504-0970.

Amie Lapp Payne  
Deputy Director

**WSR 09-10-020**

**PROPOSED RULES**

**OFFICE OF  
INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2008-20—Filed April 28, 2009, 7:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-12-099.

Title of Rule and Other Identifying Information: Standards for coordination of benefits.

Hearing Location(s): OIC Tumwater Office, Training Room 120, 5000 Capitol Boulevard, Tumwater, WA, <http://www.insurance.wa.gov/about/directions.shtml>, on June 9, 2009, at 1:30 p.m.

Date of Intended Adoption: June 19, 2009.

Submit Written Comments to: Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, e-mail [kacys@oic.wa.gov](mailto:kacys@oic.wa.gov), fax (360) 586-3109, by June 8, 2009.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by June 5, 2009, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commissioner proposes these amendments to chapter 284-51 WAC so that:

- Carrier processing and payment of claims in coordination of benefits (COB) situations occurs within clearly defined and understood time frames,
- Carriers no longer make estimated payments if they are secondary payors, and
- The regulations require efficient processing of claims in COB situations.

The commissioner also proposes amending WAC 284-51-235 and 284-51-260 so that information provided to covered members about submitting claims in COB situations matches the requirements in the proposed amendments for coordinating payment of benefits where more than one health plan covers the patient.

Reasons Supporting Proposal: The proposed changes will promote more timely and efficient processing of claims in COB situations. They have been developed in response to suggestions from a work group sponsored by the Washington Healthcare Forum. The work group included a cross section of health care provider and health plan representatives. The elimination of the estimated payment requirement for secondary plans was identified in 2008 as a high priority opportunity for health care administrative simplification, <http://www.insurance.wa.gov/legislative/reports/SimplificationRpt.pdf> (pages 20-22).

Statutory Authority for Adoption: RCW 48.02.060, 48.21.200, 48.44.050, and 48.46.200.

Statute Being Implemented: RCW 48.21.200.

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

Name of Proponent: Office of insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Pete Cutler, 302 Sid Snyder Avenue, Olympia, WA 98504-0258, (360) 725-9651; Implementation: Mary Childers, 5000 Capitol Boulevard, Tumwater, WA 98504-0255, (360) 725-7095; and Enforcement: Leslie Krier, 5000 Capitol Boulevard, Tumwater, WA 98504-0255, (360) 725-7216.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There are no domestic

health care insurers that meet the law's definition of "small business."

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7041, fax (360) 586-3109, e-mail [kacys@oic.wa.gov](mailto:kacys@oic.wa.gov).

April 28, 2009

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2005-07, filed 6/8/07, effective 7/9/07)

**WAC 284-51-195 Definitions.** As used in this chapter, these words and terms have the following meanings, unless the context clearly indicates otherwise:

(1) "Allowable expense," except as outlined below means any health care expense, including coinsurance or copayments and without reduction for any applicable deductible, that is covered in full or in part by any of the plans covering the person. When coordinating benefits, any secondary plans must pay an amount which, together with the payment made by the primary plan, totals the higher of the allowable expenses. In no event will a secondary plan be required to pay an amount in excess of its maximum benefit plus accrued savings. When medicare, Part A and Part B or Part C are primary, medicare's allowable amount is the highest allowable expense.

(a) If an issuer is advised by a covered person that all plans covering the person are high-deductible health plans and the person intends to contribute to a health savings account established according to Section 223 of the Internal Revenue Code of 1986, the primary high-deductible health plan's deductible is not an allowable expense, except for any health care expense incurred that may not be subject to the deductible as described in Section 223 (c)(2)(C) of the Internal Revenue Code of 1986.

(b) An expense or a portion of an expense that is not covered by any of the plans is not an allowable expense.

(c) The following are examples of expenses that are not allowable expenses:

(i) If a person is confined in a private hospital room, the difference between the cost of a semiprivate room in the hospital and the private room is not an allowable expense, unless one of the plans provides coverage for private hospital room expenses.

(ii) If a person is covered by two or more plans that compute their benefit payments on the basis of usual and customary fees or relative value schedule reimbursement or other similar reimbursement method, any amount charged by the provider in excess of the highest reimbursement amount for a specified benefit is not an allowable expense.

(iii) If a person is covered by two or more plans that provide benefits or services on the basis of negotiated fees, any amount in excess of the highest of the negotiated fees is not an allowable expense.

(d) The definition of "allowable expense" may exclude certain types of coverage or benefits such as dental care, vision care, prescription drugs or hearing aids. A plan that

limits the application of COB to certain coverages or benefits may limit the definition of allowable expense in its contract to expenses that are similar to the expenses that it provides. When COB is restricted to specific coverages or benefits in a contract, the definition of allowable expense must include similar expenses to which COB applies.

(e) When a plan provides benefits in the form of services, the reasonable cash value of each service will be considered an allowable expense and a benefit paid.

(f) If a secondary plan has been informed of the payment made by the primary plan but has not been informed of the amount of the primary plan's allowable expense within the period set forth in WAC 284-51-215 (2)(c), the secondary plan may use its allowable expense as the highest allowable expense.

(2) "Birthday" refers only to the month and day in a calendar year and does not include the year in which the individual is born.

(3) "Claim" means a request that benefits of a plan be provided or paid. The benefits claimed may be in the form of:

- (a) Services (including supplies);
- (b) Payment for all or a portion of the expenses incurred;
- (c) A combination of (a) and (b) of this subsection; or
- (d) An indemnification.

(4) "Claim determination period" means calendar year.

(5) "Closed panel plan" means a plan that provides health benefits to covered persons in the form of services primarily through a panel of providers that are employed by the plan, and that excludes benefits for services provided by other providers, except in cases of emergency or referral by a panel member.

(6) "Consolidated Omnibus Budget Reconciliation Act of 1985" or "COBRA" means coverage provided under a right of continuation according to federal law.

(7) "Coordination of benefits" or "COB" means a provision establishing the order that plans pay their claims, and permitting secondary plans to reduce their benefits so that the combined benefits of all plans do not exceed total allowable expenses.

(8) "Custodial parent" means:

(a) The parent awarded custody of a child by a court decree; or

(b) In the absence of a court decree, the parent with whom the child resides more than one-half of the calendar year without regard to any temporary visitation; or

(c) In cases where a court decree awards more than half of the calendar year's residential time to one parent without the use of "custodial" terminology, the parent to whom the greater residential time is awarded.

(9) "High-deductible health plan" has the meaning given the term under Section 223 of the Internal Revenue Code of 1986, as amended by the Medicare Prescription Drug, Improvement and Modernization Act of 2003.

(10)(a) "Hospital indemnity benefits" or "hospital fixed payment plan" means benefits not related to expenses incurred.

(b) "Hospital indemnity benefits" or "hospital fixed payment plan" does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim.

(11) "Issuer" means a disability carrier, health care service contractor, health maintenance organization, and any other entity issuing a plan as defined in this chapter.

(12) "Plan" means a form of coverage with which coordination is allowed. Separate parts of a plan for members of a group that are provided through alternative contracts that are intended to be part of a coordinated package of benefits are considered one plan and there is no COB among the separate parts of the plan.

(a) If a plan coordinates benefits, its contract must state the types of coverage that will be considered in applying the COB provision of that contract. Whether the contract uses the term "plan" or some other term such as "program," the contractual definition may be no broader than the definition of "plan" in this subsection.

(b) "Plan" includes:

(i) Group, individual or blanket disability insurance contracts, and group or individual contracts marketed by issuers as defined in this chapter;

(ii) Closed panel plans or other forms of group or individual coverage;

(iii) The medical care components of long-term care contracts, such as skilled nursing care; and

(iv) Medicare or other governmental benefits, as permitted by law, except as provided in (c)(vii) of this subsection. That part of the definition of plan may be limited to the hospital, medical and surgical benefits of the governmental program.

(c) "Plan" does not include:

(i) Hospital indemnity or fixed payment coverage benefits or other fixed indemnity or payment coverage;

(ii) Accident only coverage;

(iii) Specified disease or specified accident coverage;

(iv) Limited benefit health coverage, as defined in WAC 284-50-370;

(v) School accident and similar coverages that cover students for accidents only, including athletic injuries, either on a twenty-four-hour basis or on a "to and from school" basis;

(vi) Benefits provided in long-term care insurance policies for nonmedical services, for example, personal care, adult day care, homemaker services, assistance with activities of daily living, respite care and custodial care or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services;

(vii) Medicare supplement policies;

(viii) A state plan under medicaid;

(ix) A governmental plan, which, by law, provides benefits that are in excess of those of any private insurance plan or other nongovernmental plan;

(x) Automobile insurance policies required by statute to provide medical benefits;

(xi) Benefits provided as part of a direct agreement with a direct patient-provider primary care practice as defined at section 3, chapter 267, Laws of 2007.

(13) "Policyholder" means the primary insured named in a nongroup insurance policy.

(14) "Primary plan" means a plan whose benefits for a person's health care coverage must be determined without taking the existence of any other plan into consideration. A plan subject to this chapter is a primary plan if:

(a) The plan either has no order of benefit determination rules, or its rules differ from those permitted by this chapter; or

(b) All plans that cover the person use the order of benefit determination rules required by this chapter, and under those rules the plan determines its benefits first.

(15) "Secondary plan" means a plan that is not a primary plan.

AMENDATORY SECTION (Amending Matter No. R 2005-07, filed 6/8/07, effective 7/9/07)

**WAC 284-51-215 Time limit.** (1) Each issuer must establish time limits for payment of a claim and may not unreasonably delay payment through the application of a coordination of benefits provision. Time limits established by a primary plan must be no less favorable than those contained in WAC 284-43-321. Primary plans shall pay ninety-five percent of clean claims subject to this chapter within thirty calendar days of receipt or of determining they are the primary plan, and shall pay all clean claims subject to this chapter within sixty calendar days of receipt or of determining they are the primary plan. Any time limit established by a secondary plan that is in excess of ~~((ninety))~~ thirty days from receipt of a claim, with the primary plan's explanation of benefit information or other primary payment details needed to process the claim, will be considered unreasonable. The deadlines established in this subsection may be extended for the length of time a primary or secondary plan must wait for information needed from the provider (e.g., medical records) or from the member (e.g., motor vehicle accident information), in order to adjudicate the claim.

(2) The specific time limits for coordination of benefits processing include:

(a) When an issuer has been notified that more than one plan covers an enrollee who has submitted a claim, the issuer shall resolve with the other plan in not more than thirty calendar days which plan is primary. This deadline may be extended in situations involving court orders for dependent coverage, if the court order contains information needed to determine which plan is primary and has not been provided to the issuer. If agreement cannot be reached, both plans shall pay as set forth in WAC 284-51-205 (4)(f).

(b) Once the primary plan and secondary plan have been established, if the secondary plan receives a claim without the primary plan's explanation of benefit information or other primary payment details needed to process the claim, including at least the paid amount and the allowed amount, the secondary plan will notify the submitting provider and/or member as soon as possible and within thirty calendar days of receipt of the claim, that the secondary claim is incomplete without such primary plan information. The secondary plan will promptly process the claim after it has been resubmitted with the explanation of benefit information from the primary payer.

(c) If a primary plan has not adjudicated a claim within sixty calendar days of receipt of the claim and all supporting documentation, and if the primary plan is not waiting for information from the provider (e.g., medical records) or from the member (e.g., motor vehicle accident information),

needed to adjudicate the claim, the provider or member may submit the claim and notice of the primary plan's failure to pay to the secondary plan which shall pay the provider's claim as primary within thirty calendar days.

(3) When payment is necessarily delayed for reasons other than the application of a coordination of benefits provision, investigation of other plan coverage must be conducted concurrently to avoid delay in the ultimate payment of benefits. Any issuer that is required by the time limit in subsection (2) of this section to make payment as the primary plan ~~((because it has insufficient information to make it a secondary plan))~~ may exercise its rights under its "right of recovery" provision for recovery of any excess payments. ~~((Any issuer that is knowingly responsible for payment as the secondary plan must make a reasonable estimate of the primary plan payment and base its secondary payment on that amount.))~~ After payment information is received from the primary plan, the secondary plan may recover any excess amount paid under its "right of recovery" provision.

AMENDATORY SECTION (Amending Matter No. R 2005-07, filed 6/8/07, effective 7/9/07)

**WAC 284-51-235 Notice to covered persons.** A plan must include the following statement in the enrollee contract or booklet provided to covered persons:

"If you are covered by more than one health benefit plan, ((you or your provider should file all your claims with each plan at the same time. If medicare is your primary plan, medicare may submit your claims to your secondary carrier for you.)) and you do not know which is your primary plan, you or your provider should contact any one of the health plans to verify which plan is primary. The health plan you contact is responsible for working with the other plan to determine which is primary and will let you know within thirty calendar days.

CAUTION: All health plans have timely claim filing requirements. If you or your provider fail to submit your claim to a secondary health plan within that plan's claim filing time limit, the plan can deny the claim. If you experience delays in the processing of your claim by the primary health plan, you or your provider will need to submit your claim to the secondary health plan within its claim filing time limit to prevent a denial of the claim.

To avoid delays in claims processing, if you are covered by more than one plan you should promptly report to your providers and plans any changes in your coverage."

AMENDATORY SECTION (Amending Matter No. R 2005-07, filed 6/8/07, effective 7/9/07)

**WAC 284-51-260 Appendix B—Consumer explanatory booklet.**

**COORDINATION OF BENEFITS**

**IMPORTANT NOTICE**

**This is a summary of only a few of the provisions of your health plan to help you understand coordination of benefits, which can be very complicated. This is not a complete description of all of the coordination rules and procedures, and does not change or replace the language contained in your insurance contract, which determines your benefits.**

**Double Coverage**

It is common for family members to be covered by more than one health care plan. This happens, for example, when a husband and wife both work and choose to have family coverage through both employers.

When you are covered by more than one health plan, state law permits issuers to follow a procedure called "coordination of benefits" to determine how much each should pay when you have a claim. The goal is to make sure that the combined payments of all plans do not add up to more than your covered health care expenses.

Coordination of benefits (COB) is complicated, and covers a wide variety of circumstances. This is only an outline of some of the most common ones. If your situation is not described, read your evidence of coverage or contact your state insurance department.

**Primary or Secondary?**

You will be asked to identify all the plans that cover members of your family. To avoid delays in claim processing, if you are covered by more than one plan you should promptly report to your providers and plans any changes in your coverage. We need this information to determine whether we are the "primary" or "secondary" benefit payer. The primary plan always pays first when you have a claim. Any plan that does not contain your state's COB rules will always be primary.

**When This Plan is Primary**

If you or a family member is covered under another plan in addition to this one, we will be primary when:

**Your Own Expenses**

- The claim is for your own health care expenses, unless you are covered by medicare and both you and your spouse are retired.

**Your Spouse's Expenses**

- The claim is for your spouse, who is covered by medicare, and you are not both retired.
- **Your child's expenses.** The claim is for the health care expenses of your child who is covered by this plan; and
- You are married and your birthday is earlier in the year than your spouse's or you are living with another individual, regardless of whether or not you have ever been married to that individual, and your birthday is earlier than that other individual's birthday. This is known as the "birthday rule"; or

- You are separated or divorced and you have informed us of a court decree that makes you responsible for the child's health care expenses; or
- There is no court decree, but you have custody of the child.

**Other Situations**

We will be primary when any other provisions of state or federal law require us to be.

**How We Pay Claims When We Are Primary**

When we are the primary plan, we will pay the benefits according to the terms of your contract, just as if you had no other health care coverage under any other plan.

**How We Pay Claims When We Are Secondary**

When we are knowingly the secondary plan, we will make ~~((a reasonable estimate of the primary plan payment and base our payment on that amount. After payment information is received from the primary plan,))~~ payment promptly after receiving payment information from your primary plan. Your primary plan, and we as your secondary plan, may ask you and/or your provider for information in order to make payment. To expedite payment, be sure that you and/or your provider supply the information in a timely manner. If the primary plan fails to pay within sixty calendar days of receiving all necessary information from you and your provider, you and/or your provider may submit your claim for us to make payment as if we were your primary plan. In such situations, we are required to pay claims within thirty calendar days of receiving your claim and the notice that your primary plan has not paid. We may recover from the primary plan any excess amount paid under the "right of recovery" provision in the plan. ((We may not delay our payments because of lack of information from the primary plan. We are required to pay claims within ninety days of receipt.))

- If there is a difference between the amounts the plans allow, we will base our payment on the higher amount. However, if the primary plan has a contract with the provider, our combined payments will not be more than the amount called for in our contract or the amount called for in the contract of the primary plan, whichever is higher. Health maintenance organizations (HMOs) and health care service contractors usually have contracts with their providers as do some other plans.

- We will determine our payment by subtracting the amount ~~((we estimate that))~~ paid by the primary plan ~~((with pay))~~ from the amount we would have paid if we had been primary. We must make payment in an amount so that, when combined with the amount paid by the primary plan, the total benefits paid or provided by all plans for the claim equal to one hundred percent of the total allowable expense (the highest of the amounts allowed under each plan involved) for your claim. We are not required to pay an amount in excess of our maximum benefit plus any accrued savings. If your provider negotiates reimbursement amounts with the plan(s) for the service provided, your provider may not bill you for any excess amounts once he/she has received payment for the highest of the negotiated amounts. When our deductible is fully credited, we will place any remaining amounts in a sav-

ings account to cover future claims which might not otherwise have been paid. For example, if the primary plan covers similar kinds of health care expenses, but allows expenses that we do not cover, we may pay for those expenses.

**Questions About Coordination of Benefits?  
Contact Your State Insurance Department**

**WSR 09-10-024  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Children's Administration)  
[Filed April 28, 2009, 12:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-05-044.

Title of Rule and Other Identifying Information: The department is amending chapter 388-25 WAC, Child welfare services—Foster care.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on June 9, 2009, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 10, 2009.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 9, 2009.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by May 26, 2009, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at [johnsjl4@dshs.wa.gov](mailto:johnsjl4@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose is to clarify the scope and nature of the right of a foster parent to receive notice and have an opportunity for a hearing to contest a foster care rate assessment.

Reasons Supporting Proposal: See above; and small business economic impact statement; and cost-benefit analysis statement.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 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: Carrie Kendig, P.O. Box 45710, (360) 902-7568.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Foster parents are defined in the Social Security Act in SEC. 475 (42 U.S.C. 675 (4)(A)).

The term "foster care maintenance payments" means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

The position of foster parent consistent with the above federal definition receives a maintenance payment. Foster parents are required to have employment outside of foster parenting to support them. Child placing agencies may receive a payment which is disbursed to the foster parent. These situations are referred to in the above federal definition. This is considered reasonable costs for administration and operation [when] the payment for the foster parent is through the child placing agency.

The foster parents who provide care under a child placing agency receive maintenance and reimbursement which are not reportable as income. These homes are not businesses under IRS rules. Foster parents licensed through the state or private child placing agency do not fit the definition in chapter 19.85 RCW for a small business.

The children's administration has analyzed these proposed new rules and concludes that there are no additional costs to small businesses. The preparation of a comprehensive small business economic impact statement is not required.

A cost-benefit analysis is not required under RCW 34.05.328. Since the proposed changes to chapter 388-25 WAC meet several of the exemptions, no cost-benefit analysis is necessary. The following are the applicable exemptions according to RCW 34.05.328 (5)(b): (iv) Rules with only clarifying existing rule language and typographical errors; (vii) Rules relating only to client financial eligibility; and Rules concerning liability for the care of dependents.

April 22, 2009  
Stephanie E. Schiller  
Rules Coordinator

NEW SECTION

**WAC 388-25-0001 What kinds of financial support are available to licensed foster care providers?** In addition to medical assistance and other services that may be provided to meet the specific needs of a foster child, the department provides licensed foster parents with a monthly foster care maintenance payment. This payment is for the benefit of the child.

NEW SECTION

**WAC 388-25-0003 What is the purpose of the foster care maintenance payment?** The purpose of the foster care maintenance payment is to assist licensed foster parents in meeting the needs of their foster child. A basic rate payment (level 1) is paid to all foster parents to help cover the cost of food, clothing, shelter, and personal incidentals. In addition, there are three levels of supplemental payments (levels 2, 3

and 4) which are paid to foster parents who care for children with varying degrees of physical, mental, behavioral or emotional conditions that require increased effort, care or supervision that are above the needs of a typically developing child.

#### NEW SECTION

**WAC 388-25-0011 What method does the department use to determine what foster care rate will be paid for a foster child?** The department uses a standardized assessment tool, the foster care rate assessment, to determine foster care rate that will be paid on behalf of the child. The tool assesses the needs of the child and the foster parent's ability and time required to meet those needs.

#### NEW SECTION

**WAC 388-25-0016 What are the essential features of the foster care rate assessment system?** The foster care rate assessment system includes the following essential features:

- (1) Foster care maintenance payments are based on foster parent time and the nature of activities needed to meet the needs of the child.
- (2) Standardized assessment tool is used for all children.
- (3) The assessment tool is completed jointly by foster parent and social worker.
- (4) Assessments are updated periodically, in accordance with WAC 388-25-0032.
- (5) The assessment process is automated.

#### NEW SECTION

**WAC 388-25-0022 How does the foster care rate assessment work?** The foster care rate assessment is a two-step process that includes the participation of the child's foster parent.

- (1) Step one: The child's social worker or designated rate assessment specialist will meet with the foster parent in person or telephonically to jointly complete the standardized assessment form.
- (2) Step two: After step one has been completed, the child's social worker or designated rate assessment specialist enters the information from the assessment into the computer and, based on the responses to the questions in the standardized assessment, the rate assessment software program automatically calculates the foster care rate that will be paid on behalf of the child.

#### NEW SECTION

**WAC 388-25-0027 What factors are considered in the foster care rate assessment?** The assessment tool considers the average number of hours, beyond those expected for a typically developing child of the same age, the foster parent spends in:

- (1) Caring and/or advocating for the child to meet the child's physical and behavioral needs;
- (2) Participating in parenting activities related to the child's physical or emotional/behavioral therapeutic plan;

(3) Engaging in parenting activities related to supervising and supporting the educational needs of the child;

(4) Participating in parenting activities related to scheduling, arranging, and supervising activities, such as medical and dental appointments for the child, visits between the child and his or her parents and/or siblings, or other school or recreational activities;

(5) Repairing, cleaning or replacing household items, over and above normal repair, due to the child's chronic physical problems or destructive behavior; and

(6) Preparing the child to transition back to the child's parents or to an adoptive or other foster care placement.

#### NEW SECTION

**WAC 388-25-0032 How often do the foster parent and social worker meet to complete the rate assessment?** The social worker or designated rate assessment specialist will meet with the foster parent in person or telephonically to complete the assessment:

- (1) Within thirty days of the child's placement in the foster parent's home;
- (2) At least every six months after the first assessment; and
- (3) When there is a significant change in circumstances for the child or in the foster parent's ability or time required to meet the child's needs.

#### NEW SECTION

**WAC 388-25-0037 What are the reimbursement levels?** The amount of foster care maintenance payments may change slightly from year to year. A basic rate payment (level 1) is paid to all foster parents to help cover the cost of food, clothing, shelter, and personal incidentals. In addition, there are three levels of supplemental payments that are paid to foster parents who care for children with varying degrees of physical, mental, behavioral, emotional and/or intellectual conditions that require increased effort, care or supervision. The levels of payments are as follows:

(1) **Level 1:** Children assessed at this level receive the basic foster care maintenance rate. The payment is based on the time typically spent by a foster parent to meet the needs of a child, who is developing comparably to children in the same age range. The payments are based on three age categories: birth to five years old, six to eleven years old, and twelve to eighteen years old.

(2) **Level 2:** Children assessed at this level require the foster parent's increased attention, time and supervision, beyond that required to meet the child's basic or routine needs, to address specific physical, mental, behavioral, emotional and/or intellectual challenges.

(3) **Levels 3 and 4:** Children assessed at these levels have the highest needs for attention and care. These children require significantly more time from the foster parent because of the severity of their issues. These children often will be participating in more than one treatment program, and may need to participate in treatment in the foster parent's home. A child assessed at level 3 or 4 may have serious medical, behavioral or psychiatric issues or behaviors that require a safety plan.



NEW SECTION

**WAC 388-25-0042 Can the child be assessed at a different level, depending on the foster home?** The assessment is based on both the child's needs and the foster parent's ability and time required to meet those needs. It is possible that a child would be assessed at a different rate in one home than in another, depending on the foster parent's abilities or circumstances as well as the resources and support services available to the child and foster family.

NEW SECTION

**WAC 388-25-0047 Can the assessment change if the child's needs change?** The child will always receive at least the basic rate (level 1) for the child's age category. However, the child may be assessed at level 2, 3, or 4, as the child's needs change or the circumstances of the foster parents change.

**For example:** In cases where the child's needs decrease or the time required of the foster parent to meet the child's needs decreases, the standardized assessment may assess the child at a lower rate. For example, on a reassessment a child might be assessed at level 2, when the child's previous rate had been at level 3. In cases where the child's needs or the demands on the foster parent increase, the standardized assessment may assess the child at a higher level.

NEW SECTION

**WAC 388-25-0052 How will the foster parent be notified of the rate the child will receive?** The foster parent will receive a written letter and payment plan, generated by the department's foster care rate assessment computer program, which will notify the foster parent of

- (1) The amount of the monthly foster care maintenance payment that will be paid on behalf of the child;
- (2) The right to review the assessment and;
- (3) How to exercise the right of review.

NEW SECTION

**WAC 388-25-0057 Can a foster parent challenge the rate assessment?** A foster parent, acting on behalf of the foster child, may request a review of the rate assessment for the child.

NEW SECTION

**WAC 388-25-0062 How does a foster parent seek a department review of the rate assessment?** (1) The foster parent must make a written request for department review of the assessment.

(2) The request must be received by CA within twenty calendar days of the date of the letter informing the foster parent of the rate assessed for the child. If a request is not made within ten days, the department will not review the assessment.

(a) The department may grant a twenty-day extension of time for filing the request for review, if the foster parent has contacted a regional foster parent liaison within the initial

twenty-day time period and asked for assistance in informally resolving any disagreement as to the rate assessed.

(b) The department has the discretion and may grant a ten-day extension for good cause.

(3) The request must include a statement explaining why the foster parent believes the assessed rate is incorrect. The foster parent may provide additional information that he or she believes is relevant to the questions asked on the standardized form.

(4) The request must be sent to the individual and address identified in the letter informing the foster parent of the rate assessed for the child.

**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 388-25-0067 What does the department consider in reviewing the request?** (1) The review will be conducted by department management level staff, or by a designee who was not involved in the rate assessment process.

(2) The review will be conducted within ten days of receiving the request for review.

(3) The reviewer will consider:

(a) Whether the foster parent and the social worker or designated rate assessment specialist met in person or telephonically to jointly complete the standardized assessment form;

(b) Whether the information obtained through the conversation between the social worker or rate assessment specialist and the foster parent was accurately recorded on the form;

(c) Whether any additional information provided by the foster parent, as authorized in WAC 388-25-0060(3) is relevant to the automated assessment;

(d) Whether the information was accurately entered into the computer program; and

(e) Whether the computer program was properly functioning in calculating the rate and providing the written report of the assessment.

(4) The department will not consider information about the child or the foster family that is outside the standardized assessment form and will not alter the computerized calculation that is based on a properly completed form.

NEW SECTION

**WAC 388-25-0072 How does the foster parent learn about the department's decision on review?** (1) The department will send the foster parent a written letter notifying the foster parent that the department either:

(a) Upholds the rate assessment; or

(b) Agrees the rate was wrongly calculated and adjusts the rate to the proper level.

(2) If the department upholds the rate assessment, the notice will provide information about further review.

NEW SECTION

**WAC 388-25-0077 How does the foster parent appeal the department's decision on review?** (1) If the department upholds the rate assessment on review, the foster parent has the right to further challenge the assessment by timely requesting an administrative hearing.

(2) The request must be in writing and sent to the office of administrative hearings (OAH). WAC 388-02-0025 lists the current addresses for OAH.

(3) The request must be received by OAH within twenty days from the date of the letter notifying the foster parent of the department's decision on review.

(4) Foster care providers and recipients of foster care funds do not have a right to request an administrative hearing to challenge or dispute the established rates of the foster care program or to challenge the foster care rate assessment standardized form or program.

NEW SECTION

**WAC 388-25-0082 What law and rules govern the administrative law judge?** Chapter 34.05 RCW, chapter 388-02 WAC, and the sections of this chapter relating to foster care rate assessments govern any administrative hearing to review a child's foster care rate assessment. In the event of a conflict between the provisions of this chapter and chapter 388-02 WAC, the provisions of this chapter prevail.

NEW SECTION

**WAC 388-25-0087 What issues may be decided by the administrative law judge?** (1) The administrative law judge (ALJ) will consider only:

(a) Whether the foster parent and the social worker or designated rate assessment specialist met in person or telephonically to jointly complete the standardized assessment form;

(b) Whether the information obtained in the meeting between the social worker or rate assessment specialist and foster parent was accurately recorded on the form;

(c) Whether additional information provided by the foster parent on review to the department was accurately recorded on the form, if applicable;

(d) Whether the information was accurately entered into the computer program; and

(e) Whether the computer program was properly functioning in calculating the rate and providing the written report of the assessment.

(2) The ALJ must not consider information about the child or the foster family that is outside the standardized assessment form or that was not provided to the department at the time of the assessment or at the time of the department's review of the assessment.

(3) The ALJ must not make a determination that conflicts with a properly completed standardized foster care rate assessment.

(4) The ALJ must not consider a challenge to the department's established foster care rates or to the foster care rate assessment standardized form or program.

AMENDATORY SECTION (Amending WSR 01-08-047, filed 3/30/01, effective 4/30/01)

**WAC 388-25-0095 What are the requirements for release of foster parents' care records?** Foster parent care records may be disclosed upon request in accordance with RCW ((42-17-260)) 42.56.070.

NEW SECTION

**WAC 388-25-0107 What is the beginning date for payment of foster care?** (1) The department begins foster care payment for a child on the date the department or its authorized designee places the child in the licensed foster home.

(2) The department pays for each night a child resides in foster care.

AMENDATORY SECTION (Amending WSR 01-08-047, filed 3/30/01, effective 4/30/01)

**WAC 388-25-0195 How does the department make reimbursement for foster care for a child served by the department who moves out-of-state with the foster family?** ((1) A child may join a foster family in a move out-of-state only if this move supports achieving a permanency goal as outlined in the child's case plan.

(2) The department and the foster parent must follow CA requirements when a foster child and the licensed foster family moves out of state. This may include obtaining permission of the court before the move.

(3) When the foster family moves to another state, the department must arrange with the other state or local social service agency to license and supervise the home and the placement (see chapter 26.34 RCW). The department does not need to make such arrangements for supervision when the family leaves this state during a vacation.

(a) Before the foster family moves from Washington to the new state, the social worker or the foster parent may request a foster home license application from the new state.

(b) If the department and the foster parent are unable to obtain an application for license before the foster family leaves Washington, the foster parent must, upon arrival in the new state of residence, contact the local foster home licensing agency in the new state to apply for a license in that state.

(4) When the foster family moves to another state with a child in the department's custody, the child's DCFS social worker must submit necessary interstate compact on the placement of children (ICPC) application forms to the department's ICPC program manager. The social worker must do this as soon as the foster family has a new residence or address in the new state. The ICPC request must ask that the new state license the family as a foster home and provide ongoing supervision of the child in care.

(5) The department continues payments at the department's current rates until the other state fully licenses the home. After receiving a copy of the foster family home license from the other state, the DCFS supervising social worker authorizes payment at the receiving state's rates (see WAC 388-25-0195)) When the foster family moves to another state, the department must arrange with the other

state or local social service agency to license and supervise the home and the placement (see chapter 26.34 RCW).

After receiving a copy of the foster family home license from the other state, the DCFS supervising social worker authorizes payment.

AMENDATORY SECTION (Amending WSR 01-08-047, filed 3/30/01, effective 4/30/01)

**WAC 388-25-0200 What payment procedures must the department follow for children placed across state borders?** (1) When the department places a child into a new placement with a family residing and licensed in another state, the DCFS social worker must obtain the payment rates from that state. Following receipt of the other state's rates, the department will pay that state's rates ~~((in accordance with ICPC procedures when:~~

- (a) Those rates are higher than Washington's rates; and
- (b) The other state identifies its rates to the department)).

(2) ~~((When the child welfare department in another state places a child, who is a resident of the state of Washington, in foster care the department makes foster care payments at the rate requested by that state.~~

~~(3))~~ The CA ICPC program manager must approve out-of-state placement before the department makes payment for foster care.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-25-0070	When does the department authorize foster care payments?
WAC 388-25-0080	Are dependency guardians who are licensed foster parents able to receive payment from more than one source?
WAC 388-25-0085	What happens if the dependency guardian receives payments from more than one source?
WAC 388-25-0120	What is the department's reimbursement schedule for regular family foster care?
WAC 388-25-0160	What are the reimbursement standards for payments above the basic foster care rate?
WAC 388-25-0170	What other services and reimbursements may be provided for the support of children placed in foster care by the department?
WAC 388-25-0180	Under what circumstances may the department provide reimbursement for foster care

if the child is temporarily absent from the foster home or facility?

WAC 388-25-0205	How does the department treat the earnings of a child in foster care?
WAC 388-25-0225	What cases must be referred to the division of child support (DCS)?
WAC 388-25-0235	To whom must parents' send child support payments for their child in foster care?

**WSR 09-10-027**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Aging and Disability Services Administration)  
 [Filed April 29, 2009, 5:08 p.m.]

The aging and disabilities services administration requests the withdrawal of the following proposed rule-making notices regarding adult day health rules:

- Proposed rule-making notice for WAC 388-825-068.  
 Originally proposed on February 18, 2009, as WSR 09-05-099.  
 First continuance filed on February 24, 2009, as WSR 09-06-027.  
 Second continuance filed on March 11, 2009, as WSR 09-07-056.
- Proposed rule-making notice for chapters 388-71 and 388-106 WAC.  
 Originally proposed on February 18, 2009, as WSR 09-05-098.  
 First continuance filed on February 24, 2009, as WSR 09-06-026.  
 Second continuance filed on March 11, 2009, as WSR 09-07-055.

Stephanie E. Schiller  
 Rules Coordinator

**WSR 09-10-039**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 [Filed April 30, 2009, 11:14 a.m.]

Original Notice.  
 Preproposal statement of inquiry was filed as WSR 09-05-058.  
 Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-436-0050

Determining financial need and benefit amount for consolidated emergency assistance program (CEAP).

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on June 9, 2009, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 10, 2009.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSRPAU-RulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 9, 2009.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by May 26, 2009, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at [johnsj14@dshs.wa.gov](mailto:johnsj14@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule change is needed to add "child-related transportation" to the payment chart for CEAP. The payment chart identifies types of emergent needs and the maximum available dollar amount by assistance unit that is allowed for that need under CEAP. Transportation for a minor, not in foster care, to a home where care will be provided by a family member or approved caretaker is allowed as an emergent need under WAC 388-436-0015 Consolidated emergency assistance program (CEAP). Child-related transportation is currently not identified in the payment chart.

Reasons Supporting Proposal: In order to add "child-related transportation" to the payment scale for CEAP.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.660.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.660.

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: Ian Horlor, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4634.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do

not have an economic impact on small businesses. The proposed amendments only affect DSHS clients by defining what are the payment standards allowed under the CEAP program to those eligible for these services.

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." These rules affect payments to clients eligible to CEAP.

April 29, 2009

Stephanie E. Schiller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-18-009, filed 8/22/08, effective 9/22/08)

**WAC 388-436-0050 Determining financial need and benefit amount for CEAP.** (1) To be eligible for CEAP assistance, the assistance unit's nonexcluded income, minus allowable deductions, must be less than ninety percent of the TANF payment standard for households with shelter costs. The net income limit for CEAP assistance units is:

Assistance Unit Members	Net Income Limit
1	\$323
2	407
3	505
4	594
5	685
6	779
7	900
8 or more	996

(2) The assistance unit's allowable amount of need is the lesser of:

(a) The TANF payment standard, based on assistance unit size, for households with shelter costs as specified under WAC 388-478-0020; or

(b) The assistance unit's actual emergent need, not to exceed maximum allowable amounts, for the following items:

Need Item: Maximum allowable amount by assistance unit size:

	1	2	3	4	5	6	7	8 or more
Food	\$217	\$276	\$341	\$402	\$463	\$526	\$600	\$664
Shelter	265	334	416	490	564	639	740	818
Clothing	31	39	48	57	65	75	85	96
Minor Medical Care	184	234	290	341	393	444	516	570
Utilities	89	113	140	164	189	216	250	276
Household maintenance	65	83	103	121	140	159	183	202
Job related transportation	359	453	562	661	762	866	1000	1107
<u>Child related transportation</u>	<u>359</u>	<u>453</u>	<u>562</u>	<u>661</u>	<u>762</u>	<u>866</u>	<u>1000</u>	<u>1107</u>

(3) The assistance unit's CEAP payment is determined by computing the difference between the allowable amount of need, as determined under subsection (2) of this section, and the total of:

(a) The assistance unit's net income, as determined under subsection (1) of this section;

(b) Cash on hand, if not already counted as income; and

(c) The value of other nonexcluded resources available to the assistance unit.

(4) The assistance unit is not eligible for CEAP if the amount of income and resources, as determined in subsection (3) of this section, is equal to or exceeds its allowable amount of need.

**WSR 09-10-041**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**

[Filed April 30, 2009, 12:56 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-04-048.

Title of Rule and Other Identifying Information: The department is proposing new chapter 458-18A WAC implementing the limited income deferral program in chapter 84.37 RCW. Chapter 84.37 RCW was enacted in a 2007 special session of the legislature.

WAC 458-18A-010 Deferral of special assessments and/or property taxes—Definitions, 458-18A-020 Deferral of special assessments and/or property taxes—Qualifications for deferral, 458-18A-030 Deferral of special assessments and/or property taxes—Declarations to defer—Filing—Forms, 458-18A-040 Deferral of special assessments and/or property taxes—Lien of state—Mortgage—Purchase contract—Deed of trust, 458-18A-050 Deferral of special assessments and/or property taxes—Declarations to renew deferral—Filing—Forms, 458-18A-060 Deferral of special assessments and/or property taxes—Limitations of deferral—Interest, 458-18A-070 Deferral of special assessments and/or property taxes—Duties of the county assessor, 458-18A-080 Deferral of special assessments and/or property taxes—Duties of the department of revenue—State treasurer, 458-18A-090 Deferral of special assessments and/or property taxes—Appeals, and 458-18A-100 Deferral of special assessments and/or property taxes—When payable—Collection—Partial payment.

Hearing Location(s): Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on June 9, 2009, at 10:00 a.m.

Date of Intended Adoption: June 16, 2009.

Submit Written Comments to: James A. Winterstein, P.O. Box 47471, Olympia, WA 98504-7471, e-mail JimWi@dor.wa.gov, fax (360) 570-5880, by June 9, 2009.

Assistance for Persons with Disabilities: Contact Martha Thomas no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 725-7497.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The chapter allowing deferral of property taxes and special assessments

for homeowners with limited incomes, chapter 84.37 RCW, was enacted in a 2007 special session and no rules have been adopted since then to explain its administration. These rules will provide that guidance. Rules will assist taxpayers, the department, and assessors by providing guidelines for the administration of the new deferral program.

Reasons Supporting Proposal: The limited income deferral program is distinct from the other property tax deferral programs and those distinctions are made clear in these rules.

Statutory Authority for Adoption: RCW 84.08.010 and 84.08.070.

Statute Being Implemented: Chapter 84.37 RCW.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: James A. Winterstein, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-5880; Implementation and Enforcement: Brad Flaherty, 1025 Union Avenue S.E., Suite #200, Olympia, WA, (360) 570-5860.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required for the reason that the rule does not impose any new performance requirement or administrative burden on any small business.

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

April 30, 2009

Alan R. Lynn

Rules Coordinator

**Chapter 458-18A WAC**

**LIMITED INCOME DEFERRAL PROGRAM**

NEW SECTION

**WAC 458-18A-010 Deferral of special assessments and/or property taxes—Definitions. Introduction.** This section is intended to provide definitions of the terms most frequently used to administer the deferral program for special assessments and/or property taxes on residential housing created by chapter 84.37 RCW. Unless a different meaning is plainly required by the context, the words and phrases used in this chapter have the following meanings:

(1) "Boarding house" means a residence in which lodging and meals are provided. Each resident of a boarding house is charged a lump sum to cover the costs of lodging and meals with no separate accounting for the fair selling price of the meals.

(2) "Claimant" means a person who elects under chapter 84.37 RCW to defer payment of special assessments and/or real property taxes accrued on his or her residence by filing a declaration to defer as allowed under chapter 84.37 RCW. If more than one individual in a household wishes to defer special assessments and/or taxes, only one may file a declaration

to defer; in other words, only one claimant per household is allowed.

(3) "Cooperative housing" means any existing structure, including surrounding land and improvements, that contains one or more dwelling units and is owned by:

(a) An association with resident shareholders who are granted renewable leasehold interests in dwelling units in the building. Unlike owners of a condominium, the resident shareholders who hold a renewable leasehold interest do not own their dwelling units; or

(b) An association organized under the Cooperative Association Act (chapter 23.86 RCW).

(4) "Department" means the state department of revenue.

(5) "Domestic partner" means a person registered under chapter 26.60 RCW or a partner in a legal union of two persons of the same sex, other than a marriage, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under chapter 26.60 RCW.

(6) "Domestic partnership" means a partnership registered under chapter 26.60 RCW or a legal union of two persons of the same sex, other than a marriage, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under chapter 26.60 RCW.

(7) "Equity value" means the amount by which the true and fair value of a residence exceeds the total amount of all liens, obligations, and encumbrances against the property excluding the deferral liens. As used in this context, the "true and fair value" of a residence is the value shown on the county tax rolls maintained by the assessor for the assessment year in which the deferral claim is made.

(8) "Fire and casualty insurance" means a policy with an insurer that is authorized by the state insurance commission to insure property in this state.

(9) "Good cause" means factors peculiar to each claimant. At a minimum, the applicant must be able to demonstrate that factors outside of his or her control were the cause for missing the statutory deadline. This includes factors which would effectively prevent a reasonable person facing similar circumstances from filing a timely application, such as acting or failing to act based on authoritative written advice received directly from persons upon which a reasonable person would normally rely, severe weather conditions preventing safe travel to the point of filing, incapacity due to illness or injury, and other factors of similar gravity. Inadvertence or oversight is not a basis for a "good cause" extension of the filing deadline.

(10) "Irrevocable trust" means a trust that may not be revoked after its creation by the trustor.

(11) "Lease for life" means a lease that terminates upon the death of the lessee.

(12) "Lien" means any interest in property given to secure payment of a debt or performance of an obligation, including a deed of trust. A lien includes the total amount of special assessments and/or property taxes deferred and the interest thereon. It also may include any other outstanding balance owed to local government for special assessments.

(13) "Life estate" means an estate that consists of total rights to use, occupy, and control real property, but is limited to the lifetime of a designated party; this party is often called a "life tenant."

(14) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi municipal corporation, or other political subdivision authorized to levy special assessments.

(15) "Perjury" means the willful assertion as to a matter of fact, opinion, belief, or knowledge made by a claimant upon the declaration to defer that the claimant knows to be false.

(16) "Real property taxes" means ad valorem property taxes levied on a residence in this state. The term includes foreclosure costs, interest, and penalties accrued as of the date the declaration to defer is filed.

(17) "Residence" has the same meaning given in RCW 84.36.383; it means a single-family dwelling unit whether the unit is separate or part of a multiunit dwelling and includes up to one acre of the parcel of land on which the dwelling stands, and it includes any additional property up to a total of five acres that comprises the residential parcel if local land use regulations require this larger parcel size.

(18) "Revocable trust" means an agreement that entitles the trustor to have the full right to use the real property and to revoke the trust and retake complete ownership of the property at any time during his or her lifetime. The trustee of a revocable trust holds only bare legal title to the real property. Full equitable title to the property remains with the trustor; the original property owner.

(19) "Rooming house" means a residence where persons may rent rooms.

(20) "Special assessment" means the charge or obligation imposed by local government upon real property specially benefited by improvements.

#### NEW SECTION

**WAC 458-18A-020 Deferral of special assessments and/or property taxes—Qualifications for deferral.** A person may defer payment of the second installment portion of special assessments and/or real property taxes included on the annual property tax statement and due on October 31 in any year in which the following conditions are met:

(1) The special assessments and/or real property taxes must be imposed upon a residence that was occupied by the claimant as a principal place of residence as of January 1 of the year in which the special assessments and/or real property taxes are due. Confinement of the person to a hospital, nursing home, boarding home, or adult family home does not disqualify the claim for deferral if:

(a) The residence is temporarily unoccupied;

(b) The residence is occupied by a spouse or a domestic partner and/or a person financially dependent on the claimant for support;

(c) The residence is rented for the purpose of paying nursing home, hospital, boarding home, or adult family home costs; or

(d) The residence is occupied by a caretaker who is not paid for watching the house.

(2) The claimant must have a combined disposable income, as defined in RCW 84.36.383, of fifty-seven thousand dollars or less.

(3) The first installment portion of the special assessments and/or property taxes listed on the annual tax statement and due on April 30 for the year in which the deferral claim is made must already be paid.

(4) A deferral is not allowed for special assessments and/or property taxes levied for payment in the first five calendar years in which the claimant owns the residence. To defer special assessments and/or property taxes in 2008, the claimant must have had an ownership interest in the residence by December 31, 2003.

(5) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed. For purposes of this subsection a residence owned by a marital community, a state registered domestic partnership, or cotenants is deemed to be owned by each spouse, each domestic partner, and each cotenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life or a revocable trust does not satisfy the ownership requirement.

(6) The total amount deferred must not exceed forty percent of the amount of the claimant's equity value in the residence. If the amount deferred is to exceed one hundred percent of the claimant's equity value in the land or lot only, the claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state of Washington and designate the state as a loss payee upon said policy. In no case should the deferred amount exceed the amount of the insured value of the improvement plus the land value.

(7) A claimant may not defer taxes under both this chapter and chapter 84.38 RCW in the same tax year.

(8) In the case of special assessment deferral, the special assessments must have been included on the annual property tax statement.

#### NEW SECTION

**WAC 458-18A-030 Deferral of special assessments and/or property taxes—Declarations to defer—Filing—Forms.** (1) Declarations to defer special assessments and/or real property taxes for any year are due no later than the first day of September of the year in which the tax or assessment is due. For good cause shown, the department may waive this requirement with respect to the filing deadline. All declarations to defer must be made and signed by the claimant. If the claimant is unable to make his or her own declaration, it may be made and signed by a duly authorized agent or by a guardian or other person charged with care of the person or property of such claimant.

(2) The declaration to defer must be made solely upon forms prescribed by the department of revenue and supplied by the county assessor. Such forms will contain the following:

(a) Name and address of the claimant.

(b) A complete and accurate legal description that encompasses the residence and the residential parcel of land eligible for deferral and/or to be included in the lien.

(c) An affirmation that the claimant meets the conditions of WAC 458-18A-020 including, but not limited to, the

name, address, policy number, and amount of fire and casualty insurance carried on the residence.

(d) A list of all members of the claimant's household.

(e) The claimant's equity in the residence including all liens, obligations, and encumbrances against the property.

(f) The names, signatures, and percentage of interest of other parties with an interest in the residence to which the deferral applies.

(g) An affirmation that the claimant is aware of the lien of the deferred special assessments and/or real property taxes and when the lien becomes payable.

(h) A numbering system approved by the department.

(i) Any other pertinent information the department deems relevant.

#### NEW SECTION

**WAC 458-18A-040 Deferral of special assessments and/or property taxes—Lien of state—Mortgage—Purchase contract—Deed of trust.** (1) Whenever any special assessments and/or real property taxes are deferred under the provisions of this chapter, the amount deferred, including interest, becomes a lien in favor of the state upon this property and has priority as provided in chapters 35.50 and 84.60 RCW except as provided in subsection (2) of this section.

(2) The interest of the holder of a mortgage or purchase contract requiring the accumulation of reserves out of which the holder of the mortgage, deed of trust, or purchase contract is required to pay real property taxes, has priority to the lien established in subsection (1) of this section.

(3) A person's right to defer special assessments and/or property taxes under chapter 84.37 RCW may not be reduced by contract or agreement.

#### NEW SECTION

**WAC 458-18A-050 Deferral of special assessments and/or property taxes—Declarations to renew deferral—Filing—Forms.** (1) Declarations to defer assessments and/or real property taxes for all years following the first year must be made by filing a "declaration to renew deferral" with the county assessor no later than the first day of September of the year in which the tax or assessment is due. For good cause shown, the department may waive this requirement with respect to the filing deadline. If the claimant is unable to make his or her renewal declaration, it may be made and signed by a duly authorized agent or by a guardian or other person charged with care of the person or property of such claimant.

(2) Such "declaration to renew deferral" will be made solely upon forms prescribed by the department and supplied by the county assessor. The "declaration to renew deferral" form must include, but not be limited to, those requirements contained in WAC 458-18A-030 (2)(a), (c), (d), (e), (f), (g), (h), and (i).

#### NEW SECTION

**WAC 458-18A-060 Deferral of special assessments and/or property taxes—Limitations of deferral—Interest.** No deferral will be granted if the liens created by the

deferrals of special assessments and/or real property taxes equal or exceed forty percent of the claimant's equity value in said property. Equity value will be determined as of January 1 in the year the taxes are to be deferred.

The liens include:

(1) The total amount of special assessments and/or real property taxes deferred; plus

(2) Interest on the amount deferred. The rate of interest is an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate set for each new year is computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually. That average is calculated using the rates from four months: January, April, and July of the calendar year immediately preceding the new year, and October of the previous preceding year. The interest is calculated from the time it could have been paid before delinquency until such obligation is paid. In the case of a mobile home, the department of licensing will show the state's lien on the certificate of ownership for the mobile home. In the case of all other property, the department of revenue will file a notice of the deferral with the county recorder or auditor.

#### NEW SECTION

**WAC 458-18A-070 Deferral of special assessments and/or property taxes—Duties of the county assessor.** The county assessor will:

(1) In January of each year mail renewal declarations to each claimant who had received a deferral the previous year;

(2) Determine each year if each claimant filing a "declaration to defer" and/or a "declaration to renew deferral" will be granted a deferral. If the assessor determines the claimant is not eligible, the assessor must notify the claimant in writing as soon as possible, setting forth the reason for denial and instructions for appealing the decision;

(3) Notify the county treasurer of which claimants and properties have qualified for deferral and request a tax statement for the second installment special assessments and/or property taxes due in October;

(4) Immediately transmit one copy of each approved declaration to the department;

(5) Notify the county treasurer and the department immediately upon occurrence of any condition set forth in WAC 458-18A-100(1).

#### NEW SECTION

**WAC 458-18A-080 Deferral of special assessments and/or property taxes—Duties of the department of revenue—State treasurer.** The department will:

(1) Notify the county assessor as soon as possible of any declaration to defer, where any factor appears to disqualify the claimant.

(2) Certify to the state treasurer the amount due the respective treasurers for any special assessments and/or real property taxes deferred for that year.

(3) File a notice of the deferral with the county recorder or auditor.

(4) Notify the department of licensing to show the state's lien on the certificate of ownership of a mobile home.

(5) The department may audit any "declaration to defer" and/or "declaration to renew deferral" it deems necessary.

(6) The state treasurer will pay, before delinquency, to the county treasurers the amounts certified by the department of revenue. The amount paid must be distributed to the districts which levied the taxes.

#### NEW SECTION

**WAC 458-18A-090 Deferral of special assessments and/or property taxes—Appeals.** Any claimant whose "declaration to defer" or "declaration to renew deferral" is denied by the county assessor, may appeal to the county board of equalization under the provisions of RCW 84.40.038. The decision of the county board of equalization will be final for that year and no further appeal will be allowed.

#### NEW SECTION

**WAC 458-18A-100 Deferral of special assessments and/or property taxes—When payable—Collection—Partial payment.** (1) Any special assessments and/or real property taxes deferred will become payable together with interest:

(a) Upon the conveyance of property which has a deferred special assessment and/or real property tax lien upon it.

(b) Upon the death of the claimant except when the surviving spouse or surviving domestic partner is qualified and elects to incur the lien and continue the deferment by (i) filing an original "declaration to defer" within ninety days of the claimant's death and (ii) continuing to meet the qualifications of WAC 458-18A-010 through 458-18A-100.

When a surviving spouse or surviving domestic partner elects to continue the deferment, the spouse or domestic partner then becomes the claimant and is fully subject to the conditions of WAC 458-18A-010 through 458-18A-100.

(c) Upon condemnation of property with a deferred special assessment and/or real property tax lien upon it by a public or private body exercising the power of eminent domain: Provided, That if the assessed value of the property not condemned exceeds the amount of the liens, including interest, the claimant may elect to have the liens set over to the property retained: Provided further, That the amount of the lien allowed to be set over must not exceed forty percent of the claimant's equity in the retained property.

(d) At such time as the claimant ceases to reside permanently in the residence upon which the deferral has been granted. If the cessation occurs between filing the declaration and the date the taxes are payable, the deferral will not be allowed.

(e) Upon the failure of the claimant to have or keep in force fire and casualty insurance in sufficient amount to protect the interest of the state of Washington or failure to keep the state listed as a loss payee upon said policy. Subsection (1)(b) of this section takes precedence over subsection (1)(d) of this section.

(2) Once a deferral has been granted, the various conditions contained within WAC 458-18A-010 through 458-18A-100 may prohibit the claimant from qualifying for further



deferrals, but any obligations resulting from deferrals previously granted will become due and payable only upon occurrence of the conditions set forth in subsection (1) of this section.

(3) Upon occurrence of any condition requiring the payment of any deferred special assessments and/or real property taxes, the county treasurer must proceed to collect the same in the manner provided for in chapter 84.56 RCW. For purposes of collection of the deferred taxes and interest, provisions of chapters 84.56, 84.60, and 84.64 RCW are applicable. When these moneys are collected, they must be credited to a special account in the county treasury and must then be remitted to the state treasurer within thirty days from collection with remittance advice to the department of revenue. The state treasurer must deposit the moneys in the state general fund.

(4) Any person may at any time pay a part or all of the deferred assessments and/or taxes including the interest, but such payment will not affect the deferred tax status of the property. Any payment made will be credited to the oldest deferred amount and will be applied to accrued interest and then to deferred assessments and/or taxes.

**WSR 09-10-044**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed May 1, 2009, 7:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-07-095.

Title of Rule and Other Identifying Information: The department is amending WAC 388-310-0200 WorkFirst—Activities.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>

or by calling (360) 664-6094, on June 9, 2009, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 10, 2009.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSRulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 9, 2009.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by May 26, 2009, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at [johnsj14@dshs.wa.gov](mailto:johnsj14@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to eliminate WorkFirst participation requirements for dependent minors.

Reasons Supporting Proposal: These changes are being proposed to align WorkFirst policy with mandatory federal participation requirements.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.08A.340.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.08A.340.

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: Allen D. Shanafelt, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4631.

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. The proposed rule aligns WorkFirst policy with mandatory federal participation requirements.

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." The proposed rule aligns WorkFirst policy with mandatory federal participation requirements.

April 29, 2009

Stephanie E. Schiller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-24-023, filed 11/29/06, effective 12/30/06)

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

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

(i) ~~((Receive))~~ Are receiving TANF or SFA cash assistance because you are pregnant or the parent or adult in the home; and

(ii) ~~((Are a custodial parent or age sixteen or older; and (iii)))~~ Are not exempt. For exemptions see WAC 388-310-0300 and 388-310-0350.

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

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

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

(a) Paid employment (see WAC 388-310-0400 (2)(a) and 388-310-1500);

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

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

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

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

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

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

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

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

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

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

(l) Other activities identified by your case manager on your individual responsibility plan that will help you with situations such as drug and/or alcohol abuse, homelessness, or mental health issues; and/or

(m) Activities identified by your case manager on your individual responsibility plan to help you cope with family violence as defined in WAC 388-61-001; and/or

(n) Up to ten hours of financial literacy activities to help you become self-sufficient and financially stable.

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

If you are a mandatory participant, you will be required to participate full time, working, looking for work or preparing for work. You might be required to participate in more than one part-time activity at the same time that add up to full time participation. You will have an individual responsibility plan (described in WAC 388-310-0500) that includes the specific activities and requirements of your participation.

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

You will participate in other activities, such as job search or training once you are working twenty hours or more a week in a paid unsubsidized job, to bring your participation up to full time.

You may also engage in activities if you are working full time and want to get a better job.

Post employment services (described in WAC 388-310-1800) include:

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

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

**WSR 09-10-045**

**PROPOSED RULES**

**PUBLIC DISCLOSURE COMMISSION**

[Filed May 1, 2009, 8:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-07-007.

Title of Rule and Other Identifying Information: Amends WAC 390-24-010 Forms for statement of financial affairs, to incorporate reporting of stock options on PDC form F-1.

Hearing Location(s): Commission Hearing Room, 711 Capitol Way, Room 206, Olympia, WA, on June 25, 2009, at 9:30 a.m.

Date of Intended Adoption: June 25, 2009.

Submit Written Comments to: Doug Ellis, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-

0908, e-mail dellis@pdc.wa.gov, fax (360) 753-1112, by June 22, 2009.

Assistance for Persons with Disabilities: Contact Nicole Stauffer by phone (360) 586-0544.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments to WAC 390-24-010 would provide filers with guidance on reporting stock option information on PDC form F-1. Under the amended rule, filers would report when they first received stock options, if they retained the stock options but did not exercise them and if they exercised the options during the reporting period. If the vesting period expires during the current F-1 reporting period and the stock options were not exercised no reference to the options would appear on the F-1 form.

Reasons Supporting Proposal: To provide guidance and clarification regarding the public disclosure law to personal financial affairs filers who receive, retain or exercise stock options.

Statutory Authority for Adoption: RCW 42.17.370.

Statute Being Implemented: RCW 42.17.240.

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

Name of Proponent: Public disclosure commission (PDC), governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Doug Ellis, 711 Capitol Way, Room 206, Olympia, WA 98504, (360) 664-2735; 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 this rule amendment 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 the adoption of this rule pursuant to subsection (5)(a)(i) of section 201, and, to date, JARRC has not made section 201 application [applicable] to the adoption of this rule.

May 1, 2009

Doug Ellis

Assistant Director

AMENDATORY SECTION (Amending WSR 08-19-058, filed 9/12/08, effective 11/5/08)

**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 ((41/08)) 7/09. Copies of this form are available at the Commission Office, 711 Capitol Way, Room 206, Evergreen Plaza Building, P.O. Box 40908, Olympia, Washington 98504-0908. Any paper attachments must be on 8-1/2" x 11" white paper.

((STRICKEN GRAPHIC))

<b>PUBLIC DISCLOSURE COMMISSION</b> <b>711 CAPITOL WAY RM 206</b> <b>PO BOX 40908</b> <b>OLYMPIA WA 98504-0908</b> <b>(360) 753-1111</b> <b>TOLL FREE 1-877-601-2828</b>		PDC FORM <b>F-1</b> (11/08)	<b>PERSONAL FINANCIAL AFFAIRS STATEMENT</b>	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. <b>Deadlines:</b> 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.		<b>DOLLAR CODE</b> <b>AMOUNT</b> A                                      \$1 to \$3,999 B                                      \$4,000 to \$19,999 C                                      \$20,000 to \$39,999 D                                      \$40,000 to \$99,999 E                                      \$100,000 or more		
<b>SEND REPORT TO PUBLIC DISCLOSURE COMMISSION</b>				
Last Name                                      First                                      Middle Initial		Names of immediate family members, including registered domestic partner. 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 or registered domestic partner. 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: _____		
<b>1 INCOME</b> List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member, including registered domestic partner, received \$2,000 or more during the period. (Report interest and dividends in Item 3 on reverse)				
Show Self (S) Spouse (SP/DP) 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				
<b>2 REAL ESTATE</b> List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$10,000 in which you or a family member, including registered domestic partner, 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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<b>3 ASSETS / INVESTMENTS - INTEREST / DIVIDENDS</b>		List bank and savings accounts, insurance policies, stock, bonds and other intangible property held during the reporting period.		
<p>A. Name and address of each bank or financial institution in which you, a family member, including registered domestic partner, had an account over \$20,000 any time during the report period.</p> <p>B. Name and address of each insurance company where you, a family member, including registered domestic partner, had a policy with a cash or loan value over \$20,000 during the period.</p> <p>C. Name and address of each company, association, government agency, etc. in which you, a family member, including registered domestic partner, owned or had a financial interest worth over \$2,000. Include stocks, bonds, ownership, retirement plan, IRA, notes, and other intangible property. If you, your spouse, registered domestic partner and/or dependents had decision making authority regarding individual assets/investments list each asset or investment, the value and any income amount. EXAMPLE: If you self-directed an investment account identify each stock or other asset in that account.</p>	Type of Account or Description of Asset	Asset Value (Use Code)	Income Amount (Use Code)	
	Check here <input type="checkbox"/> if continued on attached sheet.			
	<b>4 CREDITORS</b> List each creditor you or a family member, including registered domestic partner, owed \$2,000 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	Original	Present
Check here <input type="checkbox"/> if continued on attached sheet.				
<b>5</b> 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.				
<p>A. At any time during the reporting period were you, your spouse, registered domestic partner or dependents (1) an officer, director, general partner or trustee of any corporation, company, union, association, joint venture or other entity or (2) a partner or member of any limited partnership, limited liability partnership, limited liability company or similar entity including but not limited to a professional limited liability company? ____ If yes, complete Supplement, Part A.</p> <p>B. Did you, your spouse, registered domestic partner 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.</p> <p>C. Did you, your spouse, registered domestic partner or dependents own a business at any time during the reporting period? ____ If yes, complete Supplement, Part A.</p> <p>D. Did you, your spouse, registered domestic partner or dependents prepare, promote or oppose state legislation, rules, rates or standards for compensation 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.</p> <p>E. <b>Only for Persons Filing Annual Report.</b> Regarding the receipt of items not provided or paid for by your governmental agency during the previous calendar year: 1) Did you, your spouse, registered domestic partner 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, registered domestic partner 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>				
<b>ALL FILERS EXCEPT CANDIDATES.</b> Check the appropriate box. <input type="checkbox"/> 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. <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. <b>*CANDIDATES:</b> Do not use public agency addresses or telephone numbers for contact information.		<b>CERTIFICATION:</b> 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) <u>Optional</u>		

REPORT NOT ACCEPTABLE WITHOUT FILER'S SIGNATURE

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**Information Continued**

**F-1**

Name				
<b>1 INCOME</b> (continued)				
<small>Show Self (S) Spouse (SP/DP) Dependent (D)</small>	Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount: (Use Code)	
<b>2 REAL ESTATE</b> (continued)				
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
All Other Property Entirely or Partially Owned		Mortgage Amount - (Use Code)		Original
<b>3 ASSETS / INVESTMENTS - INTEREST / DIVIDENDS</b> (continued)				
A. Name and address of each bank or financial institution	Type of Account or Description of Asset		Asset Value (Use Code)	Income Amount (Use Code)
B. Name and address of each insurance company				
C. Name and address of each company, association, government agency				
<b>4 CREDITORS</b> (continued)				<b>AMOUNT (USE CODE)</b>
Creditor's Name and Address	Terms of Payment	Security Given	Original	Present

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 <p><b>PUBLIC DISCLOSURE COMMISSION</b>  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</p>	PDC FORM <b>F-1</b> SUPPLEMENT <small>(11/08)</small>	<b>SUPPLEMENT PAGE</b> PERSONAL FINANCIAL AFFAIRS STATEMENT								
<b>PROVIDE INFORMATION FOR YOURSELF, SPOUSE, REGISTERED DOMESTIC PARTNER, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD</b>										
Last Name	First Middle Initial	DATE								
<p><b>A OFFICE HELD, BUSINESS INTERESTS:</b> Provide the following information if, during the reporting period, you, your spouse, registered domestic partner or dependents</p> <p>(1) were an officer, director, general partner, trustee, or 10 percent or more owner of a corporation, non-profit organization, union, partnership, joint venture or other entity; and/or</p> <p>(2) were a partner or member of a limited partnership, limited liability partnership, limited liability company or similar entity, including but not limited to a professional limited liability company.</p> <ul style="list-style-type: none"> <li>• Legal Name: Report name used on legal documents establishing the entity.</li> <li>• Trade or Operating Name: Report name used for business purposes if different from the legal name.</li> <li>• Position or Percent of Ownership: The office, title and/or percent of ownership held.</li> <li>• Brief Description of the Business/Organization: Report the purpose, product(s), and/or the service(s) rendered.</li> <li>• 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.</li> <li>• 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 \$10,000 or more during the period to the entity. Briefly say what property, goods, services or other consideration was given or performed for the compensation.</li> <li>• Washington Real Estate: Identify real estate owned by the business entity if the qualifications referenced below are met.</li> </ul>										
<p><b>ENTITY NO. 1</b> Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/></p> <p style="text-align: right;">Registered Domestic Partner <input type="checkbox"/> Dependent <input type="checkbox"/></p> <p>LEGAL NAME: POSITION OR PERCENT OF OWNERSHIP</p> <p>TRADE OR OPERATING NAME:</p> <p>ADDRESS:</p> <p>BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:</p> <p>PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:</p> <table style="width:100%; border: none;"> <tr> <td style="width:60%;">Purpose of payments</td> <td style="width:40%;">Amount (actual dollars)</td> </tr> <tr> <td></td> <td style="text-align: center;">\$</td> </tr> </table> <p>PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$10,000 OR MORE:</p> <table style="width:100%; border: none;"> <tr> <td style="width:60%;">Agency name:</td> <td style="width:40%;">Purpose of payment (amount not required)</td> </tr> </table> <p>PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$10,000 OR MORE</p> <table style="width:100%; border: none;"> <tr> <td style="width:60%;">Customer name:</td> <td style="width:40%;">Purpose of payment (amount not required)</td> </tr> </table> <p>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 \$20,000. List street address, assessor parcel number, or legal description and county for each parcel):</p> <p>Check here <input type="checkbox"/> if continued on attached sheet</p> <p style="text-align: right;"><b>CONTINUE PARTS B AND C ON NEXT PAGE</b></p>			Purpose of payments	Amount (actual dollars)		\$	Agency name:	Purpose of payment (amount not required)	Customer name:	Purpose of payment (amount not required)
Purpose of payments	Amount (actual dollars)									
	\$									
Agency name:	Purpose of payment (amount not required)									
Customer name:	Purpose of payment (amount not required)									

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Page 2

**F-1 Supplement**

Name				
<b>ENTITY NO. 2</b> <span style="float: right;">Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/></span>				
LEGAL NAME: <span style="float: right;">Registered Domestic Partner <input type="checkbox"/> Dependent <input type="checkbox"/></span> TRADE OR OPERATING NAME: ADDRESS: POSITION OR PERCENT OF OWNERSHIP				
BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:				
PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE: Purpose of payments <span style="float: right;">Amount (actual dollars)</span> <span style="float: right;">\$</span>				
PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$10,000 OR MORE: Agency name: <span style="float: right;">Purpose of payment (amount not required)</span>				
PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$10,000 OR MORE Customer name: <span style="float: right;">Purpose of payment (amount not required)</span>				
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 \$20,000. List street address, assessor parcel number, or legal description and county for each parcel):				
Check here <input type="checkbox"/> if continued on attached sheet				
<b>B LOBBYING:</b> List persons for whom you, or any immediate family member, including registered domestic partner, lobbied or prepared state legislation or state rules, rates, or standards for compensation 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 <input type="checkbox"/> if continued on attached sheet				
<b>C FOOD TRAVEL SEMINARS</b> 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, registered domestic partner 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				

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**Information Continued**

**F-1 Supplement**

Name	
ENTITY NO.  LEGAL NAME: 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	Reporting For: Self <input type="checkbox"/> Dependent <input type="checkbox"/> Spouse/Registered Domestic Partner <input type="checkbox"/> POSITION OR PERCENT OF OWNERSHIP  Amount (actual dollars) \$  Purpose of payment (amount not required)
PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$10,000 OR MORE: Agency name:	Purpose of payment (amount not required)
PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$10,000 OR MORE: 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 \$20,000. List street address, assessor parcel number, or legal description and county for each parcel):	

**B LOBBYING:** (Continued)

Person to Whom Services Rendered	Description of Legislation, Rules, Etc.	Compensation (Use Code)

**C FOOD TRAVEL SEMINARS** (continued)

Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
			\$	

~~STRICKEN GRAPHIC))~~




 <p><b>PUBLIC DISCLOSURE COMMISSION</b>                  711 CAPITOL WAY RM 206                  PO BOX 40908                  OLYMPIA WA 98504-0908                  (360) 753-1111                  TOLL FREE 1-877-601-2828</p>	PDC FORM <b>F-1</b> (7/09)	<b>PERSONAL FINANCIAL AFFAIRS STATEMENT</b>	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. <b>Deadlines:</b> 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.		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">DOLLAR CODE</th> <th style="text-align: left;">AMOUNT</th> </tr> <tr> <td>A</td> <td>\$1 to \$3,999</td> </tr> <tr> <td>B</td> <td>\$4,000 to \$19,999</td> </tr> <tr> <td>C</td> <td>\$20,000 to \$39,999</td> </tr> <tr> <td>D</td> <td>\$40,000 to \$99,999</td> </tr> <tr> <td>E</td> <td>\$100,000 or more</td> </tr> </table>	DOLLAR CODE	AMOUNT	A	\$1 to \$3,999	B	\$4,000 to \$19,999	C	\$20,000 to \$39,999	D	\$40,000 to \$99,999	E	\$100,000 or more	
DOLLAR CODE	AMOUNT														
A	\$1 to \$3,999														
B	\$4,000 to \$19,999														
C	\$20,000 to \$39,999														
D	\$40,000 to \$99,999														
E	\$100,000 or more														
<b>SEND REPORT TO PUBLIC DISCLOSURE COMMISSION</b>															
Last Name First Middle Initial		Names of immediate family members, including registered domestic partner. 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 or registered domestic partner. 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: _____													
<b>1 INCOME</b> List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member, including registered domestic partner, received \$2,000 or more during the period. Include stock options received during the reporting period that had a value of \$2,000 or more. (Report interest and dividends in Item 3.)															
Show Self (S) Spouse (SP,DP) 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															
<b>2 REAL ESTATE</b> List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$10,000 in which you or a family member, including registered domestic partner, 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															

**CONTINUE ON NEXT PAGE**

<b>3</b>	<b>ASSETS / INVESTMENTS - INTEREST / DIVIDENDS</b>	List bank and savings accounts, insurance policies, stock, bonds and other intangible property (including but not limited to stock options) held during the reporting period.			
<p>A. Name and address of each bank or financial institution in which you, a family member, including registered domestic partner, had an account over \$20,000 any time during the report period.</p> <p>B. Name and address of each insurance company where you, a family member, including registered domestic partner, had a policy with a cash or loan value over \$20,000 during the period.</p> <p>C. Name and address of each company, association, government agency, etc. in which you, a family member, including registered domestic partner, owned or had a financial interest worth over \$2,000. Include stocks, bonds, ownership, retirement plan, IRA, notes, stock options, and other intangible property. If you, your spouse, registered domestic partner and/or dependents had decision making authority regarding individual assets/investments list each asset or investment, the value and any income amount. EXAMPLE: If you self-directed an investment account identify each stock or other asset in that account.</p>	Type of Account or Description of Asset	Asset Value (Use Code)	Income Amount (Use Code)		
Check here <input type="checkbox"/> if continued on attached sheet.					
<b>4</b>	<b>CREDITORS</b>	List each creditor you or a family member, including registered domestic partner, owed \$2,000 or more any time during the period. Don't include retail charge accounts, credit cards, or mortgages or real estate reported in Item 2.			<b>AMOUNT (USE CODE)</b>
Creditor's Name and Address		Terms of Payment	Security Given	Original	Present
Check here <input type="checkbox"/> if continued on attached sheet.					
<p><b>5</b> 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.</p> <p><b>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.</b></p> <p>A. At any time during the reporting period were you, your spouse, registered domestic partner or dependents (1) an officer, director, general partner or trustee of any corporation, company, union, association, joint venture or other entity or (2) a partner or member of any limited partnership, limited liability partnership, limited liability company or similar entity including but not limited to a professional limited liability company? ____ If yes, complete Supplement, Part A.</p> <p>B. Did you, your spouse, registered domestic partner 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.</p> <p>C. Did you, your spouse, registered domestic partner or dependents own a business at any time during the reporting period? ____ If yes, complete Supplement, Part A.</p> <p>D. Did you, your spouse, registered domestic partner or dependents prepare, promote or oppose state legislation, rules, rates or standards for compensation 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.</p> <p>E. <b>Only for Persons Filing Annual Report.</b> Regarding the receipt of items not provided or paid for by your governmental agency during the previous calendar year: 1) Did you, your spouse, registered domestic partner 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, registered domestic partner 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>					
<p><b>ALL FILERS EXCEPT CANDIDATES.</b> Check the appropriate box.</p> <p><input type="checkbox"/> 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.</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><b>*CANDIDATES:</b> Do not use public agency addresses or telephone numbers for contact information.</p>		<p><b>CERTIFICATION:</b> 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) Optional</p>			

**REPORT NOT ACCEPTABLE WITHOUT FILER'S SIGNATURE**

 <b>PUBLIC DISCLOSURE COMMISSION</b> 711 CAPITOL WAY RM 206 PO BOX 40908 OLYMPIA WA 98504-0908 (360) 753-1111 TOLL FREE 1-877-601-2828 EMAIL: <a href="mailto:pdc@pdc.wa.gov">pdc@pdc.wa.gov</a>	PDC FORM <b>F-1</b> SUPPLEMENT <small>(7/09)</small>	<b>SUPPLEMENT PAGE</b> PERSONAL FINANCIAL AFFAIRS STATEMENT			
PROVIDE INFORMATION FOR YOURSELF, SPOUSE, REGISTERED DOMESTIC PARTNER, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD					
Last Name	First	Middle Initial	DATE		
<div style="display: flex; align-items: flex-start;"> <div style="width: 30px; font-size: 2em; font-weight: bold; margin-right: 10px;">A</div> <div> <p><b>OFFICE HELD, BUSINESS INTERESTS:</b></p> <p>Provide the following information if, during the reporting period, you, your spouse, registered domestic partner or dependents</p> <ol style="list-style-type: none"> <li>(1) were an officer, director, general partner, trustee, or 10 percent or more owner of a corporation, non-profit organization, union, partnership, joint venture or other entity; and/or</li> <li>(2) were a partner or member of a limited partnership, limited liability partnership, limited liability company or similar entity, including but not limited to a professional limited liability company.</li> </ol> <ul style="list-style-type: none"> <li>• Legal Name: Report name used on legal documents establishing the entity.</li> <li>• Trade or Operating Name: Report name used for business purposes if different from the legal name.</li> <li>• Position or Percent of Ownership: The office, title and/or percent of ownership held.</li> <li>• Brief Description of the Business/Organization: Report the purpose, product(s), and/or the service(s) rendered.</li> <li>• 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.</li> <li>• 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 \$10,000 or more during the period to the entity. Briefly say what property, goods, services or other consideration was given or performed for the compensation.</li> <li>• Washington Real Estate: Identify real estate owned by the business entity if the qualifications referenced below are met.</li> </ul> </div> </div>					
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <b>ENTITY NO. 1</b>                       LEGAL NAME:                       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                       PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$10,000 OR MORE:                          Agency name:                       PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$10,000 OR MORE:                          Customer name:                 </td> <td style="width: 50%; vertical-align: top; border-left: 1px solid black; padding-left: 10px;">                     Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/>                      Registered Domestic Partner <input type="checkbox"/> Dependent <input type="checkbox"/>                      POSITION OR PERCENT OF OWNERSHIP                               Amount (actual dollars)                      \$                       Purpose of payment (amount not required)                       Purpose of payment (amount not required)                 </td> </tr> </table>				<b>ENTITY NO. 1</b>  LEGAL NAME:  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  PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$10,000 OR MORE: Agency name:  PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$10,000 OR MORE: Customer name:	Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Registered Domestic Partner <input type="checkbox"/> Dependent <input type="checkbox"/> POSITION OR PERCENT OF OWNERSHIP          Amount (actual dollars) \$  Purpose of payment (amount not required)  Purpose of payment (amount not required)
<b>ENTITY NO. 1</b>  LEGAL NAME:  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  PAYMENTS ENTITY RECEIVED FROM OTHER GOVERNMENT AGENCIES OF \$10,000 OR MORE: Agency name:  PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$10,000 OR MORE: Customer name:	Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Registered Domestic Partner <input type="checkbox"/> Dependent <input type="checkbox"/> POSITION OR PERCENT OF OWNERSHIP          Amount (actual dollars) \$  Purpose of payment (amount not required)  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 \$20,000. List street address, assessor parcel number, or legal description and county for each parcel):					
Check here <input type="checkbox"/> if continued on attached sheet					
<b>CONTINUE PARTS B AND C ON NEXT PAGE</b>					

Name

---

**ENTITY NO. 2** Reporting For: Self  Spouse   
Registered Domestic Partner  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 OTHER GOVERNMENT AGENCIES OF \$10,000 OR MORE:  
Agency name: Purpose of payment (amount not required)

PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS OF \$10,000 OR MORE  
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 \$20,000. 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, including registered domestic partner, lobbied or prepared state legislation or state rules, rates, or standards for compensation 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 <input type="checkbox"/> 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, registered domestic partner 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				

**WSR 09-10-049**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed May 1, 2009, 10:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-07-042.

Title of Rule and Other Identifying Information: Chapter 392-107 WAC, Educational service district—Election of board members.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), Old Capitol Building, 600 Washington Street, Olympia, WA 98504, on June 19, 2009, at 9:00 a.m.

Date of Intended Adoption: June 20, 2009.

Submit Written Comments to: Charles Schreck, P.O. Box 47200, Olympia, WA 98504-7200, e-mail Charles.Schreck@k12.wa.us, fax (360) 725-6130, by June 18, 2009.

Assistance for Persons with Disabilities: Contact Penny Coker by June 18, 2009, TTY (360) 664-3631 or (360) 725-6133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rule is to revise the rules on unopposed positions and the balloting process. If only one person files a declaration and affidavit of candidacy for an educational service district board position, that one person would be designated to the position.

Statutory Authority for Adoption: RCW 28A.310.080.

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

Name of Proponent: [OSPI], governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Charles Schreck, OSPI, (360) 725-6130; and Enforcement: Martin Mueller, OSPI, (360) 725-6130.

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

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

May 1, 2009  
 Randy I. Dorn  
 Superintendent of  
 Public Instruction

AMENDATORY SECTION (Amending WSR 06-14-009, filed 6/22/06, effective 6/22/06)

**WAC 392-107-215 Candidate qualifications—Forms—Filing—Withdrawal of candidacy.** (1) Eligibility. A person is eligible to be a candidate for membership on an educational service district board if he or she is a registered voter and a resident of the board-member district for which the candidate files. Restriction on other service pursuant to RCW 28A.310.070.

(2) Declaration and affidavit of candidacy. A person who desires to file for candidacy shall complete and file with the state board of education a declaration and affidavit of candidacy form as a condition to having his or her name placed on the official ballot. The form is available through the state

board of education office in Olympia or through the local educational service district office.

(3) Optional biographical form. A person who desires to file for candidacy has the option of completing and filing with the state board of education, for inclusion with balloting information, a biographical form not to exceed two pages. The form is available through the state board of education office in Olympia or through the local educational service district office.

(4) Filing period. The filing period is set forth under RCW 28A.310.080. The filing period for candidates for any position on an educational service district board is from September 1st through September 16th. Any declaration and affidavit of candidacy that is postmarked on or before midnight September 16th and received by mail prior to the printing of ballots shall be accepted. Any declaration and affidavit of candidacy that is received by United States mail on or before 5:00 p.m. September 21st and is not postmarked or legibly postmarked shall be accepted.

(5) Any candidate may withdraw his or her declaration and affidavit of candidacy by delivering a written, signed and notarized statement of withdrawal to the secretary to the state board of education on or before 5:00 p.m. September 21st. A candidate's failure to withdraw as prescribed above shall result in the inclusion of the candidate's name on the appropriate election ballot.

(6) OSPI may, at its discretion, designate a candidate who runs unopposed for a position on the educational service district board as the winner for that position without going through a balloting process.

**WSR 09-10-050**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed May 1, 2009, 10:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-07-041.

Title of Rule and Other Identifying Information: Chapter 392-109 WAC, State board of education—Election of members.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), Old Capitol Building, 600 Washington Street, Olympia, WA 98504, on June 19, 2009, at 9:30 a.m.

Date of Intended Adoption: June 20, 2009.

Submit Written Comments to: Charles Schreck, P.O. Box 47200, Olympia, WA 98504-7200, e-mail Charles.Schreck@k12.wa.us, fax (360) 725-6130, by June 18, 2009.

Assistance for Persons with Disabilities: Contact Penny Coker by June 18, 2009, TTY (360) 664-3631 or (360) 725-6133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rule is to revise the rules on unopposed positions and the balloting process. If only one person files a declaration and affidavit of candidacy for a state board of educa-

tion position, that one person would be designated to the position.

Statutory Authority for Adoption: RCW 28A.305.102.

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

Name of Proponent: [OSPI], governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Charles Schreck, OSPI, (360) 725-6130; and Enforcement: Martin Mueller, OSPI, (360) 725-6130.

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

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

May 1, 2009

Randy I. Dorn  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending WSR 05-22-007, filed 10/20/05, effective 11/20/05)

**WAC 392-109-065 Candidates—Eligibility—Filing.**

(1) Eligibility: A person is eligible to be a candidate for only one position on the state board of education at a time.

(a) A candidate for a vacancy among the five positions on the state board elected by members of public school boards of directors must be a resident of the region represented by the position and meet the other qualifications established by RCW 28A.305.102; and

(b) A candidate for a vacancy in the position on the state board elected by private schools must be a resident of the state of Washington and meet the other qualifications established by RCW 28A.305.102.

(2) Forms for filing: A person who desires to be a candidate shall complete:

(a) The declaration and affidavit of candidacy form provided for in WAC 392-109-070; and

(b) The biographical data form provided for in WAC 392-109-075: Provided, That a declarant may elect not to submit biographical data.

(3) Filing period: The filing period for candidates for any position on the state board of education elected by either public or approved private school boards of directors shall be no less than seven days in duration and occur a minimum of sixty days prior to election and shall be included on the election timeline. Declarations not received by 5:00 p.m. on the indicated date will not be included on the certified list of candidates.

(4) Filing deadline: The filing deadline for candidacy shall be 5:00 p.m. on the date included on the election timeline.

(5) OSPI may, at its discretion, designate a candidate who runs unopposed for a position on the state board of education as the winner for that position without going through a balloting process.

**WSR 09-10-054**

**PROPOSED RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed May 4, 2009, 8:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-18-078.

Title of Rule and Other Identifying Information: Chapter 16-334 WAC, rules relating to the production of garlic seed certification. The department is proposing to revise the current seed garlic certification rule by adding an exception to the five hundred feet buffer required between certified garlic and noncertified allium. 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.

Hearing Location(s): Washington State Department of Agriculture, 1111 Washington Street S.E., Natural Resources Building, Conference Room 205, Olympia, WA 98504-2560, on June 15, 2009, at 10:00 a.m.

Date of Intended Adoption: June 22, 2009.

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 June 15, 2009.

Assistance for Persons with Disabilities: Contact Henri Gonzales by June 8, 2009, TTY (800) 833-6388.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: At the request of the affected industry, the department is proposing to revise the current seed garlic certification rule by adding an exception to the five hundred feet buffer required between certified garlic and noncertified allium. Participation in the seed garlic certification program is voluntary.

Reasons Supporting Proposal: This rule change is proposed in order to respond to recent industry developments. In the past, noncertified alliums (garlic and onion crops) were grown exclusively through vegetative propagation (e.g. onion sets). Onion white rot disease, a primary target pest of the garlic certification program, is spread primarily through vegetative propagation. In order to prevent spread of the disease to certified seed garlic, the current rule requires a buffer of five hundred feet around certified garlic plantings. However, noncertified allium crops are now being grown from true seed, which would not be likely to transmit the disease or to endanger nearby certified seed garlic plantings. This revision would allow the department to grant a waiver in the case of true seed grown onions.

Statutory Authority for Adoption: Chapters 15.14 and 34.05 RCW.

Statute Being Implemented: Chapter 15.14 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: Tom Wessels, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1984.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a)

requires that an agency must 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 has analyzed the economic effects of the proposed revisions and has concluded that there are negligible additional costs on the regulated industry and, therefore, 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).

May 4, 2009

Mary A. Martin Toohey  
Assistant Director

### Chapter 16-334 WAC

#### ~~((RULES RELATING TO THE PRODUCTION OF))~~ GARLIC (~~(SEED))~~ PLANTING STOCK REGISTRATION AND CERTIFICATION

AMENDATORY SECTION (Amending WSR 98-11-048, filed 5/18/98, effective 6/18/98)

**WAC 16-334-030 Requirements for participation in the seed garlic certification program.** (1) Participants in the seed garlic certification program must submit an annual two-hundred dollar application fee and all applications for plant propagation and certification by July 1 prior to planting. A separate application form must be used for each variety to be certified.

(2) As a condition of participation in the seed garlic certification program, the applicant grower must furnish the department all requested information pertinent to the operation of the program and must give consent to the department to take material for examination and testing.

(3) Garlic seed to be planted into registered or certified blocks must be inspected and tested in compliance with WAC 16-334-030 during the prior growing season by the department or by another certifying agency approved by the department. All such garlic seed must be found to be free of stem and bulb nematode and white rot fungus.

(4) Foundation blocks must be planted with garlic seed that has been through an approved disease elimination process.

(5) Registered blocks must be planted with garlic seed that originates from an approved program as foundation or registered stock.

(6) Certified blocks must be planted with garlic seed that originates from an approved program as foundation stock, registered stock or certified stock. The department may accept other garlic seed as certified stock, if the garlic seed has been inspected, tested, and found free of stem and bulb nematode and white rot fungi, as specified in subsection (3) above, for the previous two growing seasons.

(7) Planting sites for foundation, registered and certified blocks must be inspected and approved by the department at least 30 days prior to planting. At a minimum, planting sites must comply with all of the following criteria:

(a) The site has been out of *Allium spp.* production for at least five years;

(b) The site is found free of stem and bulb nematode based on an official laboratory test;

(c) The site is not infested with white rot fungus;

(d) The site is not likely to become infested with stem and bulb nematode or white rot fungus by drainage, flooding or irrigation;

(e) The site is separated from all other certified, registered, or foundation blocks by a minimum of six feet, unless the department approves alternative precautions to preserve identity;

(f) The site is a minimum of five hundred feet from any planting of noncertified *Allium spp.* The department may waive this requirement if the noncertified *Allium* was planted with true seed and a representative sample of the seed was tested and found free of *Ditylenchus dipsaci*.

### WSR 09-10-059

#### PROPOSED RULES

#### SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed May 4, 2009, 11:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-23-064.

Title of Rule and Other Identifying Information: WAC 392-410-117 Temporary exemption from course and credit requirements.

Hearing Location(s): Office of Superintendent of Public Instruction, 600 Washington Street S.E., Olympia, WA 98504-7200, on June 9, 2009, at 3:00 p.m.

Date of Intended Adoption: June 10, 2009.

Submit Written Comments to: Dan Newell, Director of Secondary Education, OSPI, P.O. Box 47200, Olympia, WA 98504-7200, e-mail dan.newell@k12.wa.us, fax (360) 586-9321, by May 26, 2009.

Assistance for Persons with Disabilities: Contact Dan Newell (see above) by May 26, 2009, TTY (360) 664-3631 or (360) 725-4954.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed changes complete the transfer of the rule from the state board of education to the office of superintendent of public instruction. It also provides information on the updated waiver process to make it clearer for schools going through the process.

Reasons Supporting Proposal: Complete the transfer process; update the process for a waiver.

Statutory Authority for Adoption: RCW 28A.655-180(1).

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: See Purpose above.

Name of Proponent: Office of superintendent of public instruction, public and governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dan Newell, OSPI, P.O. Box 47200, Olympia, WA 98504-7200, (360) 725-4954.

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.

May 4, 2009  
Randy I. Dorn  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending WSR 06-14-009, filed 6/22/06, effective 6/22/06)

**WAC 392-410-117 Temporary exemption from ~~((course and))~~ credit requirements.** Annual exemptions to the definition of an annualized high school credit may be granted upon the request of a public or approved private school which offers evidence ~~((that delineates content, time, or competency assessments))~~ of student learning which ~~((are))~~ is substantially equivalent to the definition stated in WAC 180-51-050. The ~~((waiver))~~ request for exemption process shall be administered by the ~~((state board of education))~~ office of superintendent of public instruction. Guidelines and the application for the annual request for exemption can be found on the superintendent of public instruction's web site or through the private school approval process.

**WSR 09-10-064**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed May 4, 2009, 3:17 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-06-084.

Title of Rule and Other Identifying Information: The department is amending WAC 388-412-0015 General information about your Basic Food allotments, 388-444-0030 Work requirements for persons who are able-bodied adults without dependents (ABAWDS), and 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food?

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504, (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>, or by calling (360) 664-6094), on June 9, 2009, at 10:00 a.m.

Date of Intended Adoption: Not sooner than June 10, 2009.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSR-

PAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m. on June 9, 2009.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by May 26, 2009, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend the WACs identified above in order to:

- Increase the minimum monthly Basic Food allotment for assistance units composed of one or two persons,
- Increase the maximum monthly allotment for Basic Food assistance units, and
- Suspend the limitation of benefits for ABAWDS until September 30, 2010.

Reasons Supporting Proposal: The proposed amendments will implement requirements under the American Recovery and Reinvestment Act of 2009 and will be consistent with the requirements of the Food and Nutrition Act of 2008, regulations under Title 7 of the Code of Federal Regulations, and administrative notices published by the United States Department of Agriculture, Food and Nutrition Service related to the supplements nutrition assistance program (SNAP) or food stamp program.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.04.500, and 74.08A.120.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.04.510, 74.08.090, 74.04.500, and 74.08A.120.

Rule is necessary because of federal law, American Recovery Investment Act 2009 (P.L. 110-05).

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Holly St. John, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4895.

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.

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."

May 1, 2009

Stephanie E. Schiller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-24-051, filed 11/25/08, effective 12/26/08)

**WAC 388-412-0015 General information about your Basic Food allotments.** (1) Your monthly Basic Food benefits are called an allotment. An allotment is the total dollar value of benefits your eligible assistance unit (AU) gets for a calendar month.

(2) ~~((You cannot receive the same type of benefit in:~~



~~(a) Two states in the same month;~~  
~~(b) Two AUs in the same month, unless;~~  
~~(c) You left the AU to live in a shelter for battered women and children. See WAC 388-408-0045))~~ If your AU does not have countable income as described under WAC 388-450-0162, you get the maximum allotment for the number of eligible people in your AU under WAC 388-478-0060.

~~(3) If your AU ((does not have any countable net income, you get the maximum allotment for the number of eligible people in your AU. See WAC 388-478-0060 for the maximum allotments))~~ has countable income, we calculate your monthly allotment as described under WAC 388-450-0162.

~~(4) ((If your AU has countable net income under WAC 388-450-0162, we calculate, your allotment by:~~

~~(a) Multiplying your AU's countable net monthly income by thirty percent;~~

~~(b) Rounding this amount up to the next whole dollar; and~~

~~(c) Subtracting the result from the maximum allotment.~~

~~(5))~~ If we determine you are eligible for Basic Food, your first month's benefits are from the date you applied for benefits through the end of the month of your application. If there was a delay in processing your application, we determine when your benefits start under WAC 388-406-0055. This is called proration and is based on a thirty-day month.

~~((6))~~ (5) If you apply for benefits on or after the sixteenth of the month, and we determine you are eligible for Basic Food, we issue both your first and second months benefits in one allotment if you are eligible for both months.

~~((7))~~ (6) If your prorated benefits for the first month are under ten dollars, you will not receive an allotment for the first month.

~~((8))~~ (7) If your AU has one or two members, your monthly allotment will be at least ((fourteen)) sixteen dollars unless:

(a) It is the first month of your certification period;

(b) Your AU is eligible for only a partial month; and

(c) We reduced your first month's allotment below ~~((fourteen))~~ sixteen dollars based on the date you became eligible for Basic Food under WAC 388-406-0055.

AMENDATORY SECTION (Amending WSR 08-24-050, filed 11/25/08, effective 12/26/08)

**WAC 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food?** If your assistance unit (AU) meets all other eligibility requirements for Basic Food, your AU must have income at or below the limits in column B and C to get Basic Food, unless you meet one of the exceptions listed below. The maximum monthly food assistance benefit your AU could receive is listed in column D.

EFFECTIVE ~~((10-1-2008))~~ 4-1-2009

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	\$1,127	\$867	<del>\$(176)</del> <u>200</u>	\$1,430
2	1,517	1,167	<del>((323))</del> <u>367</u>	1,925
3	1,907	1,467	<del>((463))</del> <u>526</u>	2,420
4	2,297	1,767	<del>((588))</del> <u>668</u>	2,915
5	2,687	2,067	<del>((698))</del> <u>793</u>	3,410
6	3,077	2,367	<del>((838))</del> <u>952</u>	3,905
7	3,467	2,667	<del>((926))</del> <u>1,052</u>	4,400
8	3,857	2,967	<del>((1,058))</del> <u>1,202</u>	4,895
9	4,247	3,267	<del>((1,190))</del> <u>1,352</u>	5,390
10	4,637	3,567	<del>((1,322))</del> <u>1,502</u>	5,885
Each Additional Member	+390	+300	<del>+(132)</del> <u>150</u>	+495

Exceptions:

(1) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C. We do budget your AU's income to decide the amount of Basic Food your AU will receive.

(2) If your AU includes a member who is sixty years of age or older or has a disability, your income must be at or below the limit in column C only.

(3) If you are sixty years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E to decide if you can be a separate AU.

(4) If your AU has zero income, your benefits are the maximum allotment in column D, based on the number of eligible members in your AU.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-444-0030 Work requirements for persons who are able-bodied adults without dependents (ABAWDs).** (1) ~~((Clients who))~~ Able-bodied adults without dependents (ABAWDs) are age eighteen to fifty and have no dependents. They must, unless determined exempt, participate in specific employment and training activities to receive food assistance.

(2) ~~Nonexempt ((clients))~~ ABAWDs who fail to participate ~~((are eligible for no more than three months of food assistance in a thirty-six month period))~~ may continue to receive food assistance until September 30, 2010.

(3) ~~((Except as provided in WAC 388-444-0035, a person))~~ Beginning October 1, 2010, an ABAWD is not eligible to receive food assistance for more than three full months in ~~((the))~~ a thirty-six month period ((beginning January 1, 1997)), except as provided in WAC 388-444-0035, unless that person:

- (a) Works at least twenty hours a week averaged monthly; or
  - (b) Participates in and complies with the requirements of a work program for twenty hours or more per week; or
  - (c) Participates in a workfare program as provided in WAC 388-444-0040.
- (4) A work program is defined as a program under:
- (a) The Job Training Partnership Act (JTPA);
  - (b) Section 236 of the Trade Act of 1974; or
  - (c) A state-approved employment and training program.

Hearing Location(s): County Road Administration Board, Board Room, 2404 Chandler Court S.W., 2nd Floor, Olympia, WA 98502, on June 10, 2009, at 10:00 a.m.

Date of Intended Adoption: June 10, 2009.

Submit Written Comments to: Reema Griffith, P.O. Box 47308, Olympia, WA 98504, e-mail griffir@wstc.wa.gov, fax (360) 705-6802, by June 9, 2009.

Assistance for Persons with Disabilities: Contact Reema Griffith by June 9, 2009, TTY (800) 833-6388 ask to be connected to (360) 705-7070.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Pursuant to RCW 47.56.240, this rule extends the existing toll rates for the Tacoma Narrows Bridge so that they may remain in effect after June 30, 2009.

Reasons Supporting Proposal: Under the current rule, toll rates on the Tacoma Narrows Bridge will expire on June 30, 2009. This proposal will remove this expiration date thus allowing the current rates to remain in effect until the commission decides to change them. The toll rates are for vehicles using the Tacoma Narrows Bridge and are calculated to provide adequate revenue to repay bonds, cover operating costs and other allowable expenses.

Statutory Authority for Adoption: RCW 47.56.240.

Statute Being Implemented: RCW 47.56.240.

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

Name of Proponent: Washington state transportation commission, governmental.

Name of Agency Personnel Responsible for Drafting and Enforcement: Reema Griffith, P.O. Box 47308, Olympia, WA 98504, (360) 705-7070; and Implementation: Greg Selstead, 310 Maple Park Drive, Olympia, WA 98504, (360) 705-7801.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not apply to "business in an industry," as described in RCW 19.85.030 (1)(a), but rather the rules apply to vehicles using the Tacoma Narrows Bridge.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state transportation commission is not a listed agency under RCW 34.05.328 (5)(a)(i).

May 4, 2009

Reema Griffith

Executive Director

AMENDATORY SECTION (Amending WSR 08-12-054, filed 6/2/08, effective 7/3/08)

**WAC 468-270-070 What will the toll rates be for the Tacoma Narrows Bridge?**

Tacoma Narrows Bridge

Proposed Toll Rates<sup>1</sup> for All Vehicles<sup>(+)</sup><sup>2</sup>

		<del>((7/1/2008--6/30/2009<sup>2</sup>))</del>	
Vehicle Type	Axles	Cash	Electronic <sup>3</sup>
Passenger vehicle/ Motorcycle	2	\$4.00	\$2.75

**WSR 09-10-067**

**PROPOSED RULES**

**TRANSPORTATION COMMISSION**

[Filed May 5, 2009, 8:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-03-075.

Title of Rule and Other Identifying Information: What will the toll rates be for the Tacoma Narrows Bridge?, WAC 468-270-070.

Tacoma Narrows Bridge  
Proposed Toll Rates<sup>1</sup> for All Vehicles<sup>(+)</sup> <sup>2</sup>

		((7/1/2008— 6/30/2009 <sup>2</sup> ))	
Vehicle Type	Axles	Cash	Electronic <sup>3</sup>
Passenger vehicle with small trailer	3	\$6.00	\$4.15
Tractor trailer rig/Passenger vehicle with trailer	4	\$8.00	\$5.50
Tractor trailer with big trailer	5	\$10.00	\$6.90
Tractor trailer with bigger trailer (6 or more axles)	6	\$12.00	\$8.25

Note:

<sup>1</sup>The toll rates are in effect until changed by the commission.

<sup>2</sup>The base toll rate per axle. It is only used to calculate multi-axle rates, which are calculated as a multiplier of the base toll rate (\$2.00 for cash and \$1.375 for electronic toll rates).

(<sup>2</sup>The toll rates are in effect through June 30, 2009, or until changed by the commission.)

<sup>3</sup>The rate for the electronic tolls has been rounded up to the nearest five cents where appropriate.

**WSR 09-10-083**  
**PROPOSED RULES**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2008-27—Filed May 6, 2009, 8:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-22-096.

Title of Rule and Other Identifying Information: Chemical dependency benefits.

Hearing Location(s): Insurance Commissioner's Office, Room TR 120, 5000 Capitol Boulevard, Tumwater, WA 98504-0255, on June 9, 2009, at 10:00.

Date of Intended Adoption: July 7, 2009.

Submit Written Comments to: Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, e-mail KacyS@oic.wa.gov, fax (360) 586-3109, by June 8, 2009.

Assistance for Persons with Disabilities: Contact Lorie Villaflores by June 8, 2009, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: A 2008 federal law, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, requires large group plans providing mental health and substance abuse benefits to use the same financial requirements and treatment limitations for those benefits that are used for the plan's med-

ical-surgical benefits. The federal law is effective for plan years beginning after October 3, 2009. Washington currently requires full parity for mental health benefits. The current chemical dependency benefit rules, chapter 284-53 WAC, are more limiting than the federal requirements. These proposed rules ensure that our regulations are consistent with the federal requirements for large group plans for these benefits.

The second purpose of these rules is publication of the minimum benefit amounts pursuant to the commissioner's review as required by WAC 284-53-010 (4)(b).

Anticipated effects: Carrier's health benefit plan policies and contracts will comply with federal and state requirements for chemical dependency benefits. Health benefit plans offered in Washington state will have minimum benefit levels that are reasonable and increase in predictable increments for the next five years. The rule provides for additional review after that time.

Statutory Authority for Adoption: RCW 48.02.060, 48.21.197.

Statute Being Implemented: RCW 48.21.197.

Rule is necessary because of federal law, Mental Health Parity and Addiction Equity Act of 2008, Public Law No. 110-343 (October 3, 2008).

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Donna Dorris, P.O. Box 40258, Olympia, WA 98504-0258, (360) 725-7040; Implementation: Beth Berendt, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7117; and Enforcement: Carol Sureau, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. None of the health carriers offering health care or disability insurance in Washington state meet the definition of small business as defined by RCW 19.85.020(4).

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kacy Scott, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7041, fax (360) 586-3109, e-mail KacyS@oic.wa.gov.

May 6, 2009

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2003-08, filed 10/28/04, effective 11/28/04)

**WAC 284-53-005 Definitions.** (1) (~~"Chronic illnesses" include, but are not limited to, heart disease, diabetes, chronic obstructive pulmonary disease, and chemical dependency.~~

~~(2))~~ "Approved treatment program" means a discrete program of chemical dependency treatment provided by a treatment program certified by the department of social and health services as meeting standards adopted under chapter 70.96A RCW.

(2) "Chemical dependency" means the illness as defined in RCW 48.21.195.

(3) "Chemical dependency professional" means a person certified as a chemical dependency professional by the Washington state department of health under chapter 18.205 RCW.

(4) "Cost sharing" includes deductibles, copayments, coinsurance and out-of-pocket expenses.

(5) "Emergency medical condition" ~~((has))~~ means the ~~((same meaning))~~ condition as ~~((that contained))~~ defined in RCW 48.43.005.

~~((3))~~ (6) "Medically necessary" or "medical necessity," with respect to chemical dependency coverage ~~((, means as indicated in the))~~ is defined by the American Society of Addiction Medicine patient placement criteria. "Patient placement criteria" means the admission, continued service, and discharge criteria set forth in the most recent version of the *Patient Placement Criteria for the Treatment of Substance Abuse-Related Disorders* ~~((H))~~ as published ~~((in 1996))~~ by the American Society of Addiction Medicine.

(7) "Substance use disorder" as used in P.L. 110-343 (October 3, 2008) as currently enacted or hereafter amended (short title: The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008) includes those conditions meeting the definition of chemical dependency in RCW 48.21.195, 48.44.245, and 48.46.355.

(8) "Treatment limitation" includes limits on the frequency of treatment, number of visits, days of coverage, waiting periods, or other similar limits on the scope or duration of treatment.

AMENDATORY SECTION (Amending Matter No. R 2003-08, filed 10/28/04, effective 11/28/04)

**WAC 284-53-010 Standards for coverage of chemical dependency.** ~~((Coverage for chemical dependency))~~ Effective January 1, 2010, group health benefit plans providing chemical dependency benefits required by RCW 48.21.180, 48.44.240, or 48.46.350 must meet the following standards and administrative requirements~~((:))~~:

(1) Any group contract providing coverage for chemical dependency benefits must define "chemical dependency" consistent with definitions in Title 48 RCW and this chapter.

(2) Coverage for chemical dependency benefits must include payment for reasonable charges for any medically necessary treatment and supporting service rendered to an enrollee by an approved treatment program.

(3) Cost sharing amounts for chemical dependency services may be no more than the cost sharing amounts for medical and surgical services otherwise provided under the health benefit plan. Cost sharing amounts must not be separate from those for medical and surgical benefits covered by the plan.

(4) Lifetime limits must apply to chemical dependency benefits in the same manner as medical and surgical benefits.

(5) Treatment limitation for chemical dependency services is allowed only if the same limitation or requirement is imposed on coverage for medical and surgical services. Benefits for actual treatment and services rendered may not be denied solely because a course of treatment was interrupted or was not completed.

(6) Medically necessary detoxification must be covered as an emergency medical condition according to RCW 48.43.093, and ~~((so long as a patient is not yet enrolled in~~

other chemical dependency treatment, detoxification)) may be provided in hospitals licensed under chapter 70.41 RCW. Medically necessary detoxification services must not require prenotification, and may not be included when calculating payments within the chemical dependency payment minimum required in this chapter, as long as the enrollee is not yet enrolled in other chemical dependency treatment.

~~((2))~~ Coverage for chemical dependency must provide payment for reasonable charges for any medically necessary treatment and supporting services rendered to an enrollee by a provider that is an "approved treatment program" under RCW 70.96A.020(3). Medically necessary detoxification services may be provided in hospitals licensed under chapter 70.41 RCW.

(3) Except as prohibited by this chapter, chemical dependency coverage may be limited by provisions of the contract that apply to other benefits or services for chronic illnesses or disease including, but not limited to, provisions relating to enrollee point of service cost sharing. Denial of coverage may not be based on contract provisions that are not pertinent to the treatment of chemical dependency, such as provisions requiring a treatment program to have surgical facilities or approval by the joint commission on accreditation of hospitals, that there be a physician in attendance, or that the exact date of onset be known.

(4)(a) The minimum benefit for chemical dependency treatment and supporting services, exclusive of all cost-sharing amounts in any consecutive twenty-four month period shall be as follows:

(i) For contracts issued or renewed January 1, 2005, through December 31, 2005, the benefit must be no less than twelve thousand five hundred dollars.

(ii) Each succeeding year from January 1, 2006, through December 31, 2009, the benefit must increase in increments of five hundred dollars for new and renewing contracts.

(b) No later than January 1, 2009, the commissioner shall begin a review of past benefit adjustments to determine if increases have been reasonable and to establish future minimum benefits. By June 30, 2009, the commissioner shall publish the new minimum benefit amounts for the period beginning January 1, 2010.

(5) Contracts subject to this rule must comply with the following requirements:

(a) Waiting periods or preexisting condition limitations on chemical dependency coverage may be no more restrictive than those that are imposed for any other chronic illness under the contract.

(b) Reasonable benefits for actual treatment and services rendered may not be denied solely because a course of treatment was interrupted or was not completed.

(c) Coverage may be limited to specific facilities only if the carrier provides or contracts for the provision of approved treatment programs under RCW 70.96A.020 that alone or in combination offer both inpatient and outpatient care and that comply with network adequacy requirements established in WAC 284-43-200. This right to limit coverage to specific facilities permits a carrier to limit diagnosis and treatment to that rendered by itself or by a facility to which it makes referrals, but, in either case, only if the facility is or is a part of an approved treatment program under RCW 70.96A.020.

~~(d) A carrier may require prenotification in all reasonable situations, and may require a second opinion if a second opinion is required under the contract for other chronic illnesses. Prenotification with respect to medically necessary detoxification services is not reasonable and may not be required.~~

~~(6)) (7) Carriers who provide benefits through a defined network must contract with sufficient numbers of certified and licensed providers and facilities to provide inpatient and outpatient services. Health benefit plans that allow for out-of-network benefits must apply them to chemical dependency services consistent with medical and surgical benefits.~~

(8)(a) In certain circumstances, the carrier may require the enrollee to provide an initial assessment of the need for chemical dependency treatment and a treatment plan prior to scheduled treatment. ~~((This will enable the carrier to make its own evaluation of medical necessity.))~~ The assessment ~~((is))~~ may be at the enrollee's expense and must be provided no less than ten and no more than thirty working days before treatment is to begin. The circumstances are:

- (i) Where an enrollee is court ordered to undergo a chemical dependency assessment or treatment;
- (ii) Situations related to deferral of prosecution, deferral of sentencing or suspended sentencing; or
- (iii) Situations pertaining to motor vehicle driving rights and the Washington state department of licensing.

(b) For the initial assessment in (a) of this subsection, the enrollee may choose any individual that is:

- (i) Certified as a chemical dependency professional ~~((under chapter 246-811 WAC));~~ and
- (ii) Employed by an approved treatment program ~~((under chapter 70-96A RCW)).~~

(c) Nothing in this chapter requires a carrier to pay for court ordered chemical dependency treatment that is not medically necessary, or relieves a carrier from its obligations to pay for court ordered chemical dependency treatment when it is medically necessary.

~~((7)) (9) Unless chemical dependency treatment is determined not to be medically necessary, or except as otherwise specifically provided in this chapter, contractual provisions may not restrict access to treatment, continuity of care or payment of claims.~~

~~((8) Any contract that provides coverage for chemical dependency must define "chemical dependency" consistent with the definitions contained in Title 48 RCW.)) (10)(a) The minimum benefit for chemical dependency treatment and supporting services, exclusive of all cost sharing amounts in any consecutive twenty-four-month period must be as follows:~~

~~(i) For contracts issued or renewed January 1, 2010, through December 31, 2010, the benefit must not be less than fifteen thousand dollars.~~

~~(ii) Each succeeding year from January 1, 2011, through December 31, 2015, the benefit must increase in increments of not less than five hundred dollars for new and renewing contracts.~~

~~(b) By January 1, 2015, the commissioner must begin a technical review that includes the actual and projected costs of the benefits and the consumer price index to establish the future minimum benefits for the five-year period beginning~~

January 1, 2016. The commissioner must publish the new minimum benefit amounts by June 30, 2015.

## WSR 09-10-086

### PROPOSED RULES

#### DEPARTMENT OF LICENSING

[Filed May 6, 2009, 10:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-07-071.

Title of Rule and Other Identifying Information: Vision test and medical screening for issuance of driver's license.

Hearing Location(s): Highways-Licenses Building, 1125 Washington Street S.E., Conference Room 413, Olympia, WA (check in at counter on first floor), on June 10, 2009, at 3:00 p.m.

Date of Intended Adoption: June 11, 2009.

Submit Written Comments to: Clark J. Holloway, P.O. Box 9030, Olympia, WA 98507-9030, e-mail cholloway@dol.wa.gov, fax (360) 586-8351, by June 9, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amend WAC 308-104-010 to base nighttime driving restriction on visual acuity; amend WAC 308-104-014 and 308-104-019 to update medical screening questions on driver's license application.

Reasons Supporting Proposal: Amendment to WAC 308-104-010 is based on input received from interested stakeholders.

Statutory Authority for Adoption: RCW 46.01.110, 46.20.041, 46.20.091, 46.20.120, and 46.20.130.

Statute Being Implemented: RCW 46.20.041, 46.20.091, 46.20.120, and 46.20.130.

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: Clark J. Holloway, Highways-Licenses Building, Olympia, Washington, (360) 902-3846; Implementation and Enforcement: Doron Maniece, Highways-Licenses Building, Olympia, Washington, (360) 902-3850.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required pursuant to RCW 19.85.025(3).

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this proposed rule under the provisions of RCW 34.05.328 (5)(a)(i).

May 5, 2009

Doron N. Maniece  
Assistant Director

AMENDATORY SECTION (Amending WSR 07-02-104, filed 1/3/07)

**WAC 308-104-010 Vision test.** (1) A person applying for a driver's license or instruction permit shall be required to take a vision test administered by the department.

(a) Any person (~~((with))~~) with visual acuity worse than 20/40 Snellen with both eyes combined either corrected or uncorrected, or with some apparent significant visual limitation, must have an eye examination by a competent vision authority.

(b) If an applicant's vision cannot be corrected so it will be 20/40 Snellen for visual acuity and if the applicant's vision is between 20/50 Snellen and 20/100 Snellen, or if an applicant's other vision problems cannot be corrected, he or she must submit to a reexamination.

(c) An applicant whose vision cannot be corrected to at least 20/100 Snellen range will be deemed to have failed the portion of the driver's license examination specified by RCW 46.20.130 (1)(a) pertaining to eyesight and ability to see, and will be deemed to have failed to demonstrate that he or she is qualified to drive.

(d) An applicant whose (~~(optometrist or ophthalmologist answers "no" to the question "In your professional opinion, can this individual see adequately to safely operate a vehicle at night,")~~) vision cannot be corrected to at least 20/70 Snellen range will be deemed to have failed to demonstrate that he or she is qualified to drive at night.

(2) The department may waive the requirement for a vision test for any person applying to renew his or her driver's license by mail or electronic commerce if the person certifies on the application that his or her vision acuity is no less than 20/40 Snellen for visual acuity, either corrected or uncorrected, and that there are no other vision problems.

(3) The department shall refer for reexamination any person who uses bioptic or telescopic lenses to meet licensing standards for the issuance of any driver's license or instruction permit.

AMENDATORY SECTION (Amending WSR 05-15-064, filed 7/12/05)

**WAC 308-104-014 Application for driver's license or identification card.** A person applying for an original driver's license, instruction permit, or identification card must provide the following information:

(1) The person's full name, current mailing and residential address, and telephone number;

(2) The person's physical description, including sex, height, weight, and eye color;

(3) The person's date and place of birth;

(4) The person's Social Security number, if the Social Security number is required by state or federal law. If the person's Social Security number is not required by state or federal law, the person may voluntarily provide his or her Social Security number in order to assist the department in verifying identity;

(5) The person's mother's maiden name and whether the person is one of multiple siblings born at the same time;

(6) If the application is for a driver's license or instruction permit, whether the person has been previously licensed, where such license was issued, and under what name;

(7) If the application is for a driver's license or instruction permit, whether the person has ever had his or her driver's license or driving privilege suspended, revoked, cancelled, disqualified, withheld, or denied, and if so, where and when such driving sanction was imposed and the reason for such action;

(8) If the application is for a driver's license or instruction permit, whether the person has had a (~~(loss of consciousness or control within the last six months that))~~ mental or physical condition or is taking any medication which could impair his or her ability to operate a motor vehicle;

(9) If the application is for a driver's license and the person is under the age of eighteen, a declaration by the person's parent, guardian, or employer that he or she has read and understands the intermediate license restrictions, and a declaration by the person that he or she has read and understands the intermediate license restrictions;

(10) The person's signature and, if the application is for a driver's license or instruction permit and the person is under the age of eighteen, the signature of the person's custodial parent or legal guardian; and

(11) Any supplementary documentation as may be necessary to verify any of the information required by this section.

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

AMENDATORY SECTION (Amending WSR 07-22-031, filed 10/29/07)

**WAC 308-104-019 Renewal of driver's license or identicard by electronic commerce—Eligibility.** An applicant for a driver's license renewal or identicard renewal may apply by electronic commerce if he or she has received an authorization notice from the department.

(1) The department may send an authorization notice to a person whose valid driver's license is about to expire if the person:

(a) Is eligible to renew his or her driver's license by electronic commerce under the provisions of RCW 46.20.120 (3)(b) or (4)(b);

(b) Has previously been issued a digital driver's license;

(c) Is at least twenty-four and not more than sixty-five years of age;

(d) Has a valid Social Security number on file with the department;

(e) Has a valid mailing address on his or her driving record as maintained by the department;

(f) Does not have a commercial driver's license, enhanced driver's license or identicard, instruction permit, or agricultural permit;

(g) Has not paid a fee owed to the department with a check that has been dishonored;

(h) Has not failed to appear, respond, or comply with the terms of or in response to a traffic citation or notice of traffic infraction; and

(i) Does not have any actions pending against his or her driver's license or driving privileges.

(2) A person applying for driver's license renewal by electronic commerce must:

(a) Certify that (~~within the last six months he or she has not had a loss of consciousness or control that~~) he or she has had no mental or physical condition or is not taking any medication which could impair his or her ability to operate a motor vehicle safely;

(b) Make the necessary certification under WAC 308-104-010(2); and

(c) Complete the required application and pay all applicable fees.

(3) The department may send an authorization notice to a person whose valid identicard is about to expire if the person:

(a) Is eligible to renew his or her identicard by electronic commerce under the provisions of RCW 46.20.117 (3)(b);

(b) Is at least twenty-four years of age; and

(c) Has previously been issued a digital identicard.

(4) A person applying for identicard renewal by electronic commerce must complete the required application and pay all applicable fees.

(5) The department may specify the means and establish procedures by which a person may make an application under this section.

### WSR 09-10-089

#### PROPOSED RULES

#### DEPARTMENT OF HEALTH

[Filed May 6, 2009, 10:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-14-076.

Title of Rule and Other Identifying Information: WAC 246-16-800 through 246-16-890, sanction schedule.

Hearing Location(s): Department of Health, Point Plaza East, Room 152, 310 Israel Road S.E., Tumwater, WA, on June 17, 2009, at 9:30 a.m.

Date of Intended Adoption: June 17, 2009.

Submit Written Comments to: Margaret Gilbert, Department of Health, Legal Services Office, P.O. Box 47873, Olympia, WA 98504-7873, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4830, by June 17, 2009.

Assistance for Persons with Disabilities: Contact Margaret Gilbert by June 10, 2009, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules will satisfy the requirement of RCW 18.130.390 by establishing a consistent and enforceable sanction schedule applicable to all professions, for all disciplinary actions, both formal and informal. The rules will be used by each disciplining authority, including boards and commission and the secretary of health. The rules will establish sanction grids for six significant types of unprofessional conduct. The rules also contain instructions for using the grids as well as how to apply the rules when unprofessional conduct is not described in a grid. The rules include minimum periods of oversight

and allow consideration of aggravating and mitigating circumstances as well as unique facts justifying deviation from the schedule.

Reasons Supporting Proposal: RCW 18.130.390 (section 12 of 4SHB 1103 passed in 2008) requires the secretary of health to adopt rules establishing a uniform sanction schedule for all disciplining authorities to follow when imposing sanctions on any license[d] health care provider for unprofessional conduct. This will protect the public health by promoting consistent outcomes of disciplinary cases.

Statutory Authority for Adoption: RCW 18.130.390.

Statute Being Implemented: RCW 18.130.390.

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: Margaret Gilbert, Department of Health, P.O. Box 47873, Olympia, WA 98504-7873, (360) 236-4913; Implementation and Enforcement: Karen Jensen, Department of Health, P.O. Box 47850, Olympia, WA 98504-7850, (360) 236-4600.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(ii) exempts rules that relate only to internal governmental operations that are not subject to violation by a nongovernment party.

May 5, 2009

Mary C. Selecky

Secretary

## SANCTIONS

### NEW SECTION

#### WAC 246-16-800 Sanctions—General provisions. (1)

Applying these rules.

(a) The disciplining authorities listed in RCW 18.130.040(2) will apply these rules to determine sanctions imposed for unprofessional conduct by a license holder in any active, inactive, or expired status. The rules do not apply to applicants.

(b) The disciplining authorities will apply the rules in:

(i) Orders under RCW 18.130.110 or 18.130.160; and

(ii) Stipulations to informal disposition under RCW 18.130.172.

(c) Sanctions will begin on the effective date of the order.

(2) Selecting sanctions.

(a) The disciplining authority will select sanctions to protect the public and, if possible, rehabilitate the license holder.

(b) The disciplining authority may impose the full range of sanctions listed in RCW 18.130.160 for orders and RCW 18.130.172 for stipulations to informal dispositions.

(i) Suspension or revocation will be imposed when the license holder cannot practice with reasonable skill or safety.

(ii) Permanent revocation may be imposed when the disciplining authority finds the license holder can never be rehabilitated or can never regain ability to practice safely.

(iii) Surrender of credential may be imposed when the license holder is at the end of his or her effective practice and surrender alone is enough to protect the public. The license holder must agree to retire and not resume practice.

(iv) Indefinite suspension may be imposed in default and waiver of hearing orders. If indefinite suspension is not imposed in a default or waiver of hearing order, the disciplining authority shall impose sanctions determined according to these rules.

(v) "Oversight" means a period of time during which respondent must engage in on-going affirmative conduct intended to encourage rehabilitation and ensure public safety. It also includes active compliance monitoring by the disciplining authority. The passage of time without additional complaints or violations, with or without payment of a fine or costs, is not, by itself, oversight.

(c) The disciplining authority may deviate from the sanction schedules in these rules if the schedule does not adequately address the facts in a case. The disciplining authority will acknowledge the deviation and state its reasons for deviating from the sanction schedules in the order or stipulation to informal disposition.

(d) If the unprofessional conduct is not described in a schedule, the disciplining authority will use its judgment to determine appropriate sanctions. The disciplining authority will state in the order or stipulation to informal disposition that no sanction schedule applies.

(3) Using sanction schedules.

(a) Step 1: The findings of fact in an order or the allegations in an informal disposition describe the unprofessional conduct. The disciplining authority uses the unprofessional conduct described to select the appropriate sanction schedule contained in WAC 246-16-810 through 246-16-860.

(i) If the act of unprofessional conduct falls in more than one sanction schedule, the greater sanction is imposed.

(ii) If different acts of unprofessional conduct fall in the same sanction schedule, the highest sanction is imposed and the other acts of unprofessional conduct are considered aggravating factors.

(b) Step 2: The disciplining authority identifies the severity of the unprofessional conduct and identifies a tier using the sanction schedule tier descriptions.

(c) Step 3: The disciplining authority identifies aggravating or mitigating factors using the list in WAC 246-16-890. The disciplining authority describes the factors in the order or stipulation to informal disposition.

(d) Step 4: The disciplining authority selects sanctions within the identified tier. The starting point for duration of the sanctions is the middle of the tier range.

(i) Aggravating factors move the appropriate sanctions towards the maximum end of the tier range.

(ii) Mitigating factors move the appropriate sanctions towards the minimum end of the tier range.

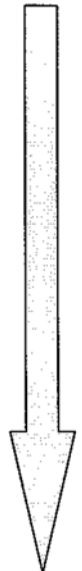
(iii) Mitigating or aggravating factors may result in determination of a sanction outside the range in the tier. The

disciplining authority will state its reasons for deviating from the tier range in the sanction schedule in the order or stipulation to informal disposition. The disciplining authority has complied with these rules if it acknowledges the deviation and states its reasons for deviating from the sanction schedules in the order or stipulation to informal disposition.




NEW SECTION

**WAC 246-16-810 Sanction schedule—Practice below standard of care.**

<b>PRACTICE BELOW STANDARD OF CARE</b>				
<b>Severity</b>	<b>Tier / Conduct</b>	<b>Sanction Range In consideration of Aggravating &amp; Mitigating Circumstances</b>		<b>Duration</b>
		Minimum	Maximum	
least    greatest	<b>A</b> – Caused no or minimal patient harm or a low risk of minimal patient harm	Conditions that may include reprimand, training, monitoring, supervision, probation, evaluation, etc.	Oversight for 3 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, etc.	0-3 years
	<b>B</b> – Caused moderate patient harm or moderate or severe risk of patient harm	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc.	Oversight for 5 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. OR revocation.	2 years - 5 years unless revocation
	<b>C</b> – Caused severe harm or death to a human patient	Oversight for 3 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. In addition - demonstration of knowledge or competency.	Permanent conditions, restrictions or revocation.	3 years - permanent


NEW SECTION

**WAC 246-16-820 Sanction schedule—Sexual misconduct or contact.**

<b>SEXUAL MISCONDUCT OR CONTACT (including convictions for sexual misconduct)</b>				
<b>Severity</b>	<b>Tier / Conduct</b>	<b>Sanction Range In consideration of Aggravating &amp; Mitigating Circumstances</b>		<b>Duration</b>
		Minimum	Maximum	
least    greatest	<b>A</b> –Inappropriate conduct, contact, or statements of a sexual or romantic nature	Conditions that may include reprimand, training, monitoring, probation, supervision, evaluation, etc.	Oversight for 3 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, etc.	0-3 years
	<b>B</b> – Sexual contact, romantic relationship, or sexual statements that risk or result in patient harm	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc.	Oversight for 5 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. OR revocation.	2 years - 5 years unless revocation
	<b>C</b> – Sexual contact, including but not limited to contact involving force and/or intimidation.	1 year suspension AND oversight for 5 additional years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. AND demonstration of successful completion of evaluation and treatment.	Permanent conditions, restrictions, or revocation.	6 years - permanent

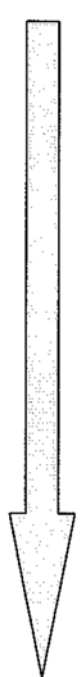
NEW SECTION

**WAC 246-16-830 Sanction schedule—Abuse—Physical and emotional.**

<b>ABUSE -- Physical and/or Emotional</b>				
<b>Severity</b>	<b>Tier / Conduct</b>	<b>Sanction Range In consideration of Aggravating &amp; Mitigating Circumstances</b>		<b>Duration</b>
		Minimum	Maximum	
least    greatest	<b>A</b> – Verbal or nonverbal intimidating, forceful contact, or disruptive or demeaning behavior, including general behavior, not necessarily directed to a specific patient or patients	Conditions that may include reprimand, training, monitoring, probation, supervision, evaluation, etc.	Oversight for 3 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, etc.	0-3 years
	<b>B</b> – Moderately abusive unnecessary or forceful contact or disruptive or demeaning behavior, including general behavior not directed at a specific patient or patients causing mental or physical injury	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc.	Oversight for 5 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. OR revocation..	2 years - 5 years unless revocation
	<b>C</b> – Severe physical, verbal, or forceful contact; or emotional disruptive behavior; that results in significant harm or death	1 year suspension AND oversight for 5 additional years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. AND demonstration of successful completion of evaluation and treatment.	Permanent conditions, restrictions, or revocation.	6 years - permanent


NEW SECTION

**WAC 246-16-840 Sanction schedule—Diversion of controlled substances or legend drugs.**

DIVERSION OF CONTROLLED SUBSTANCES OR LEGEND DRUGS				
Severity	Tier/Conduct	Sanction Range In consideration of Aggravating & Mitigating Circumstances		Duration
		Minimum	Maximum	
least    greatest	<b>A</b> – Diversion with no or minimal patient harm or risk of harm	Conditions that may include reprimand, training, monitoring, probation, supervision, evaluation, treatment, etc.	Oversight for 5 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, treatment etc.	0-5 years
	<b>B</b> – Diversion with moderate patient harm or risk of harm or for distribution	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, treatment, etc.	Oversight for 7 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, treatment, etc. OR revocation.	2 - 7 years unless revocation
	<b>C</b> – Diversion with severe physical injury or death of a patient or a risk of severe physical injury or death or for substantial distribution to others	1 year suspension AND oversight for 5 additional years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. AND demonstration of successful completion of evaluation and treatment.	Permanent conditions, restrictions OR revocation.	6 years - permanent


NEW SECTION

**WAC 246-16-850 Sanction schedule—Substance abuse.**

<b>SUBSTANCE ABUSE</b>				
<b>Severity</b>	<b>Tier / Conduct</b>	<b>Sanction Range</b> <b>In consideration of Aggravating &amp; Mitigating Circumstances</b>		<b>Duration</b>
		<b>Minimum</b>	<b>Maximum</b>	
least    greatest	<b>A</b> – Misuse of drugs or alcohol with no to minimal patient harm or risk of harm	Conditions that may include reprimand, training, monitoring, probation, supervision, evaluation, treatment, etc.	Oversight for 5 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, treatment, etc.	0-5 years
	<b>B</b> – Misuse of drugs or alcohol with moderate patient harm or risk of harm	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, treatment, etc.	Oversight for 7 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, treatment, etc. OR revocation.	2 - 7 years unless revocation
	<b>C</b> – Misuse of drugs or alcohol with severe physical injury or death of a patient or a risk of significant physical injury or death	1 year suspension AND oversight for 5 additional years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. AND demonstration of successful completion of evaluation and treatment.	Permanent conditions, restrictions OR revocation.	6 years - permanent

NEW SECTION

**WAC 246-16-860 Sanction schedule—Criminal convictions.**

<b>CRIMINAL CONVICTIONS (excluding sexual misconduct)</b>				
<b>Severity</b>	<b>Tier / Conviction</b>	<b>Sanction Range In consideration of Aggravating &amp; Mitigating Circumstances</b>		<b>Duration</b>
		Minimum	Maximum	
least  greatest	<b>A</b> – Conviction of a Gross Misdemeanor except sexual offenses in RCW 9.94A.030	Conditions that may include reprimand, training, monitoring, probation, supervision, evaluation, etc.	Oversight for 5 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, etc.	0-5 years
	<b>B</b> – Conviction of a Class B, C, OR Unclassified Felony, except sexual offenses in RCW 9.94A.030	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc.	Oversight for 5 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. OR revocation.	2 years - 5 years unless revocation
	<b>C</b> – Conviction of a Class A Felony, except sexual offenses in RCW 9.94A.030	5 years suspension	Permanent revocation	5 years - permanent revocation

NEW SECTION

**WAC 246-16-890 Sanctions—Aggravating and mitigating factors.** The following nonexclusive list identifies factors that may mitigate or aggravate the sanctions that should be imposed in an order or stipulation to informal disposition.

- (1) Factors related to the unprofessional conduct:
  - (a) Gravity of the unprofessional conduct;
  - (b) Age, capacity and/or vulnerability of the patient, client or victim;
  - (c) Number or frequency of the acts of unprofessional conduct;
  - (d) Injury caused by the unprofessional conduct;
  - (e) Potential for injury to be caused by the unprofessional conduct;
  - (f) Degree of responsibility for the outcome;
  - (g) Abuse of trust;
  - (h) Intentional or inadvertent act(s);
  - (i) Motivation is criminal, immoral, dishonest or for personal gain;
  - (j) Length of time since the unprofessional conduct occurred.

- (2) Factors related to the license holder:
  - (a) Experience in practice;
  - (b) Past disciplinary record;
  - (c) Previous character;
  - (d) Mental and/or physical health;
  - (e) Personal circumstances;
  - (f) Personal problems having a nexus with the unprofessional conduct.
- (3) Factors related to the disciplinary process:
  - (a) Admission of key facts;
  - (b) Full and free disclosure to the disciplining authority;
  - (c) Voluntary restitution or other remedial action;
  - (d) Bad faith obstruction of the investigation or discipline process or proceedings;
  - (e) False evidence, statements or deceptive practices during the investigation or discipline process or proceedings;
  - (f) Remorse or awareness that the conduct was wrong;
  - (g) Impact on the patient, client, or victim.
- (4) General factors:
  - (a) License holder's knowledge, intent, and degree of responsibility;
  - (b) Presence or pattern of other violations;

- (c) Present moral fitness of the license holder;
- (d) Potential for successful rehabilitation;
- (e) Present competence to practice;
- (f) Dishonest or selfish motives;
- (g) Illegal conduct;
- (h) Heinousness of the unprofessional conduct;
- (i) Ill repute upon the profession;
- (j) Isolated incident unlikely to reoccur.

**WSR 09-10-090**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed May 6, 2009, 10:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-14-140.

Title of Rule and Other Identifying Information: Chapter 246-809 WAC, licensed counselors, adding new associate level professions.

Hearing Location(s): Department of Health, 310 Israel Road S.E., Point Plaza East, Room 152/153, Tumwater, WA 98504-7852, on June 10, 2009, at 1:30 p.m.

Date of Intended Adoption: June 10, 2009.

Submit Written Comments to: Betty J. Moe, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2406, by June 10, 2009.

Assistance for Persons with Disabilities: Contact Betty J. Moe by June 3, 2009, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The change in statute makes it necessary for the department to develop rules for the new associate-level professions. The proposed rules:

1. Identify the educational requirements for each associate-level credential.
2. Add an exemption to waive the postgraduate supervision experience required for full licensure.
3. Modify the supervised experience requirements for social work licensure.

Reasons Supporting Proposal: 2SHB 2674 (chapter 135, Laws of 2008) amended credentialing standards for registered counselors. The legislation created eight new counseling professions, effective July 1, 2009, and abolished the registered counselor credential effective July 1, 2010. Sections 11-14 of the bill added the following four new professions:

- Licensed social work associate - advanced (LSWAA),
- Licensed social work associate - independent clinical (LSWAIC),
- Licensed mental health counselor associate (LMHCA), and
- Licensed marriage and family therapy associate (LMFTA).

Statutory Authority for Adoption: RCW 18.225.090.

Statute Being Implemented: Chapter 18.225 RCW.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Betty J. Moe, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4912.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Betty J. Moe, Program Manager, Department of Health, P.O. Box 47852, Olympia, WA 98502-7852, phone (360) 236-4912, fax (360) 236-4909, e-mail [Betty.Moe@doh.wa.gov](mailto:Betty.Moe@doh.wa.gov).

May 5, 2009

Mary C. Selecky  
Secretary

**LICENSED COUNSELORS AND ASSOCIATE COUNSELORS—GENERAL REQUIREMENTS**

AMENDATORY SECTION (Amending WSR 06-09-032, filed 4/12/06, effective 5/13/06)

**WAC 246-809-010 Definitions.** ~~((The following terms are defined within the meaning of this chapter.))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Associate" means a prelicensure candidate who has a graduate degree in a mental health field under RCW 18.225.090 and is gaining the supervision and supervised experience necessary to become a licensed independent clinical social worker, a licensed advanced social worker, a licensed mental health counselor, or a licensed marriage and family therapist. Associates may not independently provide social work, mental health counseling, or marriage and family therapy for a fee, monetary or otherwise. Associates must work under the supervision of an approved supervisor.

(2) "Independent social work, mental health counseling, or marriage and family therapy" means the practice of these disciplines without being under the supervision of an approved supervisor.

(3) "Licensed counselor" means a licensed marriage and family therapist, licensed mental health counselor, licensed advanced social worker, or licensed independent clinical social worker regulated under chapter 18.225 RCW.

AMENDATORY SECTION (Amending WSR 06-09-032, filed 4/12/06, effective 5/13/06)

**WAC 246-809-035 ((Record-keeping)) Recordkeeping and retention.** (1) The licensed counselor or associate providing professional services to a client or providing services billed to a third-party payor, ~~((shall))~~ must document services, except as provided in subsection (2) of this section. The documentation includes:

- (a) Client name;
- (b) The fee arrangement and record of payments;
- (c) Dates counseling was received;
- (d) Disclosure form, signed by licensed counselor and client or associate and client;

(e) The presenting problem(s), purpose or diagnosis;

(f) Notation and results of formal consults, including information obtained from other persons or agencies through a release of information;

(g) Progress notes sufficient to support responsible clinical practice for the type of theoretical orientation/therapy the licensed counselor or associate uses. The associate must provide adequate information about their clinical work to the approved supervisor. This can be in the form of progress notes, case discussions/analysis, or reports from collaborating professionals. The approved supervisor must have an understanding of the clinical work that the associate is doing.

(2) If a client requests that no treatment records be kept, and the licensed counselor or associate agrees to the request, the request must be in writing and the licensed counselor or associate must retain only the following documentation:

(a) Client name;

(b) Fee arrangement and record of payments;

(c) Dates counseling was received;

(d) Disclosure form, signed by licensed counselor or associate and client;

(e) Written request that no records be kept.

(3) The licensed counselor or associate may not agree to the request if maintaining records is required by other state or federal law.

(4) The licensed counselor or associate or the associate's supervisor must keep all records for a period of five years following the last visit. Within this five-year period, all records must be maintained safely, with properly limited access.

(5) The licensed counselor or associate or the associate's supervisor must make provisions for retaining or transferring records in the event of going out of business, death or incapacitation. These provisions may be made in the practitioner's will, an office policy, or by ensuring another licensed counselor is available to review records with a client and recommend a course of action; or other appropriate means as determined by the licensed counselor or associate.

AMENDATORY SECTION (Amending WSR 06-09-032, filed 4/12/06, effective 5/13/06)

**WAC 246-809-040 Reporting of suspected abuse or neglect of a child(~~or dependent~~) or vulnerable adult(~~or a developmentally disabled person~~).** As required by chapter(s) 26.44 (~~and 74.34~~) RCW, all licensed counselors and associates must report abuse or neglect of a child(~~or dependent adult, or developmentally disabled person~~) if the counselor has reasonable cause to believe that an incident has occurred.

As required by chapter 74.34 RCW, all licensed counselors and associates must report suspected abandonment, abuse, neglect, or financial exploitation of a vulnerable adult, when there is reasonable cause to believe that abandonment, abuse, financial exploitation, or neglect has occurred.

The counselor or associate shall report to the local law enforcement agency or to the department of social and health services at the first opportunity, but no longer than (~~forty-eight~~) twenty-four hours after deciding there is reasonable cause to believe that the child or vulnerable adult has suffered abandonment, abuse (~~or~~), neglect, or financial exploitation.

The associate will inform their approved supervisor of any report made by the associate.

AMENDATORY SECTION (Amending WSR 08-07-090, filed 3/19/08, effective 4/19/08)

**WAC 246-809-049 Sexual misconduct.** (1) The definitions and prohibitions on sexual misconduct described in chapter 246-16 WAC apply to licensed (~~marriage and family therapists, licensed mental health~~) counselors(~~(s)~~) and (~~licensed social workers~~) associates except WAC 246-16-100 (3) and (4).

(2) A licensed (~~marriage and family therapist, licensed mental health~~) counselor(~~(s)~~) or (~~licensed social worker~~) associate shall never engage, or attempt to engage, in the activities listed in WAC 246-16-100(1) with a former patient, former client or former key party.

**LICENSED MARRIAGE AND FAMILY THERAPISTS AND LICENSED MARRIAGE AND FAMILY THERAPY ASSOCIATES**

NEW SECTION

**WAC 246-809-100 One year exemption option.** Persons who submit an application for licensure as a marriage and family therapist by July 1, 2010, and who have held a registered counselor credential issued under chapter 18.19 RCW in good standing for five consecutive years since obtaining their master's degree in an approved field, are deemed to have met the supervised postgraduate experience requirements of WAC 246-809-130. Applicants must meet the education requirements in WAC 246-809-120 and the examination requirements of WAC 246-809-140.

AMENDATORY SECTION (Amending WSR 06-18-043, filed 8/30/06, effective 9/30/06)

**WAC 246-809-110 Definitions.** The following terms apply to the licensure of marriage and family therapists and marriage and family therapist associates.

(1) "Approved educational program" means:

(a) Any college or university accredited by a national or regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation or its successor; or

(b) A program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAM-FTE), at the time the applicant completed the required education.

(2) "Approved supervisor" means a licensed marriage and family therapist, or an equally qualified licensed mental health practitioner.

(3) "Equally qualified licensed mental health practitioner" means a licensed mental health counselor, licensed clinical social worker, licensed psychologist, licensed physician practicing as a psychiatrist, or licensed psychiatric nurse practitioner, who has completed:

(a) Three hundred clock hours in graduate or postgraduate marriage and family education, or continuing education in marriage and family therapy or supervision by an approved



marriage and family therapist supervisor in marriage and family therapy or any combination of these; and

(b) Five years of clinical practice that includes the equivalent of one year of clinical practice working with couples and families.

(4) "Group supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than six licensure candidates.

(5) "Licensure candidate" means an individual that is accruing supervised clinical experience required for licensure.

(6) "One-on-one supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than two licensure candidates.

(7) "Supervised experience requirement" means experience that is obtained under an approved supervisor who meets the requirements described in WAC 246-809-134.

(8) "Supervision of supervision" means supervision by an approved supervisor for the purpose of training and qualifying a license holder to act as an approved supervisor for purposes of chapter 18.225 RCW and WAC 246-809-134.

(9) "Peer" means a co-worker who is not the licensure candidate's employer or supervisor.

AMENDATORY SECTION (Amending WSR 01-17-113, filed 8/22/01, effective 9/22/01)

**WAC 246-809-120 Education requirements—Degree equivalents.** (1) To meet the education requirement (~~of chapter 251, Laws of 2001, an applicant~~) for full licensure or associate licensure an applicant must (possess) have a master's or doctoral degree in marriage and family therapy or a behavioral science master's or doctoral degree with equivalent course work from an approved school. An official transcript must be provided as evidence of fulfillment of the course work required.

(2) The following are considered to be equivalent to a master's or doctoral degree in marriage and family therapy from an approved school:

(a) A doctoral or master's degree from an approved school in any of the behavioral sciences that shows evidence of fulfillment of the course work requirements set out in WAC 246-809-121; or

(b) A doctoral or master's degree in any of the behavioral sciences from an approved school that shows evidence of partial fulfillment of the equivalent course work requirements set out in WAC 246-809-121, plus supplemental course work from an approved school to satisfy the remaining equivalent course work requirements set out in WAC 246-809-121.

(3) Applicants who held a behavioral science master's or doctoral degree and are completing supplemental course work through an approved school to satisfy any missing program equivalencies may count any postgraduate experience hours acquired concurrently with the additional course work.

(4) Anyone who has obtained American Association for Marriage and Family Therapy (AAMFT) clinical membership status is considered to have met the education requirements of this chapter. Verification must be sent directly to the department from the AAMFT.

AMENDATORY SECTION (Amending WSR 01-17-113, filed 8/22/01, effective 9/22/01)

**WAC 246-809-121 Program equivalency.** Course work equivalent to a master's or doctoral degree in marriage and family therapy (~~(shall)~~) must include graduate level courses in marital and family systems, marital and family therapy, individual development psychopathology, human sexuality, research, professional ethics and law, and supervised clinical practice and electives.

A total of forty-five semester credits and sixty quarter credits are required in all nine areas of study. A minimum of twenty-seven semester credits or thirty-six quarter credits are required in the first five areas of study: Marital and family systems, marital and family therapy, individual development psychopathology, human sexuality, and research. Distribution of the course work is as follows:

(1) Marital and family systems.

(a) An applicant must have taken at least two courses in marital and family systems. Course work required is a minimum of six semester credits or eight quarter credits.

(b) Marital and family systems is a fundamental introduction to the systems approach to intervention. The student should learn to think in systems terms on a number of levels across a wide variety of family structures, and regarding a diverse range of presenting problems. While the most intense focus may be on the nuclear family (in both its traditional and alternative forms), models should be taught which integrate information regarding the marital, sibling, and individual subsystems, as well as the family of origin and external societal influences. Developmental aspects of family functioning should also be considered of the family system; it also provides a theoretical basis for treatment strategy. Some material may be drawn from familiar sources such as family sociology, but it should be integrated with recent clinically oriented systems concepts. Supplemental studies may include family simulation, the observation of well families, and study of the student's family of origin.

(2) Marital and family therapy.

(a) An applicant must have taken at least two courses in marital and family therapy. Course work required is a minimum of six semester credits or eight quarter credits.

(b) Marital and family therapy is intended to provide a substantive understanding of the major theories of systems change and the applied practices evolving from each orientation. Major theoretical approaches to be surveyed might include strategic, structural, experiential, neoanalytical (e.g., object relations), communications, and behavioral. Applied studies should consider the range of technique associated with each orientation, as well as a variety of treatment structures, including individual, concurrent, collaborative, conjoint marital, marital group, transgenerational, and network therapies.

(3) Individual development.

(a) An applicant must have taken at least one course in individual development. Course work required is a minimum of two semester credits or three quarter credits.

(b) A course in this area is intended to provide a knowledge of individual personality development and its normal and abnormal manifestations. The student should have relevant course work in human development across the life span,

and in personality theory. An attempt should be made to integrate this material with systems concepts. Several of the courses in this category may be required as prerequisites for some degree programs.

(4) Psychopathology.

(a) An applicant must have taken at least one course in psychopathology. Course work required is a minimum of two semester credits or three quarter credits.

(b) Psychopathology is the assessment and diagnosis including familiarity with current diagnostic nomenclature, diagnostic categories and the development of treatment strategies.

(5) Human sexuality.

(a) An applicant must have taken at least one course in human sexuality. Course work required is a minimum of two semester credits or three quarter credits.

(b) Human sexuality includes normal psycho-sexual development, sexual functioning and its physiological aspects and sexual dysfunction and its treatment.

(6) Research.

(a) An applicant must have taken at least one course in research methods. Course work required is a minimum of three semester credits or four quarter credits.

(b) The research area is intended to provide assistance to students in becoming informed consumers of research in the marital and family therapy field. Familiarity with substantive findings, together with the ability to make critical judgments as to the adequacy of research reports, is expected.

(7) Professional ethics and law.

(a) An applicant must have taken at least one course in professional ethics and law. Course work required is a minimum of three semester credits or four quarter credits.

(b) This area is intended to contribute to the development of a professional attitude and identity. Areas of study will include professional socialization and the role of the professional organization, licensure or certification legislation, legal responsibilities and liabilities, ethics and family law, confidentiality, independent practice and interprofessional cooperation.

(8) Electives.

(a) An individual must take one course in an elective area. Course work required is a minimum of three semester credits and four quarter credits.

(b) This area will vary with different institutions but is intended to provide supplemental and/or specialized supporting areas.

(9) Supervised clinical practice.

(a) An applicant may acquire up to nine semester credits or twelve quarter credits through supervised clinical practice in marriage and family therapy under the supervision of a qualified marriage and family therapist as determined by the school(§).

(b) If an applicant completed a master's or doctoral degree program in marriage and family therapy, or a behavioral science master's or doctoral degree with equivalent course work, prior to January 1, 1997; and if that degree did not include a supervised clinical practice component, the applicant may substitute the clinical practice component with proof of a minimum of three years postgraduate experience in marriage and family therapy, in addition to the two years

supervised postgraduate experience required under section 9(1), chapter 251, Laws of 2001.

AMENDATORY SECTION (Amending WSR 06-18-043, filed 8/30/06, effective 9/30/06)

**WAC 246-809-130 Supervised postgraduate experience.** The experience requirements for the marriage and family therapist applicant's practice area include successful completion of a supervised experience requirement. The experience requirement consists of a minimum of two calendar years of full-time marriage and family therapy. Of the total supervision, one hundred hours must be with a licensed marriage and family therapist with at least five years' clinical experience; the other one hundred hours may be with an equally qualified licensed mental health practitioner. Total experience requirements include:

(1) A minimum of three thousand hours of experience, one thousand hours of which must be direct client contact; at least five hundred hours must be gained in diagnosing and treating couples and families; plus

(2) At least two hundred hours of qualified supervision with an approved supervisor. At least one hundred of the two hundred hours must be one-on-one supervision, and the remaining hours may be in one-on-one or group supervision.

(3) Applicants who have completed a master's program accredited by the Commission on Accreditation for Marriage and Family Therapy Education of the American Association for Marriage and Family Therapy may be credited with five hundred hours of direct client contact and one hundred hours of formal meetings with an approved supervisor.

(4) Licensed marriage and family therapist associate applicants are not required to have supervised postgraduate experience prior to becoming an associate.

(5) Licensed marriage and family therapist associate applicants must declare they are working towards full licensure.

AMENDATORY SECTION (Amending WSR 06-18-043, filed 8/30/06, effective 9/30/06)

**WAC 246-809-134 Approved supervisor.** (1) The approved supervisor (~~shall~~) must hold a license without restrictions that has been in good standing for at least two years.

(2) The approved supervisor (~~shall~~) must not be a blood or legal relative or cohabitant of the licensure candidate, licensure candidate's peer, or someone who has acted as the licensure candidate's therapist within the past two years.

(3) The approved supervisor, prior to the commencement of any supervision, (~~shall~~) must provide the licensure candidate a declaration, on a form provided by the department, that (~~the supervisor has~~) they have met the requirements of WAC 246-809-134 and (~~qualifies~~) qualify as an approved supervisor.

(4) The approved supervisor (~~shall~~) must have completed the following:

(a) A minimum of fifteen clock hours of training in clinical supervision obtained through:

(i) A supervision course; or

(ii) Continuing education credits on supervision; or

- (iii) Supervision of supervision; or
- (iv) Any combination of these; and
- (b) Twenty-five hours of experience in supervision of clinical practice; or
- (c) An American Association for Marriage and Family Therapy (AAMFT) approved supervisor (~~(is considered to have met)~~) meets the qualifications above.
- (5) The approved supervisor (~~(shall)~~) must attest to having thorough knowledge of the supervisee's practice activities including:
  - (a) Practice setting;
  - (b) Recordkeeping;
  - (c) Financial management;
  - (d) Ethics of clinical practice; and
  - (e) A backup plan for coverage.
  - (6) Applicants whose supervised postgraduate experience began (~~(prior to the effective date of these rules)~~) before September 30, 2006, are exempt from the requirements of subsection (4) of this section.

**AMENDATORY SECTION** (Amending WSR 01-17-113, filed 8/22/01, effective 9/22/01)

**WAC 246-809-140 Examination.** Examination required. Applicants for full licensure must take and pass the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) examination. The passing score on the examination (~~(shall be that)~~) is established by the testing company in conjunction with the AMFTRB.

**LICENSED MENTAL HEALTH COUNSELORS AND LICENSED MENTAL HEALTH COUNSELOR ASSOCIATES**

**NEW SECTION**

**WAC 246-809-200 One year exemption option.** Persons who submit an application for licensure as a mental health counselor by July 1, 2010, and who have held a registered counselor credential issued under chapter 18.19 RCW in good standing for five consecutive years since obtaining their master's degree in an approved field, are deemed to have met the supervised postgraduate experience requirements of WAC 246-809-230. Applicants must meet the education requirements in WAC 246-809-220 and the examination requirements of WAC 246-809-240.

**AMENDATORY SECTION** (Amending WSR 06-18-043, filed 8/30/06, effective 9/30/06)

**WAC 246-809-210 Definitions.** The following definitions apply to the licensure of mental health counselors and mental health counselor associates.

- (1) "Approved educational program" means any college or university accredited by an accreditation body recognized by the Council for Higher Education Accreditation (CHEA) or its successor, at the time the applicant completed the required education.
- (2) "Approved setting" includes facilities, agencies or private practice where an applicant works with individuals,

families, couples or groups under the supervision of an approved supervisor.

(3) "Approved supervisor" means a qualified licensed mental health counselor or equally qualified licensed mental health practitioner who has been licensed without restrictions for at least two years.

(4) "Equally qualified licensed mental health practitioner" means a licensed marriage and family therapist, licensed clinical social worker, licensed psychologist, licensed physician practicing as a psychiatrist, or licensed psychiatric nurse practitioner.

(5) "Group supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than six licensure candidates.

(6) "Immediate supervision" means a meeting with an approved supervisor, involving one supervisor and no more than two licensure candidates.

(7) "Licensure candidate" means an individual that is accruing supervised clinical experience required for licensure.

(8) "Supervision of supervision" means supervision by an approved supervisor for the purpose of training and qualifying a licensee to act as an approved supervisor for purposes of chapter 18.225 RCW and WAC 246-809-234.

(9) "Peer" means a co-worker who is not the licensure candidate's employer or supervisor.

**AMENDATORY SECTION** (Amending WSR 01-17-113, filed 8/22/01, effective 9/22/01)

**WAC 246-809-220 Education requirements.** (1) To meet the education requirement (~~(imposed by section 9 (1)(b)(i), chapter 251, Laws of 2001)~~) for licensure as a mental health counselor or mental health counselor associate, an applicant must (~~(possess)~~) have a master's or doctoral degree in mental health counseling or a behavioral science master's or doctoral degree in a field relating to mental health counseling from an approved school. Fields recognized as relating to mental health counseling (~~(may)~~) include counseling, psychology, social work, nursing, education, pastoral counseling, rehabilitation counseling, or social sciences. Any field of study qualifying as related to mental health counseling must satisfy course work equivalency requirements included in WAC 246-809-221. An official transcript must be provided as evidence of fulfillment of the course work required.

(2) Any supplemental course work required must be from an approved school.

(3) Applicants who held a behavioral science master's or doctoral degree and are completing supplemental course work through an approved school to satisfy any missing program equivalencies may count any postgraduate experience hours acquired concurrently with the additional course work.

(4) A person who is a Nationally Certified Counselor (NCC) or a Certified Clinical Mental Health Counselor (CCMHC) through the National Board of Certified Counselors (NBCC) is considered to have met the education requirements of this chapter. Verification must be sent directly to the department from NBCC.

AMENDATORY SECTION (Amending WSR 06-18-043, filed 8/30/06, effective 9/30/06)

**WAC 246-809-230 Supervised postgraduate experience.** (1) The experience requirements for the mental health applicant's practice area include successful completion of a supervised experience requirement. The experience requirement consists of a minimum of thirty-six months full-time counseling or three thousand hours of postgraduate mental health counseling under the supervision of a qualified licensed mental health counselor or equally qualified licensed mental health practitioner in an approved setting. The three thousand hours of required experience includes a minimum of one hundred hours spent in immediate supervision with the qualified licensed mental health counselor or equally qualified licensed mental health practitioner, and includes a minimum of one thousand two hundred hours of direct counseling with individuals, couples, families, or groups.

(2) Applicants who have completed a master's or doctoral program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) will be credited with fifty hours of postgraduate supervision and five hundred hours of postgraduate experience.

(3) Applicants for licensed mental health counselor associate are not required to have supervised postgraduate experience prior to becoming an associate.

(4) Licensed mental health counselor associate applicants must declare they are working toward full licensure.

AMENDATORY SECTION (Amending WSR 06-18-043, filed 8/30/06, effective 9/30/06)

**WAC 246-809-234 Approved supervisor.** (1) The approved supervisor (~~shall~~) must hold a license without restrictions that has been in good standing for at least two years.

(2) The approved supervisor (~~shall~~) must not be a blood or legal relative or cohabitant of the licensure candidate, licensure candidate's peer, or someone who has acted as the licensure candidate's therapist within the past two years.

(3) The approved supervisor, prior to the commencement of any supervision, (~~shall~~) must provide the licensure candidate a declaration, on a form provided by the department, that (~~the supervisor has~~) they have met the requirements of WAC 246-809-234 and ((qualifies)) qualify as an approved supervisor.

(4) The approved supervisor (~~shall~~) must have completed the following:

(a) A minimum of fifteen clock hours of training in clinical supervision obtained through:

- (i) A supervision course; or
- (ii) Continuing education credits on supervision; or
- (iii) Supervision of supervision; and

(b) Twenty-five hours of experience in supervision of clinical practice.

(5) The approved supervisor shall have full knowledge of the licensure candidate's practice activities including:

- (a) Recordkeeping;
- (b) Financial management;
- (c) Ethics of clinical practice; and

(d) The licensure candidate's backup plan for coverage in times when the licensure candidate is not available to their clients.

(6) Applicants whose supervised postgraduate experience began (~~prior to the effective date of these rules~~) before September 30, 2006, are exempt from the requirements of subsection (4) of this section.

AMENDATORY SECTION (Amending WSR 08-08-092, filed 4/1/08, effective 5/2/08)

**WAC 246-809-240 Examination for licensed mental health counselors.** (1) Applicants for licensure as a mental health counselor must pass an examination administered by the National Board of Certified Counselors (NBCC). Applicants who pass the National Certification Examination (NCE) or the National Clinical Mental Health Counselor Examination (NCMHCE), as administered by the NBCC, meet the examination requirements to be licensed as mental health counselors. Each applicant must cause the NBCC to send verification of the applicant's examination passage directly to the department of health before licensure can be granted.

(2) The department of health shall accept the passing score established by the NBCC for licensed mental health counselor examinations.

#### LICENSED SOCIAL WORKERS AND LICENSED SOCIAL WORKER ASSOCIATES

#### NEW SECTION

**WAC 246-809-300 One year exemption option.** Persons who submit an application for licensure as an advanced social worker or independent clinical social worker by July 1, 2010, and who have held a registered counselor credential issued under chapter 18.19 RCW in good standing for five consecutive years since obtaining their master's degree in an approved field, are deemed to have met the supervised postgraduate experience requirements of WAC 246-809-320. Applicants must meet the education requirements in WAC 246-809-320 and the examination requirements of WAC 246-809-340.

AMENDATORY SECTION (Amending WSR 06-18-043, filed 8/30/06, effective 9/30/06)

**WAC 246-809-310 Definitions.** The following definitions apply to the licensure of independent clinical and advanced social workers and independent clinical and advanced social work associates.

(1) "Approved educational program" means a master's or doctoral educational program in social work accredited by the Council on Social Work Education.

(2) "Approved supervisor" means a licensed independent clinical social worker (LICSW), licensed advanced social worker (LASW) (for LASWs only), or an equally qualified licensed mental health practitioner.

(3) "Equally qualified licensed mental health practitioner" means a licensed mental health counselor, licensed marriage and family therapist, licensed psychologist, licensed

physician practicing as a psychiatrist, or licensed psychiatric nurse practitioner.

(4) "Group supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than six licensure candidates.

(5) "Licensure candidate" means an individual that is accruing supervised clinical experience required for licensure.

(6) "Nationally recognized standards" means the *Educational Policy and Accreditation Standards*, revised October 2004 published by the Council on Social Work Education revised October 2004 or any future revisions.

(7) "One-on-one supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and one licensure candidate.

(8) "Supervision of supervision" means supervision by an approved supervisor for the purpose of training and qualifying a licensee to become an approved supervisor for purposes of chapter 18.225 RCW and WAC 246-809-334.

(9) "Peer" means a co-worker who is not the licensure candidate's employer or supervisor.

**AMENDATORY SECTION** (Amending WSR 06-18-043, filed 8/30/06, effective 9/30/06)

**WAC 246-809-320 Education requirements and supervised postgraduate experience.** (1) The following are the education requirements for the social worker applicant's practice area:

(a) Licensed advanced social worker or licensed social worker associate-advanced. Graduation from a master's or doctoral social work educational program accredited by the Council on Social Work Education and approved by the secretary based upon nationally recognized standards.

(b) Licensed independent clinical social worker or licensed social worker associate-independent clinical. Graduation from a master's or doctorate level social work educational program accredited by the Council on Social Work Education and approved by the secretary based upon nationally recognized standards.

(2) The following are the supervised postgraduate experience requirements for the social worker applicant's practice area:

(a) Licensed advanced social worker. Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of three thousand two hundred hours with ninety hours of supervision by a licensed independent clinical social worker or a licensed advanced social worker who has been licensed or certified for at least two years. Of those hours, fifty hours must include direct supervision by a licensed advanced social worker or licensed independent clinical social worker; the other forty hours may be with an equally qualified licensed mental health practitioner. Forty hours must be in one-to-one supervision and fifty hours may be in one-to-one supervision or group supervision. Distance supervision is limited to forty supervision hours. Eight hundred hours must be in direct client contact.

(b) Licensed independent clinical social worker. Successful completion of a supervised experience requirement.

The experience requirement consists of a minimum of four thousand hours of experience, of which one thousand hours must be direct client contact, over a three-year period supervised by a licensed independent clinical social worker, with supervision of at least one hundred thirty hours by a licensed mental health practitioner. Of the total supervision, seventy hours must be with an independent clinical social worker; the other sixty hours may be with an equally qualified licensed mental health practitioner. Sixty hours must be in one-to-one supervision and seventy hours may be in one-to-one supervision or group supervision. Distance supervision is limited to sixty supervision hours.

(3) Licensed social worker associate-advanced and licensed social worker associate-independent clinical applicants are not required to have supervised postgraduate experience prior to becoming an associate.

(4) Licensed social worker associate-advanced and licensed social worker associate-independent clinical applicants must declare they are working toward full licensure.

**AMENDATORY SECTION** (Amending WSR 06-18-043, filed 8/30/06, effective 9/30/06)

**WAC 246-809-334 Approved supervisor standards and responsibilities.** (1) The approved supervisor must hold a license without restrictions that has been in good standing for at least two years.

(2) The approved supervisor (~~(shall)~~) must not be a blood or legal relative or cohabitant of the licensure candidate, licensure candidate's peer, or someone who has acted as the licensure candidate's therapist within the past two years.

(3) The approved supervisor, prior to the commencement of any supervision, (~~(shall)~~) must provide the licensure candidate a declaration, on a form provided by the department, that (~~(the supervisor has)~~) they have met the requirements of WAC 246-809-334 and (~~(qualifies)~~) qualify as an approved supervisor.

(4) The approved supervisor (~~(shall)~~) must have completed the following:

(a) A minimum of fifteen clock hours of training in clinical supervision obtained through:

- (i) A supervision course; or
- (ii) Continuing education credits on supervision; or
- (iii) Supervision of supervision; and

(b) Twenty-five hours of experience in supervision of clinical practice; and

(c) Has had two years of clinical experience postlicensure (~~((LASWs only) or five years of clinical experience postcertification or licensure (for LICSWs only))~~).

(5) The approved supervisor (~~(shall)~~) must attest to having thorough knowledge of the licensure candidate's practice activities including:

- (a) Specific practice setting;
- (b) Recordkeeping;
- (c) Financial management;
- (d) Ethics of clinical practice; and
- (e) The licensure candidate's backup plan for coverage in times when he/she is not available to their clients.

(6) Licensure candidates whose supervised postgraduate experience began (~~(prior to the effective date of these rules)~~)

before September 30, 2006, are exempt from the requirements of subsection (4) of this section.

AMENDATORY SECTION (Amending WSR 02-11-108, filed 5/20/02, effective 6/20/02)

**WAC 246-809-600 Who is required to have continuing education?** ~~((+))~~ Licensed marriage and family therapists, licensed mental health counselors, and licensed social workers are required to have continuing education.

~~((2) The effective date for reporting the required continuing education shall begin with the 2004 renewal cycle.)~~

AMENDATORY SECTION (Amending WSR 04-06-011, filed 2/20/04, effective 3/22/04)

**WAC 246-809-710 Required disclosure information.**

(1) The following information shall be provided to each client or patient at the commencement of any program of treatment:

- (a) Name of firm, agency, business, or licensee's practice;
- (b) Licensee's business address and telephone number;
- (c) Washington state license number;
- (d) The licensee's name;
- (e) The methods or treatment modality and therapeutic orientation the licensee uses;
- (f) The licensee's education, and training;
- (g) The course of treatment, when known;
- (h) Billing information, including:
- (i) Client's cost per each treatment session; and
- (ii) Billing practices, including any advance payments and refunds;
- (i) Clients are to be informed that they as individuals have the right to refuse treatment and the right to choose a practitioner and treatment modality which best suits their needs;
- (j) This subsection does not grant (clients) new rights and is not intended to supersede state or federal laws and regulations, or professional standards;
- (k) The licensee must provide department of health contact information to the client so the client may obtain a list of or copy of the acts of unprofessional conduct listed under RCW 18.130.180. Department of health contact information must include the name, address, and telephone number for the health professions complaint process.

(2) Associates must provide each client or patient, during the first professional contact, with a disclosure form disclosing that he or she is an associate under the supervision of an approved supervisor. Associates may not independently provide clinical social work, mental health counseling, or marriage and family therapy for a fee, monetary or otherwise.

(3) Signatures are required of both the licensee providing the disclosure information and the client following a statement that the client had been provided a copy of the required disclosure information and the client has read and understands the information provided. The date of signature by each party is to be included at the time of signing.

AMENDATORY SECTION (Amending WSR 08-16-008, filed 7/24/08, effective 7/25/08)

**WAC 246-809-990 Licensed ~~((mental health))~~ counselor~~((s))~~, ~~((marriage and family therapists, and social workers))~~ and associate—Fees and renewal cycle.** (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) Associate licenses are valid for one year and must be renewed every year on the date of issuance. The associate license may be renewed no more than four times.

Title	Fee
<del>((2))</del> (3) The following nonrefundable fees will be charged for licensed marriage and family therapist:	
Application	\$150.00
Initial license	75.00
Renewal	140.00
Late renewal penalty	70.00
Expired license reissuance	85.00
Duplicate license	10.00
Certification of license	10.00
<del>((3))</del> (4) The following nonrefundable fees will be charged for licensed mental health counselor:	
Application	125.00
Initial license	125.00
Renewal	75.00
Late renewal penalty	50.00
Expired license reissuance	65.00
Duplicate license	10.00
Certification of license	10.00
UW library access fee	25.00
<del>((4))</del> (5) The following nonrefundable fees will be charged for licensed advanced social worker and licensed independent clinical social worker:	
Application	125.00
Initial license	125.00
Renewal	105.00
Late renewal penalty	52.50
Expired license reissuance	72.50
Duplicate license	10.00
Certification of license	10.00
UW library access fee	25.00

**WSR 09-10-091**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 [Filed May 6, 2009, 10:08 a.m.]

Title	Fee
(6) <u>The following nonrefundable fees will be charged for licensed marriage and family therapy associates:</u>	
<u>Application</u>	50.00
<u>Renewal</u>	40.00
<u>Late renewal penalty</u>	40.00
<u>Expired license reissuance</u>	40.00
<u>Duplicate license</u>	15.00
<u>Certification of license</u>	15.00
(7) <u>The following nonrefundable fees will be charged for licensed mental health counselor associates:</u>	
<u>Application</u>	50.00
<u>Renewal</u>	40.00
<u>Late renewal penalty</u>	40.00
<u>Expired license reissuance</u>	40.00
<u>Duplicate license</u>	15.00
<u>Certification of license</u>	15.00
(8) <u>The following nonrefundable fees will be charged for licensed advanced social worker associates and licensed independent clinical social worker associates:</u>	
<u>Application</u>	50.00
<u>Renewal</u>	40.00
<u>Late renewal penalty</u>	40.00
<u>Expired license reissuance</u>	40.00
<u>Duplicate license</u>	15.00
<u>Certification of license</u>	15.00

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 246-809-061	Health care institutions.
WAC 246-809-062	Licensed counselor associations or societies.
WAC 246-809-063	Health care service contractors and disability insurance carriers.
WAC 246-809-064	Professional liability carriers.
WAC 246-809-065	Courts.
WAC 246-809-066	State and federal agencies.

Original Notice.  
 Preproposal statement of inquiry was filed as WSR 08-17-074.  
 Title of Rule and Other Identifying Information: Chapter 246-290 WAC, Group A public water supplies, Federal Stage 2 Disinfectants and Disinfection Byproducts Rule.  
 The state board of health delegated rule-making authority to the department of health (the department) for this rule revision on May 10, 2006.  
 Hearing Location(s): Department of Health, Point Plaza East, 310 Israel Road S.E., Tumwater, WA 98501, phone (360) 236-2878, on June 15, 2009, at 1:00 p.m.  
 Date of Intended Adoption: June 15, 2009.  
 Submit Written Comments to: Michelle K. Austin, P.O. Box 47822, Olympia, WA 98504-7822, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2253, by June 30, 2009.  
 Assistance for Persons with Disabilities: Contact Michelle K. Austin by May 22, 2009, TTY (800) 833-6388 or 711.  
 Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The public health objective of the federal Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2) is to increase protection against the potential risks for cancer and reproductive and developmental health effects associated with disinfection byproducts. The department is adopting the United States Environmental Protection Agency's (EPA) Stage 2 rule.  
 Reasons Supporting Proposal: The department has a primacy agreement with EPA to assume lead responsibilities for implementation of the federal Safe Drinking Water Act (RCW 43.20.050). The primacy agreement outlines a number of activities the department must do to maintain primacy for Group A public water systems in the state. To maintain primacy, the Stage 2 rule must be adopted.  
 Statutory Authority for Adoption: RCW 43.20.050.  
 Statute Being Implemented: RCW 70.119A.080.  
 Rule is necessary because of federal law, 71 Federal Register 388 (2006).  
 Name of Proponent: Department of health, division of environmental health, governmental.  
 Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ethan Moseng, 20435 72nd Avenue South, Suite 200, Kent, WA 98032, (253) 395-6770.  
 No small business economic impact statement has been prepared under chapter 19.85 RCW. The department is adopting this federally-mandated rule by reference. Because this federal rule is adopted by reference, no small business economic impact statement is required under RCW 19.85-025(3) and 34.05.310 (4)(c).  
 A cost-benefit analysis is not required under RCW 34.05.328. The department is adopting this federally-mandated rule by reference. Because this federal rule is adopted

by reference, no significant analysis is required under RCW 34.05.328 (5)(b)(iii).

May 5, 2009  
Mary C. Selecky  
Secretary

AMENDATORY SECTION (Amending WSR 08-03-061, filed 1/14/08, effective 2/14/08)

**WAC 246-290-010 Definitions.** Abbreviations and acronyms:

**ADD** - average day demand;  
**AG** - air gap;  
**ANSI** - American National Standards Institute;  
**AVB** - atmospheric vacuum breaker;  
**AWWA** - American Water Works Association;  
**BAT** - backflow assembly tester;  
**C** - residual disinfectant concentration in mg/L;  
**CCS** - cross-connection control specialist;  
**CFR** - code of federal regulations;  
**CPE** - comprehensive performance evaluation;  
**CT** - the mathematical product in mg/L - minutes of "C" and "T";  
**CTA** - comprehensive technical assistance;  
**CWSSA** - critical water supply service area;  
**DBPs** - disinfection ((~~by-products~~) byproducts);  
**DCDA** - double check detector assembly;  
**DCVA** - double check valve assembly;  
**DVGW** - Deutsche Vereinigung des Gas und Wasserfaches;  
**EPA** - Environmental Protection Agency;  
**ERU** - equivalent residential unit;  
**gph** - gallons per hour;  
**gpm** - gallons per minute;  
**GAC** - granular activated carbon;  
**GAC10** - granular activated carbon with ten-minute empty bed contact time ((~~based on average daily flow and one hundred eighty day reactivation frequency~~));  
**GAC20** - granular activated carbon with a twenty-minute empty bed contact time;  
**GW** - ground water under the direct influence of surface water;  
**HAA5** - haloacetic acids (five);  
**HPC** - heterotrophic plate count;  
**IAPMO** - International Association of Plumbing and Mechanical Officials;  
**IDSE** - initial distribution system evaluation;  
**kPa** - kilo pascal (SI units of pressure);  
**LRAA** - locational running annual average;  
**MCL** - maximum contaminant level;  
**MDD** - maximum day demand;  
**mg/L** - milligrams per liter (1 mg/L = 1 ppm);  
**mL** - milliliter;  
**mm** - millimeter;  
**MRDL** - maximum residual disinfectant level;  
**MRDLG** - maximum residual disinfectant level goal;  
**MTTP** - maximum total trihalomethane potential;  
**NSF** - NSF International (formerly known as the National Sanitation Foundation (NSF));  
**NTNC** - nontransient **noncommunity**;

**NTU** - nephelometric turbidity unit;  
**ONORM** - Osterreichisches Normungsinstitut;  
**PAA** - project approval application;  
**pCi/L** - picocuries per liter;  
**PHD** - peak hourly demand;  
**ppm** - parts per million (1 ppm = 1 mg/L);  
**psi** - pounds per square inch;  
**PVBA** - pressure vacuum breaker assembly;  
**RAA** - running annual average;  
**RPBA** - reduced pressure backflow assembly;  
**RPDA** - reduced pressure detector assembly;  
**SAL** - state advisory level;  
**SCA** - sanitary control area;  
**SDWA** - Safe Drinking Water Act;  
**SEPA** - State Environmental Policy Act;  
**SOC** - synthetic organic chemical;  
**SMA** - satellite management agency;  
**SPI** - special purpose investigation;  
**SRF** - state revolving fund;  
**SUVA** - specific ultraviolet absorption;  
**SVBA** - spill resistant vacuum breaker assembly;  
**SWTR** - surface water treatment rule;  
**T** - disinfectant contact time in minutes;  
**TTHM** - total trihalomethane;  
**TNC** - transient **noncommunity**;  
**TNTC** - too numerous to count;  
**TOC** - total organic carbon;  
**ug/L** - micrograms per liter;  
**UL** - Underwriters Laboratories, Inc.;  
**umhos/cm** - micromhos per centimeter;  
**UPC** - Uniform Plumbing Code;  
**UTC** - utilities and transportation commission;  
**VOC** - volatile organic chemical;  
**WAC** - Washington Administrative Code;  
**WFI** - water facilities inventory form;  
**WHPA** - wellhead protection area; and  
**WUE** - water use efficiency.

"**Acute**" means posing an immediate risk to human health.

"**Alternative filtration technology**" means a filtration process for substantial removal of particulates (generally > 2 log *Giardia lamblia* cysts and ≥ 2-log removal of *Cryptosporidium* oocysts) by other than conventional, direct, diatomaceous earth, or slow sand filtration processes.

"**Analogous treatment system**" means an existing water treatment system that has unit processes and source water quality characteristics that are similar to a proposed treatment system.

"**Approved air gap**" means a physical separation between the free-flowing end of a potable water supply pipeline and the overflow rim of an open or nonpressurized receiving vessel. To be an air gap approved by the department, the separation must be at least:

Twice the diameter of the supply piping measured vertically from the overflow rim of the receiving vessel, and in no case be less than one inch, when unaffected by vertical surfaces (sidewalls); and:

Three times the diameter of the supply piping, if the horizontal distance between the supply pipe and a vertical surface (sidewall) is less than or equal to three times the diame-



ter of the supply pipe, or if the horizontal distance between the supply pipe and intersecting vertical surfaces (sidewalls) is less than or equal to four times the diameter of the supply pipe and in no case less than one and one-half inches.

**"Approved atmospheric vacuum breaker (AVB)"** means an AVB of make, model, and size that is approved by the department. AVBs that appear on the current approved backflow prevention assemblies list developed by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research or that are listed or approved by other nationally recognized testing agencies (such as IAPMO, ANSI, or UL) acceptable to the authority having jurisdiction are considered approved by the department.

**"Approved backflow preventer"** means an approved air gap, an approved backflow prevention assembly, or an approved AVB. The terms "approved backflow preventer," "approved air gap," or "approved backflow prevention assembly" refer only to those approved backflow preventers relied upon by the purveyor for the protection of the public water system. The requirements of WAC 246-290-490 do not apply to backflow preventers installed for other purposes.

**"Approved backflow prevention assembly"** means an RPBA, RPDA, DCVA, DCDA, PVBA, or SVBA of make, model, and size that is approved by the department. Assemblies that appear on the current approved backflow prevention assemblies list developed by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research or other entity acceptable to the department are considered approved by the department.

**"As-built drawing"** means the drawing created by an engineer from the collection of the original design plans, including changes made to the design or to the system, that reflects the actual constructed condition of the water system.

**"Authority having jurisdiction"** (formerly known as local administrative authority) means the local official, board, department, or agency authorized to administer and enforce the provisions of the Uniform Plumbing Code as adopted under chapter 19.27 RCW.

**"Authorized agent"** means any person who:

Makes decisions regarding the operation and management of a public water system whether or not he or she is engaged in the physical operation of the system;

Makes decisions whether to improve, expand, purchase, or sell the system; or

Has discretion over the finances of the system.

**"Authorized consumption"** means the volume of metered and unmetered water used for municipal water supply purposes by consumers, the purveyor, and others authorized to do so by the purveyor, including, but not limited to, fire fighting and training, flushing of mains and sewers, street cleaning, and watering of parks and landscapes. These volumes may be billed or unbilled.

**"Average day demand (ADD)"** means the total quantity of water use from all sources of supply as measured or estimated over a calendar year divided by three hundred sixty-five. ADD is typically expressed as gallons per day (gpd) per equivalent residential unit (ERU).

**"Backflow"** means the undesirable 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"** means a person holding a valid BAT certificate issued under chapter 246-292 WAC.

**"Backpressure"** means a pressure (caused by a pump, elevated tank or piping, boiler, or other means) on the consumer's side of the service connection that is greater than the pressure provided by the public water system and which may cause backflow.

**"Backsiphonage"** means backflow due to a reduction in system pressure in the purveyor's distribution system and/or consumer's water system.

**"Bag filter"** means a pressure-driven separation device that removes particulate matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed of a nonrigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to outside.

**"Bank filtration"** means a water treatment process that uses a well to recover surface water that has naturally infiltrated into ground water through a river bed or bank(s). Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other well(s).

**"Best available technology"** means the best technology, treatment techniques, or other means that EPA finds, after examination for efficacy under field conditions, are available, taking cost into consideration.

**"Blended sample"** means a sample collected from two or more individual sources at a point downstream of the confluence of the individual sources and prior to the first connection.

**"C"** means the residual disinfectant concentration in mg/L at a point before or at the first consumer.

**"Cartridge filter"** means a pressure-driven separation device that removes particulate matter larger than 1 micrometer using an engineered porous filtration media. They are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside.

**"Category red operating permit"** means an operating permit identified under chapter 246-294 WAC. Placement in this category results in permit issuance with conditions and a determination that the system is inadequate.

**"Chemical contaminant treatment facility"** means a treatment facility specifically used for the purpose of removing chemical contaminants.

**"Clarification"** means a treatment process that uses gravity (sedimentation) or dissolved air (flotation) to remove flocculated particles.

**"Closed system"** means any water system or portion of a water system in which water is transferred to a higher pressure zone closed to the atmosphere, such as when no gravity storage is present.

**"Coagulant"** means a chemical used in water treatment to destabilize particulates and accelerate the rate at which they aggregate into larger particles.

**"Coagulation"** means a process using coagulant chemicals and rapid mixing to destabilize colloidal and suspended particles and agglomerate them into flocs.

**"Combination fire protection system"** means a fire sprinkler system that:

Is supplied only by the purveyor's water;

Does not have a fire department pumper connection; and

Is constructed of approved potable water piping and materials that serve both the fire sprinkler system and the consumer's potable water system.

**"Combined distribution system"** means the interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water.

**"Completely treated water"** means water from a surface water source, or a ground water source under the direct influence of surface water (GWI) source that receives filtration or disinfection treatment that fully complies with the treatment technique requirements of Part 6 of this chapter as determined by the department.

**"Composite sample"** means a sample in which more than one source is sampled individually by the water system and then composited by a certified laboratory by mixing equal parts of water from each source (up to five different sources) and then analyzed as a single sample.

**"Comprehensive monitoring plan"** means a schedule that describes both the frequency and appropriate locations for sampling of drinking water contaminants as required by state and federal rules.

**"Comprehensive performance evaluation (CPE)"** means a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The comprehensive performance evaluation must consist of at least the following components: Assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report.

**"Comprehensive technical assistance (CTA)"** means technical assistance intended to identify specific steps that may help a water treatment plant overcome operational or design limitations identified during a comprehensive performance evaluation.

**"Confirmation"** means to demonstrate the accuracy of results of a sample by analyzing another sample from the same location within a reasonable period of time, generally not to exceed two weeks. Confirmation is when analysis results fall within plus or minus thirty percent of the original sample results.

**"Confluent growth"** means a continuous bacterial growth covering a portion or the entire filtration area of a membrane filter in which bacterial colonies are not discrete.

**"Consecutive system"** means a public water system that receives some or all of its finished water from one or more wholesale systems. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

**"Construction completion report"** means a form provided by the department and completed for each specific construction project to document:

- Project construction in accordance with this chapter and general standards of engineering practice;
- Physical capacity changes; and
- Satisfactory test results.

The completed form must be stamped with an engineer's seal, and signed and dated by a professional engineer.

**"Consumer"** means any person receiving water from a public water system from either the meter, or the point where the service line connects with the distribution system if no meter is present. For purposes of cross-connection control, "consumer" means the owner or operator of a water system connected to a public water system through a service connection.

**"Consumer's water system,"** as used in WAC 246-290-490, means any potable and/or industrial water system that begins at the point of delivery from the public water system and is located on the consumer's premises. The consumer's water system includes all auxiliary sources of supply, storage, treatment, and distribution facilities, piping, plumbing, and fixtures under the control of the consumer.

**"Contaminant"** means a substance present in drinking water that may adversely affect the health of the consumer or the aesthetic qualities of the water.

**"Contingency plan"** means that portion of the wellhead protection program section of the water system plan or small water system management program that addresses the replacement of the major well(s) or wellfield in the event of loss due to ground water contamination.

**"Continuous monitoring"** means determining water quality with automatic recording analyzers that operate without interruption twenty-four hours per day.

**"Conventional filtration treatment"** means a series of processes including coagulation, flocculation, clarification, and filtration that together result in substantial particulate removal in compliance with Part 6 of this chapter.

**"Cost-effective"** means the benefits exceed the costs.

**"Council"** means the Washington state building code council under WAC 51-04-015(2).

**"Critical water supply service area (CWSSA)"** means a geographical area which is characterized by a proliferation of small, inadequate water systems, or by water supply problems which threaten the present or future water quality or reliability of service in a manner that efficient and orderly development may best be achieved through coordinated planning by the water utilities in the area.

**"Cross-connection"** means any actual or potential physical connection between a public water system or the consumer's water system and any source of nonpotable liquid, solid, or gas that could contaminate the potable water supply by backflow.

**"Cross-connection control program"** means the administrative and technical procedures the purveyor implements to protect the public water system from contamination via cross-connections as required in WAC 246-290-490.

**"Cross-connection control specialist"** means a person holding a valid CCS certificate issued under chapter 246-292 WAC.

**"Cross-connection control summary report"** means the annual report that describes the status of the purveyor's cross-connection control program.

**"CT"** or **"CTcalc"** means the product of "residual disinfectant concentration" (C) and the corresponding "disinfectant contact time" (T) i.e., "C" x "T."

**"CT<sub>99.9</sub>"** means the CT value required for 99.9 percent (3 log) inactivation of *Giardia lamblia* cysts.

**"CTreq"** means the CT value a system shall provide to achieve a specific percent inactivation of *Giardia lamblia* cysts or other pathogenic organisms of health concern as directed by the department.

**"Curtailment"** means short-term, infrequent actions by a purveyor and its consumers to reduce their water use during or in anticipation of a water shortage.

**"Dead storage"** means the volume of stored water not available to all consumers at the minimum design pressure under WAC 246-290-230 (5) and (6).

**"Demand forecast"** means an estimate of future water system water supply needs assuming historically normal weather conditions and calculated using numerous parameters, including population, historic water use, local land use plans, water rates and their impacts on consumption, employment, projected water use efficiency savings from implementation of a water use efficiency program, and other appropriate factors.

**"Department"** means the Washington state department of health or health officer as identified in a joint plan of operation under WAC 246-290-030(1).

**"Design and construction standards"** means department design guidance and other peer reviewed documents generally accepted by the engineering profession as containing fundamental criteria for design and construction of water facility projects. Design and construction standards are comprised of performance and sizing criteria and reference general construction materials and methods.

**"Diatomaceous earth filtration"** means a filtration process for substantial removal of particulates (> 2 log *Giardia lamblia* cysts) in which:

A precoat cake of graded diatomaceous earth filter media is deposited on a support membrane (septum); and

Water is passed through the cake on the septum while additional filter media, known as body feed, is continuously added to the feed water to maintain the permeability of the filter cake.

**"Direct filtration"** means a series of processes including coagulation, flocculation, and filtration (but excluding sedimentation) that together result in substantial particulate removal in compliance with Part 6 of this chapter.

**"Direct service connection"** means a service hookup to a property that is contiguous to a water distribution main and where additional distribution mains or extensions are not needed to provide service.

**"Disinfectant contact time (T in CT)"** means: When measuring the first or only C, the time in minutes it takes water to move from the point of disinfectant application to a point where the C is measured; and

For subsequent measurements of C, the time in minutes it takes water to move from one C measurement point to the

C measurement point for which the particular T is being calculated.

**"Disinfection"** means the use of chlorine or other agent or process the department approves for killing or inactivating microbiological organisms, including pathogenic and indicator organisms.

**"Disinfection profile"** means a summary of *Giardia lamblia* inactivation through a surface water treatment plant.

**"Distribution coliform sample"** means a sample of water collected from a representative location in the distribution system at or after the first service and analyzed for coliform presence in compliance with this chapter.

**"Distribution-related projects"** means distribution projects such as storage tanks, booster pump facilities, transmission mains, pipe linings, and tank coating. It does not mean source of supply (including interties) or water quality treatment projects.

**"Distribution system"** means all piping components of a public water system that serve to convey water from transmission mains linked to source, storage and treatment facilities to the consumer excluding individual services.

**"Domestic or other nondistribution system plumbing problem,"** means contamination of a system having more than one service connection with the contamination limited to the specific service connection from which the sample was taken.

**"Dual sample set"** means a set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an IDSE under WAC 246-290-300 (6)(b)(i)(F) and determining compliance with the TTHM and HAA5 MCLs under WAC 246-290-310(4).

**"Duplicate (verification) sample"** means a second sample collected at the same time and location as the first sample and used for verification.

**"Elected governing board"** means the elected officers with ultimate legal responsibility for operational, technical, managerial, and financial decisions for a public water system.

**"Emergency"** means an unforeseen event that causes damage or disrupts normal operations and requires immediate action to protect public health and safety.

**"Emergency source"** means any source that is approved by the department for emergency purposes only, is not used for routine or seasonal water demands, is physically disconnected, and is identified in the purveyor's emergency response plan.

**"Engineering design review report"** means a form provided by the department and completed for a specific distribution-related project to document:

- Engineering review of a project report and/or construction documents under the submittal exception process in WAC 246-290-125(3); and
- Design in accordance with this chapter and general standards of engineering practice.

The completed form must be stamped with engineer's seal, and signed and dated by a professional engineer.

**"Equalizing storage"** means the volume of storage needed to supplement supply to consumers when the peak hourly demand exceeds the total source pumping capacity.

**"Equivalent residential unit (ERU)"** means a system-specific unit of measure used to express the amount of water consumed by a typical full-time single family residence.

**"Existing service area"** means a specific area within which direct service or retail service connections to customers of a public water system are currently available.

**"Expanding public water system"** means a public water system installing additions, extensions, changes, or alterations to their existing source, transmission, storage, or distribution facilities that will enable the system to increase in size its existing service area and/or its number of approved service connections. Exceptions:

A system that connects new approved individual retail or direct service connections onto an existing distribution system within an existing service area; or

A distribution system extension in an existing service area identified in a current and approved water system plan or project report.

**"Filter profile"** means a graphical representation of individual filter performance in a direct or conventional surface water filtration plant, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

**"Filtration"** means a process for removal of particulate matter from water by passage through porous media.

**"Financial viability"** means the capability of a water system to obtain sufficient funds to construct, operate, maintain, and manage a public water system, on a continuing basis, in full compliance with federal, state, and local requirements.

**"Finished water"** means water introduced into a public water system's distribution system and is intended for distribution and consumption without further treatment, except as treatment necessary to maintain water quality in the distribution system (e.g., booster disinfection, addition of corrosion control chemicals).

**"Finished water storage facility"** means a water storage structure that is integrated with a water system's distribution network to provide for variable system demands including, but not limited to, daily equalizing storage, standby storage, or fire reserves, or to provide for disinfectant contact time.

**"Fire flow"** means the maximum rate and duration of water flow needed to suppress a fire under WAC 246-293-640 or as required under local fire protection authority standards.

**"Fire suppression storage"** means the volume of stored water available during fire suppression activities to satisfy minimum pressure requirements per WAC 246-290-230.

**"First consumer"** means the first service connection associated with any source (i.e., the point where water is first withdrawn for human consumption, excluding connections where water is delivered to another water system covered by these regulations).

**"Flocculation"** means a process enhancing agglomeration and collection of colloidal and suspended particles into larger, more easily settleable or filterable particles by gentle stirring.

**"Flowing stream"** means a course of running water flowing in a definite channel.

**"Flow-through fire protection system"** means a fire sprinkler system that:

Is supplied only by the purveyor's water;

Does not have a fire department pumper connection;

Is constructed of approved potable water piping and materials to which sprinkler heads are attached; and

Terminates at a connection to a toilet or other plumbing fixture to prevent stagnant water.

**"Forecasted demand characteristics"** means the factors that may affect a public water system's projected water needs.

**"Future service area"** means a specific area a public water system plans to provide water service. This is determined by a written agreement between purveyors under WAC 246-293-250 or by the purveyor's elected governing board or governing body if not required under WAC 246-293-250.

**"GAC10"** means granular activated carbon filter beds with an empty-bed contact time of ten minutes based on average daily flow and a carbon reactivation frequency of every one hundred eighty days, except that the reactivation frequency for GAC10 used as a best available technology for compliance with MCLs under WAC 246-290-310(4) shall be one hundred twenty days.

**"GAC20"** means granular activated carbon filter beds with an empty-bed contact time of twenty minutes based on average daily flow and a carbon reactivation frequency of every two hundred forty days.

**"Governing body"** means the individual or group of individuals with ultimate legal responsibility for operational, technical, managerial, and financial decisions for a public water system.

**"Grab sample"** means a water quality sample collected at a specific instant in time and analyzed as an individual sample.

**"Ground water under the direct influence of surface water (GWI)"** means any water beneath the surface of the ground that the department determines has the following characteristics:

Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia* or, *Cryptosporidium*; or

Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH closely correlating to climatological or surface water conditions where natural conditions cannot prevent the introduction of surface water pathogens into the source at the system's point of withdrawal.

**"Guideline"** means a department document assisting the purveyor in meeting a rule requirement.

**"Health officer"** means the health officer of the city, county, city-county health department or district, or an authorized representative.

**"Heterotrophic Plate Count (HPC)"** means a procedure to measure a class of bacteria that use organic nutrients for growth. The density of these bacteria in drinking water is measured as colony forming units per milliliter and is referred to as the HPC.

**"High health cross-connection hazard"** means a cross-connection involving any substance that could impair the quality of potable water and create an actual public health hazard through injury, poisoning, or spread of disease.

**"Human consumption"** means the use of water for drinking, bathing or showering, hand washing, food preparation, cooking, or oral hygiene.

**"Hydraulic analysis"** means the study of a water system's distribution main and storage network to determine present or future adequacy for provision of service to consumers within the established design parameters for the system under peak flow conditions, including fire flow. The analysis is used to establish any need for improvements to existing systems or to substantiate adequacy of design for distribution system components such as piping, elevated storage, booster stations or similar facilities used to pump and convey water to consumers.

**"Inactivation"** means a process which renders pathogenic microorganisms incapable of producing disease.

**"Inactivation ratio"** means the ratio obtained by dividing CT<sub>calc</sub> by CT<sub>req</sub>.

**"Incompletely treated water"** means water from a surface or GWI source that receives filtration and/or disinfection treatment that does not fully comply with the treatment technique requirements of Part 6 of this chapter as determined by the department.

**"In-line filtration"** means a series of processes, including coagulation and filtration (but excluding flocculation and sedimentation) that together result in particulate removal.

**"In-premises protection"** means a method of protecting the health of consumers served by the consumer's potable water system, located within the property lines of the consumer's premises by the installation of an approved air gap or backflow prevention assembly at the point of hazard, which is generally a plumbing fixture.

**"Intertie"** means an interconnection between public water systems permitting the exchange or delivery of water between those systems.

**"Lake or reservoir"** means a natural or man-made basin or hollow on the earth's surface in which water collects or is stored that may or may not have a current or single direction of flow.

**"Legionella"** means a genus of bacteria containing species which cause a type of pneumonia called Legionnaires' Disease.

**"Limited alternative to filtration"** means a process that ensures greater removal and/or inactivation efficiencies of pathogenic organisms than would be achieved by the combination of filtration and chlorine disinfection.

**"Local plans and regulations"** means any comprehensive plan or development regulation adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county for the applicable service area.

**"Locational running annual average (LRAA)"** means the average of sample analytical results for samples taken at a particular monitoring location during the previous four calendar quarters.

**"Low cross-connection hazard"** means a cross-connection that could impair the quality of potable water to a

degree that does not create a hazard to the public health, but does adversely and unreasonably affect the aesthetic qualities of potable waters for domestic use.

**"Major project"** means all construction projects subject to the State Environmental Policy Act (SEPA) under WAC 246-03-030 (3)(a) and include all surface water source development, all water system storage facilities greater than one-half million gallons, new transmission lines longer than one thousand feet and larger than eight inches in diameter located in new rights of way and major extensions to existing water distribution systems involving use of pipes greater than eight inches in diameter, that are designed to increase the existing service area by more than one square mile.

**"Mandatory curtailment"** means curtailment required by a public water system of specified water uses and consumer classes for a specified period of time.

**"Marginal costs"** means the costs incurred by producing the next increment of supply.

**"Maximum contaminant level (MCL)"** means the maximum permissible level of a contaminant in water the purveyor delivers to any public water system user, measured at the locations identified under WAC 246-290-300, Table 3.

**"Maximum contaminant level violation"** means a confirmed measurement above the MCL and for a duration of time, where applicable, as outlined under WAC 246-290-310.

**"Maximum day demand (MDD)"** means the highest actual or estimated quantity of water that is, or is expected to be, used over a twenty-four hour period, excluding unusual events or emergencies. MDD is typically expressed as gallons per day per ERU (gpd/ERU).

**"Membrane filtration"** means a pressure or vacuum driven separation process in which particulate matter larger than 1 micrometer is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. This definition includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis.

**"Monitoring waiver"** means an action taken by the department under WAC 246-290-300 (4)(g) or (8)(f) to allow a water system to reduce specific monitoring requirements based on a determination of low source vulnerability to contamination.

**"Municipal water supplier"** means an entity that supplies water for municipal water supply purposes.

**"Municipal water supply purposes"** means a beneficial use of water:

(a) For residential purposes through fifteen or more residential service connections or for providing residential use of water for a nonresidential population that is, on average, at least twenty-five people for at least sixty days a year;

(b) For governmental or governmental proprietary purposes by a city, town, public utility, district, county, sewer district, or water district; or

(c) Indirectly for the purposes in (a) or (b) of this definition through the delivery of treated or raw water to a public water system for such use.

(i) If water is beneficially used under a water right for the purposes listed in (a), (b), or (c) of this definition, any other beneficial use of water under the right generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes.

(ii) If a governmental entity holds a water right that is for the purposes listed in (a), (b), or (c) of this definition, its use of water or its delivery of water for any other beneficial use generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes.

**"Nested storage"** means one component of storage is contained within the component of another.

**"Nonacute"** means posing a possible or less than immediate risk to human health.

**"Nonresident"** means a person having access to drinking water from a public water system, but who lives elsewhere. Examples include travelers, transients, employees, students, etc.

**"Normal operating conditions"** means those conditions associated with the designed, day-to-day provision of potable drinking water that meets regulatory water quality standards and the routine service expectations of the system's consumers at all times, including meeting fire flow demands. Operation under conditions such as power outages, floods, or unscheduled transmission or distribution disruptions, even if considered in the system design, are considered abnormal.

**"Operational storage"** means the volume of distribution storage associated with source or booster pump normal cycling times under normal operating conditions and is additive to the equalizing and standby storage components, and to fire flow storage if this storage component exists for any given tank.

**"Peak hourly demand (PHD)"** means the maximum rate of water use, excluding fire flow, that can be expected to occur within a defined service area over a continuous sixty minute time period. PHD is typically expressed in gallons per minute (gpm).

**"Peak hourly flow"** means, for the purpose of CT calculations, the greatest volume of water passing through the system during any one hour in a day.

**"Performance criteria"** means the level at which a system shall operate in order to maintain system reliability compliance, in accordance with WAC 246-290-420, and to meet consumers' reasonable expectations.

**"Permanent residence"** means any dwelling that is, or could reasonably be expected to be, occupied on a continuous basis.

**"Permanent source"** means a public water system supply source that is used regularly each year, and based on expected operational requirements of the system, will be used more than three consecutive months in any twelve-month period. For seasonal water systems that are in operation for

less than three consecutive months per year, their sources shall also be considered to be permanent.

**"Plant intake"** means the works or structures at the head of a conduit through which water is diverted from a source (e.g., river or lake) into the treatment plant.

**"Point of disinfectant application"** means the point where the disinfectant is added, and where water downstream of that point is not subject to contamination by untreated surface water.

**"Population served"** means the number of persons, resident and nonresident, having immediate access to drinking water from a public water system, whether or not persons have actually consumed water from that system. The number of nonresidents shall be the average number of persons having immediate access to drinking water on days access was provided during that month. In the absence of specific population data, the number of residents shall be computed by multiplying the number of active services by two and one-half.

**"Potable"** means water suitable for drinking by the public.

**"Potential GWI"** means a source identified by the department as possibly under the influence of surface water, and includes, but is not limited to, all wells with a screened interval fifty feet or less from the ground surface at the well-head and located within two hundred feet of a surface water, and all Ranney wells, infiltration galleries, and springs.

**"Premises isolation"** means a method of protecting a public water system by installation of approved air gaps or approved backflow prevention assemblies at or near the service connection or alternative location acceptable to the purveyor to isolate the consumer's water system from the purveyor's distribution system.

**"Presedimentation"** means a preliminary treatment process used to remove gravel, sand, and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant.

**"Pressure filter"** means an enclosed vessel containing properly sized and graded granular media through which water is forced under greater than atmospheric pressure.

**"Primary disinfection"** means a treatment process for achieving inactivation of *Giardia lamblia* cysts, viruses, or other pathogenic organisms of public health concern to comply with the treatment technique requirements of Part 6 of this chapter.

**"Primary standards"** means standards based on chronic, nonacute, or acute human health effects.

**"Primary turbidity standard"** means an accurately prepared formazin solution or commercially prepared polymer solution of known turbidity (prepared in accordance with "standard methods") that is used to calibrate bench model and continuous turbidimeters (instruments used to measure turbidity).

**"Project approval application (PAA)"** means a department form documenting ownership of water system, design engineer for the project, and type of project.

**"Protected ground water source"** means a ground water source the purveyor shows to the department's satisfaction as protected from potential sources of contamination on

the basis of hydrogeologic data and/or satisfactory water quality history.

**"Public forum"** means a meeting open to the general public that allows for their participation.

**"Public water system"** is defined and referenced under WAC 246-290-020.

**"Purchased source"** means water a purveyor purchases from a public water system not under the control of the purveyor for distribution to the purveyor's consumers.

**"Purveyor"** means an agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or other entity owning or operating a public water system. Purveyor also means the authorized agents of these entities.

**"Reclaimed water"** means effluent derived in any part from sewage from a wastewater treatment system that has been adequately and reliably treated, so that as a result of that treatment, it is suitable for beneficial use or a controlled use that would not otherwise occur, and it is no longer considered wastewater.

**"Record drawings"** means the drawings bearing the seal and signature of a professional engineer that reflect the modifications made to construction documents, documenting actual constructed conditions of the water system facilities.

**"Recreational tract"** means an area that is clearly defined for each occupant, but has no permanent structures with internal plumbing, and the area has been declared in the covenants or on the recorded plat in order to be eligible for reduced design considerations.

**"Regional public water supplier"** means a water system that provides drinking water to one, or more, other public water systems.

**"Regularly"** means four hours or more per day for four days or more per week.

**"Removal credit"** means the level (expressed as a percent or log) of *Giardia* and virus removal the department grants a system's filtration process.

**"Repeat sample"** means a sample collected to confirm the results of a previous analysis.

**"Resident"** means an individual living in a dwelling unit served by a public water system.

**"Residual disinfectant concentration"** means the analytical level of a disinfectant, measured in milligrams per liter, that remains in water following the application (dosing) of the disinfectant after some period of contact time.

**"Retail service area"** means the specific area defined by the municipal water supplier where the municipal water supplier has a duty to provide service to all new service connections. This area must include the municipal water supplier's existing service area and may also include areas where future water service is planned if the requirements of RCW 43.20.260 are met.

**"Same farm"** means a parcel of land or series of parcels that are connected by covenants and devoted to the production of livestock or agricultural commodities for commercial purposes and does not qualify as a **Group A** public water system.

**"Sanitary survey"** means a review, inspection, and assessment of a public water system by the department or department designee including, but not limited to: Source,

facilities, equipment, administration and operation, maintenance procedures, monitoring, recordkeeping, planning documents and schedules, and management practices. The purpose of the survey is to evaluate the adequacy of the water system for producing and distributing safe and adequate drinking water.

**"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 the systems.

**"Seasonal source"** means a public water system source used on a regular basis, that is not a permanent or emergency source.

**"Secondary standards"** means standards based on factors other than health effects.

**"Service area"** means the specific area or areas a water system currently serves or plans to provide water service. This may be comprised of the existing service area, retail service area, future service area, and include areas where water is provided to other public water systems.

**"Service connection"** means a connection to a public water system designed to provide potable water to a single family residence, or other residential or nonresidential population. When the connection provides water to a residential population without clearly defined single family residences, the following formulas shall be used in determining the number of services to be included as residential connections on the WFI form:

Divide the average population served each day by two and one-half; or

Using actual water use data, calculate the total ERUs represented by the service connection in accordance with department design guidance.

In no case shall the calculated number of services be less than one.

**"Severe health cross-connection hazard"** means a cross-connection which could impair the quality of potable water and create an immediate, severe public health hazard through poisoning or spread of disease by contaminants from radioactive material processing plants, nuclear reactors, or wastewater treatment plants.

**"Significant noncomplier"** means a system that is violating or has violated department rules, and the violations may create, or have created an imminent or a significant risk to human health. The 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.

**"Simple disinfection"** means any form of disinfection that requires minimal operational control in order to maintain the disinfection at proper functional levels, and that does not pose safety concerns that would require special care, equipment, or expertise. Examples include hypochlorination, UV-light, contactor chlorination, or any other form of disinfection practice that is safe to use and easy to routinely operate and maintain.

**"Slow sand filtration"** means a process involving passage of source water through a bed of sand at low velocity

(generally less than 0.10 gpm/ft<sup>2</sup>) that results in substantial particulate removal (> 2 log *Giardia lamblia* cysts) by physical and biological mechanisms.

**"Societal perspective"** means a point of view that includes a broad spectrum of public benefits, including, but not limited to, enhanced system reliability; savings that result from delaying, deferring, or minimizing capital costs; and environmental benefits such as increased water in streams, improvements in aquifer recharge and other environmental factors.

**"Source meter"** means a meter that measures total output of a water source over specific time periods.

**"Source water"** means untreated water that is not subject to recontamination by surface runoff and:

For unfiltered systems, enters the system immediately before the first point of disinfectant application; and

For filtered systems, enters immediately before the first treatment unit of a water treatment facility.

**"Special purpose investigation (SPI)"** means on-site inspection of a public water system by the department or designee to address a potential public health concern, regulatory violation, or consumer complaint.

**"Special purpose sample"** means a sample collected for reasons other than the monitoring compliance specified in this chapter.

**"Spring"** means a source of water where an aquifer comes in contact with the ground surface.

**"Standard methods"** means the book, titled *Standard Methods for the Examination of Water and Waste Water*, jointly published by the American Public Health Association, American Water Works Association (AWWA), and Water Pollution Control Federation. This book is available through public libraries or may be ordered from AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235. The edition to be used is that specified by EPA for the relevant drinking water parameter in 40 CFR Part 141.

**"Standby storage"** means the volume of stored water available for use during a loss of source capacity, power, or similar short-term emergency.

**"State advisory level (SAL)"** means a level established by the department and state board of health for a contaminant without an existing MCL. The SAL represents a level that when exceeded, indicates the need for further assessment to determine if the chemical is an actual or potential threat to human health.

**"State board of health"** and **"board"** means the board created by RCW 43.20.030.

**"State building code"** means the codes adopted by and referenced in chapter 19.27 RCW; the state energy code; and any other codes so designated by the Washington state legislature as adopted and amended by the council.

**"State revolving fund (SRF)"** means the revolving loan program financed by the state and federal governments and managed by the state for the purpose of assisting water systems to meet their capital needs associated with complying with the federal Safe Drinking Water Act under chapter 246-296 WAC.

**"Subpart H System"** see definition for **"surface water system."**

**"Surface water"** means a body of water open to the atmosphere and subject to surface runoff.

**"Surface water system"** means a public water system that uses in whole, or in part, source water from a surface supply, or GWI supply. This includes systems that operate surface water treatment facilities, and systems that purchase "completely treated water" (as defined in this subsection). A "surface water system" is also referred to as a "Subpart H System" in some federal regulatory language adopted by reference and the two terms are considered equivalent for the purposes of this chapter.

**"Susceptibility assessment"** means the completed Susceptibility Assessment Survey Form developed by the department to evaluate the hydrologic setting of the water source and assess its contribution to the source's overall susceptibility to contamination from surface activities.

**"Synthetic organic chemical (SOC)"** means a manufactured carbon-based chemical.

**"System capacity"** means the system's operational, technical, managerial, and financial capability to achieve and maintain compliance with all relevant local, state, and federal plans and regulations.

**"System physical capacity"** means the maximum number of service connections or equivalent residential units (ERUs) that the system can serve when considering the limitation of each system component such as source, treatment, storage, transmission, or distribution, individually and in combination with each other.

**"Time-of-travel"** means the time required for ground water to move through the water bearing zone from a specific point to a well.

**"Too numerous to count (TNTC)"** means the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

**"Tracer study"** means a field study conducted to determine the disinfectant contact time, T, provided by a water system component, such as a clearwell or storage reservoir, used for *Giardia lamblia* cyst and virus inactivation. The study involves introducing a tracer chemical at the inlet of the contact basin and measuring the resulting outlet tracer concentration as a function of time.

**"Transmission line"** means pipes used to convey water from source, storage, or treatment facilities to points of distribution or distribution mains, and from source facilities to treatment or storage facilities. This also can include transmission mains connecting one section of distribution system to another section of distribution system as long as this transmission main is clearly defined on the plans and no service connections are allowed along the transmission main.

**"Treatment technique requirement"** means a department-established requirement for a public water system to provide treatment, such as filtration or disinfection, as defined by specific design, operating, and monitoring requirements. A "treatment technique requirement" is established in lieu of a primary MCL when monitoring for the contaminant is not economically or technologically feasible.

**"Trihalomethane (THM)"** means one of a family of organic compounds, named as derivatives of methane, where three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure. THMs



may occur when chlorine, a halogen, is added to water containing organic material and are generally found in water samples as disinfection ((by-products)) byproducts.

**"Turbidity event"** means a single day or series of consecutive days, not to exceed fourteen, when one or more turbidity measurement each day exceeds 5 NTU.

**"Two-stage lime softening"** means a process in which chemical addition and hardness precipitation occur in each of two distinct unit clarification processes in series prior to filtration.

**"T10"** means the time it takes ten percent of the water passing through a system contact tank intended for use in the inactivation of *Giardia lamblia* cysts, viruses, and other microorganisms of public health concern, as determined from a tracer study conducted at peak hourly flow or from published engineering reports or guidance documents for similarly configured tanks.

**"Unapproved auxiliary water supply"** means a water supply (other than the purveyor's water supply) on or available to the consumer's premises that is either not approved for human consumption by the health agency having jurisdiction or is not otherwise acceptable to the purveyor.

**"Uncovered finished water storage facility"** means a tank, reservoir, or other facility used to store water, which will undergo no further treatment to reduce microbial pathogens except residual disinfection and is directly open to the atmosphere without a suitable water-tight roof or cover.

**"Uniform Plumbing Code"** means the code adopted under RCW 19.27.031(4) and implemented under chapter 51-56 WAC. This code establishes statewide minimum plumbing standards applicable within the property lines of the consumer's premises.

**"Used water"** means water which has left the control of the purveyor.

**"Verification"** means to demonstrate the results of a sample to be precise by analyzing a duplicate sample. Verification occurs when analysis results fall within plus or minus thirty percent of the original sample.

**"Virus"** means a virus of fecal origin which is infectious to humans and transmitted through water.

**"Volatile organic chemical (VOC)"** means a manufactured carbon-based chemical that vaporizes quickly at standard pressure and temperature.

**"Voluntary curtailment"** means a curtailment of water use requested, but not required of consumers.

**"Waterborne disease outbreak"** means the significant occurrence of acute infectious illness, epidemiologically associated with drinking water from a public water system, as determined by the appropriate local health agency or the department.

**"Water demand efficiency"** means minimizing water use by the public water system's consumers through purveyor sponsored activities that may include, but are not limited to distributing water saving devices, providing rebates or incentives to promote water efficient technologies or by providing water audits to homes, businesses, or landscapes.

**"Water facilities inventory (WFI) form"** means the department form summarizing each public water system's characteristics.

**"Water right"** means a permit, claim, or other authorization, on record with or accepted by the department of ecology, authorizing the beneficial use of water in accordance with all applicable state laws.

**"Water right self-assessment"** means an evaluation of the legal ability of a water system to use water for existing or proposed usages in conformance with state water right laws. The assessment may be done by a water system, a purveyor, the department of ecology, or any combination thereof.

**"Watershed"** means the region or area that:

Ultimately drains into a surface water source diverted for drinking water supply; and

Affects the physical, chemical, microbiological, and radiological quality of the source.

**"Water shortage"** means a situation during which the water supplies of a system cannot meet normal water demands for the system, including peak periods.

**"Water shortage response plan"** means a plan outlining policies and activities to be implemented to reduce water use on a short-term basis during or in anticipation of a water shortage.

**"Water supply characteristics"** means the factors related to a public water system's source of water supply that may affect its availability and suitability to provide for both short-term and long-term needs. Factors include, but are not limited to, source location, name of any body of water and water resource inventory area from which water is diverted or withdrawn, production capacity, the source's natural variability, the system's water rights for the source, and other legal demands on the source such as water rights for other uses, conditions established to protect species listed under the Endangered Species Act in 50 CFR 17.11; instream flow restrictions established under Title 173 WAC, and any conditions established by watershed plans approved under chapter 90.82 RCW and RCW 90.54.040(1) or salmon recovery plans under chapter 77.85 RCW.

**"Water supply efficiency"** means increasing a public water system's transmission, storage and delivery potential through activities that may include, but are not limited to system-wide water audits, documenting authorized uses, conducting leak surveys and repairs on meters, lines, storage facilities, and valves.

**"Water use efficiency (WUE)"** means increasing water supply efficiency and water demand efficiency to minimize water withdrawals and water use.

**"Water use efficiency program"** means policies and activities focusing on increasing water supply efficiency and water demand efficiency to minimize water withdrawals and water use.

**"Well field"** means a group of wells one purveyor owns or controls that:

Draw from the same aquifer or aquifers as determined by comparable inorganic chemical analysis and comparable static water level and top of the open interval elevations; and

Discharge water through a common pipe and the common pipe shall allow for collection of a single sample before the first distribution system connection.

**"Wellhead protection area (WHPA)"** means the portion of a well's, wellfield's or spring's zone of contribution defined using WHPA criteria established by the department.

**"Wholesale system"** means a public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

**"Zone of contribution"** means the area surrounding a pumping well or spring that encompasses all areas or features that supply ground water recharge to the well or spring.

**AMENDATORY SECTION** (Amending WSR 08-03-061, filed 1/14/08, effective 2/14/08)

**WAC 246-290-025 Adoption by reference.** The following sections and subsections of Title 40 Code of Federal Regulations (CFR) Part 141 National Primary Drinking Water Regulations revised as of July 1, 2007, and including all amendments and modifications thereto effective as of the date of adoption of this chapter are adopted by reference:

141.2 Definitions. Only those definitions listed as follows:

- Action level;
- Corrosion inhibitor;
- Effective corrosion inhibitor residual;
- Enhanced coagulation;
- Enhanced softening;
- ~~((Granular activated carbon (GAC10);))~~
- Haloacetic acids (five) (HAA5);
- First draw sample;
- Large water system;
- Lead service line;
- Maximum residual disinfectant level (MRDL);
- Maximum residual disinfectant level goal (MRDLG);
- Medium-size water system;
- Optimal corrosion control treatment;
- Service line sample;
- Single family structure;
- Small water system;
- Specific ultraviolet absorption (SUVA); and
- Total Organic Carbon (TOC).
- 141.12 Maximum contaminant levels for organic chemicals.
- 141.13 Maximum contaminant levels for turbidity.
- 141.21 Coliform monitoring.
- 141.22 Turbidity sampling and analytical requirements.
- 141.23(a) - 141.23(j), Inorganic chemical sampling, excluding (i)(2)
- 141.23(m) - 141.23(o)
- 141.24(a) - 141.24(d), Organic chemicals other than total trihalomethanes.
- 141.24 (f)(1) - 141.24 (f)(15),

- 141.24 (f)(18), 141.24 (f)(19),
- 141.24 (f)(21), 141.24 (f)(22)
- 141.24 (g)(1) - 141.24 (g)(9),
- 141.24 (g)(12) - 141.24 (g)(14),
- 141.24 (h)(1) - 141.24 (h)(11),
- 141.24 (h)(14) - 141.24 (h)(17)
- 141.24 (h)(20)
- 141.25(a), 141.25 (c) - (d), Analytical methods for radioactivity.
- 141.26 Monitoring frequency and compliance for radioactivity in community water systems.
- 141.31(d) Reporting of public notices and compliance certifications.
- 141.33(e) Record maintenance of public notices and certifications.
- 141.40 Requirements for unregulated contaminants.
- 141.61 Maximum contaminant levels for organic contaminants.
- 141.62, Maximum contaminant levels for inorganic chemical and physical contaminants.
- ~~((141.64(e) Best Available Technologies (BATs) for Disinfection By-Products.))~~
- 141.64 Maximum contaminant levels and Best Available Technologies (BATs) for disinfection byproducts.
- 141.65(c) Best Available Technologies (BATs) for Maximum Residual Disinfectant Levels.
- 141.66 Maximum contaminant levels for radionuclides.
- Control of Lead and Copper
- 141.80 General requirements.
- 141.81 Applicability of corrosion control treatment steps to small, medium-size and large water systems.
- 141.82(a) - 141.82(h) Description of corrosion control treatment requirements.
- 141.83 Source water treatment requirements.
- 141.84 Lead service line replacement requirements.
- 141.85 Public education and supplemental monitoring requirements.
- 141.86 (a) - (f) Monitoring requirements for lead and copper in tap water.
- 141.87 Monitoring requirements for water quality parameters.
- 141.88 Monitoring requirements for lead and copper in source water.
- 141.89 Analytical methods for lead and copper testing.
- 141.90, Reporting requirements, excluding (a)(4)

- 141.91 Recordkeeping requirements.  
Disinfectants and Disinfection (~~(By-Products)~~) Byproducts  
(D/DBP)
- 141.130 General requirements.
- 141.131 Analytical requirements.
- 141.132 Monitoring requirements.
- 141.133 Compliance.
- 141.134 Reporting and recordkeeping.
- 141.135 Treatment technique for control of disinfection  
(~~(by-product)~~) byproduct precursors.
- Enhanced Filtration - Reporting and Recordkeeping
- 141.175(b) Individual filter reporting and follow-up  
action requirements for systems treating sur-  
face water with conventional, direct, or in-line  
filtration and serving at least 10,000 people.
- Subpart Q - Public Notification
- 141.201, General public notification requirements.  
excluding  
(3)(ii) of  
Table 1
- 141.202, Tier 1 Public Notice - Form, manner, and fre-  
quency of notice.  
excluding  
(3) of Table 1
- 141.203 Tier 2 Public Notice - Form, manner, and fre-  
quency of notice.
- 141.204 Tier 3 Public Notice - Form, manner, and fre-  
quency of notice.
- 141.205 Content of the public notice.
- 141.206 Notice to new billing units or new customers.
- 141.207 Special notice of the availability of unregu-  
lated contaminant monitoring results.
- 141.208 Special notice for exceedances of the SMCL  
for fluoride.
- 141.211 Special notice for *Cryptosporidium* monitor-  
ing failure.
- Appendix A - NPDWR violations and situations requiring  
PN
- Appendix B - Standard health effects language for PN
- Subpart T - Enhanced Filtration and Disinfection - Systems  
Serving Fewer Than 10,000 People
- 141.530 - Disinfection profile and benchmark.
- 141.544
- 141.563 Follow-up actions required.
- 141.570, Reporting requirements.  
excluding (c)
- Subpart U and V - Initial Distribution System Evaluations  
and Stage 2 Disinfection Byproducts Requirements.
- 141.600 - Initial distribution system evaluations.  
141.605
- 141.620 - Stage 2 Disinfection Byproducts Require-  
141.629 ments.

- Subpart W - Enhanced Treatment for *Cryptosporidium*  
141.700-722 Enhanced Treatment for *Cryptosporidium*  
Part 143 - National Secondary Drinking Water Regulations
- 143.1 Purpose.
- 143.2 Definitions.
- 143.3 Secondary maximum contaminant levels.
- 143.4 Monitoring.

Copies of the incorporated sections and subsections of  
Title 40 CFR are available from the Department of Health,  
P.O. Box 47822, Olympia, Washington 98504-7822, or by  
calling the department's drinking water hotline at 800-521-  
0323.

AMENDATORY SECTION (Amending WSR 08-03-061,  
filed 1/14/08, effective 2/14/08)

**WAC 246-290-300 Monitoring requirements. (1)**  
General.

(a) The monitoring requirements specified in this section  
are minimums. The department may require additional mon-  
itoring when:

- (i) Contamination is present or suspected in the water  
system;
- (ii) A ground water source is determined to be a potential  
GWI;
- (iii) The degree of source protection is not satisfactory;
- (iv) Additional monitoring is needed to verify source  
vulnerability for a requested monitoring waiver;
- (v) Under other circumstances as identified in a depart-  
ment order; or
- (vi) Additional monitoring is needed to evaluate continu-  
ing effectiveness of a treatment process where problems with  
the treatment process may exist.

(b) Special purpose samples collected by the purveyor  
shall not count toward fulfillment of the monitoring require-  
ments of this chapter unless the quality of data and method of  
sampling and analysis are acceptable to the department.

(c) The purveyor shall ensure samples required by this  
chapter are collected, transported, and submitted for analysis  
according to EPA-approved methods. The analyses shall be  
performed by a laboratory accredited by the state. Qualified  
water utility, accredited laboratory, health department per-  
sonnel, and other parties approved by the department may  
conduct measurements for pH, temperature, residual disin-  
fectant concentration, alkalinity, bromide, chlorite, TOC,  
SUVA, and turbidity as required by this chapter, provided,  
these measurements are made in accordance with EPA  
approved methods.

(d) Compliance samples required by this chapter shall be  
taken at locations listed in Table 3 of this section.

(e) Purveyors failing to comply with a monitoring  
requirement shall notify:

- (i) The department under WAC 246-290-480; and
- (ii) The owner or operator of any consecutive system  
served and the appropriate water system users under 40 CFR  
141.201 and Part 7, Subpart A of this chapter.

(2) Selling and receiving water.

(a) Source monitoring. Purveyors, with the exception of those that "wheel" water to their consumers (i.e., sell water that has passed through another purchasing purveyor's distribution system), shall conduct source monitoring under this chapter for the sources under their control. The level of monitoring shall satisfy the monitoring requirements associated with the total population served by the source.

(b) Distribution system monitoring. The purveyor of a system that receives and distributes water shall perform distribution-related monitoring requirements. Monitoring shall include, but not be limited to, the following:

(i) Collect coliform samples under subsection (3) of this section;

(ii) Collect disinfection ~~((by product))~~ byproduct samples ~~((#))~~ as required by subsection (6) of this section;

(iii) Perform the distribution system residual disinfectant concentration monitoring under subsection ~~((7))~~ (6) of this section, and as required under WAC 246-290-451 or 246-290-694. Systems with fewer than one hundred connections shall measure residual disinfectant concentration at the same time and location that a routine or repeat coliform sample is collected, unless the department determines that more frequent monitoring is necessary to protect public health;

(iv) Perform lead and copper monitoring required under 40 CFR 141.86, 141.87, and 141.88;

(v) Perform the distribution system monitoring under 40 CFR 141.23(b) for asbestos if applicable;

(vi) Other monitoring as required by the department.

(c) Reduced monitoring for regional programs. The receiving purveyor may receive reductions in the coliform, lead and copper, disinfection ~~((by product))~~ byproduct (including THMs and HAA5) and distribution system disinfectant residual concentration monitoring requirements, provided the receiving system:

(i) Purchases water from a purveyor that has a department-approved regional monitoring program; ~~((and))~~

(ii) Has a written agreement with the supplying system or regional water supplier that is acceptable to the department, and which identifies the responsibilities of both the supplying and receiving system(s) with regards to monitoring, reporting and maintenance of the distribution system; and

(iii) Has at least one compliance monitoring location for disinfection byproducts, if applicable.

(d) Periodic review of regional programs. The department may periodically review the sampling records of public water systems participating in a department-approved monitoring program to determine if continued reduced monitoring is appropriate. If the department determines a change in the monitoring requirements of the receiving system is appropriate:

(i) The department shall notify the purveyor of the change in monitoring requirements; and

(ii) The purveyor shall conduct monitoring as directed by the department.

(3) Bacteriological.

(a) The purveyor shall be responsible for collection and submittal of coliform samples from representative points throughout the distribution system. Samples shall be collected after the first service and at regular time intervals each

month the system provides water to consumers. Samples shall be collected that represent normal system operating conditions.

(i) Systems providing disinfection treatment shall, when taking a routine or repeat sample, measure residual disinfectant concentration within the distribution system at the same time and location and comply with the residual disinfection monitoring requirements under WAC 246-290-451.

(ii) Systems providing disinfection treatment shall assure that disinfectant residual concentrations are measured and recorded on all coliform sample report forms submitted for compliance purposes.

(b) Coliform monitoring plan.

(i) The purveyor shall prepare a written coliform monitoring plan and base routine monitoring upon the plan. The plan shall include coliform sample collection sites and a sampling schedule.

(ii) The purveyor shall:

(A) Keep the coliform monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer ensures representative monitoring of the system, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(c) Monitoring frequency. The number of required routine coliform samples is based on total population served.

(i) Purveyors of **community** systems shall collect and submit for analysis no less than the number of routine samples listed in Table ~~((2))~~ 1 during each calendar month of operation;

(ii) Unless directed otherwise by the department, purveyors of **noncommunity** systems shall collect and submit for analysis no less than the number of samples required in Table ~~((2))~~ 1, and no less than required under 40 CFR 141.21. Each month's population shall be based on the average daily population and shall include all residents and nonresidents served during that month. During months when the average daily population served is less than twenty-five, routine sample collection is not required when:

(A) Using only protected ground water sources;

(B) No coliform were detected in samples during the previous month; and

(C) One routine sample has been collected and submitted for analysis during one of the previous two months.

(iii) Purveyors of systems serving both a resident and a nonresident population shall base their minimum sampling requirement on the total of monthly populations served, both resident and nonresident as determined by the department, but no less than the minimum required in Table ~~((2))~~ 1; and

(iv) Purveyors of systems with a nonresident population lasting two weeks or less during a month shall sample as directed by the department. Sampling shall be initiated at least two weeks prior to the time service is provided to consumers.

(v) Purveyors of TNC systems shall not be required to collect routine samples in months where the population

served is zero or the system has notified the department of an unscheduled closure.

(d) Invalid samples. When a coliform sample is determined invalid under WAC 246-290-320 (2)(d), the purveyor shall:

(i) Not include the sample in the determination of monitoring compliance; and

(ii) Take follow-up action as defined in WAC 246-290-320 (2)(d).

(e) The purveyor using a surface water or GWI source shall collect representative source water samples for bacteriological density analysis under WAC 246-290-664 and 246-290-694 as applicable.

TABLE ((2)) 1

MINIMUM MONTHLY ROUTINE COLIFORM SAMPLING REQUIREMENTS

Population Served <sup>1</sup>	Minimum Number of Routine Samples/Calendar Month	
	When NO samples with a coliform presence were collected during the previous month	When ANY samples with a coliform presence were collected during the previous month
During Month		
1 - 1,000	1*	5
1,001 - 2,500	2*	5
2,501 - 3,300	3*	5
3,301 - 4,100	4*	5
4,101 - 4,900	5	5
4,901 - 5,800	6	6
5,801 - 6,700	7	7
6,701 - 7,600	8	8
7,601 - 8,500	9	9
8,501 - 12,900	10	10
12,901 - 17,200	15	15
17,201 - 21,500	20	20
21,501 - 25,000	25	25
25,001 - 33,000	30	30
33,001 - 41,000	40	40
41,001 - 50,000	50	50
50,001 - 59,000	60	60
59,001 - 70,000	70	70
70,001 - 83,000	80	80
83,001 - 96,000	90	90
96,001 - 130,000	100	100
130,001 - 220,000	120	120
220,001 - 320,000	150	150
320,001 - 450,000	180	180
450,001 - 600,000	210	210

Population Served <sup>1</sup>	Minimum Number of Routine Samples/Calendar Month	
	When NO samples with a coliform presence were collected during the previous month	When ANY samples with a coliform presence were collected during the previous month
During Month		
600,001 - 780,000	240	240
780,001 - 970,000	270	270
970,001 - 1,230,000 <sup>3</sup>	300	300

<sup>1</sup> Does not include the population of a consecutive system that purchases water. The sampling requirement for consecutive systems is a separate determination based upon the population of that system.

<sup>2</sup> Noncommunity systems using only protected ground water sources and serving less than 25 individuals, may collect and submit for analysis, one sample every three months.

<sup>3</sup> Systems serving populations larger than 1,230,000 shall contact the department for the minimum number of samples required per month.

\*In addition to the provisions of subsection (1)(a) of this section, if a system of this size cannot show evidence of having been subject to a sanitary survey on file with the department, or has been determined to be at risk to bacteriological concerns following a survey, the minimum number of samples required per month may be increased by the department after additional consideration of factors such as monitoring history, compliance record, operational problems, and water quality concerns for the system.

(4) Inorganic chemical and physical.

(a) A complete inorganic chemical and physical analysis shall consist of the primary and secondary chemical and physical substances.

(i) Primary chemical and physical substances are antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate (as N), nitrite (as N), selenium, sodium, thallium, and for unfiltered surface water, turbidity. (Except that the MCL for arsenic under WAC 246-290-310 does not apply to TNC systems.)

(ii) Secondary chemical and physical substances are chloride, color, hardness, iron, manganese, specific conductivity, silver, sulfate, total dissolved solids\*, and zinc.

\* Required only when specific conductivity exceeds seven hundred micromhos/centimeter.

(b) Purveyors shall monitor for all primary and secondary chemical and physical substances identified in Table 4 and Table 5. Samples shall be collected in accordance with the monitoring requirements referenced in 40 CFR 141.23 introductory text, 141.23(a) through 141.23(j), excluding (i)(2), and 40 CFR 143.4, except for composite samples for systems serving less than three thousand three hundred one persons. For these systems, compositing among different systems may be allowed if the systems are owned or operated by a department-approved satellite management agency.

(c) Samples required by this subsection shall be taken at designated locations under 40 CFR 141.23(a) through 141.23(j), excluding (i)(2), and 40 CFR 143.4, and Table 3 herein.

(i) Wellfield samples shall be allowed from department designated wellfields; and

(ii) Under 40 CFR 141.23 (a)(3), alternate sampling locations may be used if approved by the department. The process for determining these alternate sites is described in department guidance. Purveyors of community and NTNC systems may ask the department to approve an alternate sampling location for multiple sources within a single system that are blended prior to entry to the distribution system. Alternate sampling plans shall address the following:

- (A) Source vulnerability;
- (B) Individual source characteristics;
- (C) Previous water quality information;
- (D) Status of monitoring waiver applications; and
- (E) Other information deemed necessary by the department.

(d) Composite samples:

(i) Under 40 CFR 141.23 (a)(4), purveyors may ask the certified lab to composite samples representing as many as five individual samples from within one system. Sampling procedures and protocols are outlined in department guidance; and

(ii) For systems serving a population of less than three thousand three hundred one, the department may approve composite sampling between systems when those systems are part of an approved satellite management agency.

(e) When the purveyor provides treatment for one or more inorganic chemical or physical contaminants, the department may require the purveyor to sample before and after treatment. The department shall notify the purveyor if and when this additional source sampling is required.

(f) Inorganic monitoring plans.

(i) Purveyors of community and NTNC systems shall prepare an inorganic chemical monitoring plan and base routine monitoring on the plan.

(ii) The purveyor shall:

(A) Keep the monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer reflects the monitoring requirements, procedures or sampling locations, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(g) Monitoring waivers.

(i) Purveyors may request in writing, a monitoring waiver from the department for any nonnitrate/nitrite inorganic chemical and physical monitoring requirements identified in this chapter.

(ii) Purveyors requesting a monitoring waiver shall comply with applicable subsections of 40 CFR 141.23 (b)(3), and 141.23 (c)(3).

(iii) Purveyors shall update and resubmit requests for waiver renewals as applicable during each compliance cycle or period or more frequently as directed by the department.

(iv) Failure to provide complete and accurate information in the waiver application shall be grounds for denial of the monitoring waiver.

(h) The department may require the purveyor to repeat sample for confirmation of results.

(i) Purveyors with emergency and seasonal sources shall monitor those sources when they are in use.

(5) Lead and copper. Monitoring for lead and copper shall be conducted in accordance with 40 CFR 141.86 (a) - (f), 141.87, and 141.88.

(6) Disinfection (~~(by-products)~~) byproducts (DBP), disinfectant residuals, and disinfection (~~(by-product)~~) byproduct precursors (DBPP). Purveyors of community and NTNC systems providing water treated with chemical disinfectants and TNC systems using chlorine dioxide shall monitor as follows:

(a) General requirements.

(i) Systems shall collect samples during normal operating conditions.

(ii) All monitoring shall be conducted in accordance with the analytical requirements in 40 CFR 141.131.

(iii) Systems may consider multiple wells drawing from a single aquifer as one treatment plant for determining the minimum number of TTHM and HAA5 samples required, with department approval in accordance with department guidance.

(iv) Systems required to monitor under this subsection shall prepare and implement a monitoring plan in accordance with 40 CFR 141.132(f) or 40 CFR 141.622, as applicable.

(A) Community and NTNC surface water and GWI systems that (~~add~~) deliver water that has been treated with a (~~chemical~~) disinfectant other than ultraviolet light and serve (~~at least ten thousand~~) more than three thousand three hundred people shall submit a monitoring plan to the department.

(B) (~~Community and NTNC surface water systems that add a chemical disinfectant and serve less than ten thousand people, but more than three thousand three hundred people, shall submit a monitoring plan to the department.~~

(~~C~~) The department may require submittal of a monitoring plan from systems not specified in subsection (6)(a)(iv)(A) (~~(or B)~~) of this section, and may require revision of any monitoring plan.

(~~D~~) (~~C~~) Failure to monitor will be treated as a violation for the entire period covered by the annual average where compliance is based on a running annual average of monthly or quarterly samples or averages and the systems' failure to monitor makes it impossible to determine compliance with MCL's or MRDL's.

(b) Disinfection (~~(by-products)~~) byproducts - **Community and NTNC** systems only.

(i) TTHMs and HAA5.

(A) Systems shall monitor for TTHM(~~s~~) and HAA5 in accordance with 40 CFR 141.132 (b)(1)(i) until the dates set in Table 2. On and after the dates set in Table 2, the systems shall monitor in accordance with 40 CFR 141.620, 141.621, and 141.622.

Table 2

Population Served	Routine Monitoring Start Date <sup>1</sup>
<u>100,000 or more</u>	<u>April 1, 2012</u>
<u>50,000 - 99,999</u>	<u>October 1, 2012</u>
<u>10,000 - 49,999</u>	<u>October 1, 2013</u>

Table 2

<u>Population Served</u>	<u>Routine Monitoring Start Date<sup>1</sup></u>
<u>Less than 10,000</u>	<u>October 1, 2013<sup>2</sup></u> <u>October 1, 2014<sup>3</sup></u>

<sup>1</sup> Systems that have nonemergency interties with other systems must comply with the dates associated with the largest system in their combined distribution system.

<sup>2</sup> Surface water and GWI systems that did not have to do *Cryptosporidium* monitoring under 40 CFR 141.701 (a)(4).

<sup>3</sup> Surface water and GWI systems that also did *Cryptosporidium* monitoring under 40 CFR 141.701 (a)(4).

(B) With department approval, systems may reduce monitoring in accordance with 40 CFR 141.132 (b)(1)(ii) and (iii), or 40 CFR 141.623, as applicable.

(C) Systems on department-approved reduced monitoring schedules may be required to return to routine monitoring, or initiate increased monitoring in accordance with 40 CFR 141.132 (b)(1)(iii) (iv), 40 CFR 141.625, or 40 CFR 141.627, as applicable.

(D) The department may return systems on increased monitoring to routine monitoring if, after one year, annual average results for TTHMs and HAA5 are less than or equal to 0.060 mg/L and 0.045 mg/L, respectively, or monitoring results are consistently below the MCLs indicating that increased monitoring is no longer necessary. After the dates set in Table 2, systems must meet requirements of 40 CFR 141.628 and 40 CFR 141.625(c) to return to routine monitoring.

(E) After the dates set in Table 2, systems must calculate operational evaluation levels each calendar quarter and take action, as needed, in accordance with 40 CFR 141.626.

(F) NTNC systems serving ten thousand or more people and community systems must comply with the provisions of 40 CFR Subpart U - Initial Distribution System Evaluation at:

<u>40 CFR 141.600</u>	<u>General requirements.</u>
<u>40 CFR 141.601</u>	<u>Standard monitoring.</u>
<u>40 CFR 141.602</u>	<u>System specific studies.</u>
<u>40 CFR 141.603</u>	<u>40/30 certification.</u>
<u>40 CFR 141.604</u>	<u>Very small system waivers.</u>
<u>40 CFR 141.605</u>	<u>Subpart V compliance monitoring location recommendations.</u>

(ii) Chlorite - Only systems that use **chlorine dioxide**.

(A) Systems using chlorine dioxide shall conduct daily and monthly monitoring in accordance with 40 CFR 141.132 (b)(2)(i) and additional chlorite monitoring in accordance with 40 CFR 141.132 (b)(2)(ii).

(B) With department approval, monthly monitoring may be reduced in accordance with 40 CFR 141.132 (b)(2)(iii)(B). Daily monitoring at entry to distribution required by 40 CFR 141.132 (b)(2)(i)(A) may not be reduced.

(iii) Bromate - Only systems that use **ozone**.

(A) Systems using ozone for disinfection or oxidation must conduct bromate monitoring in accordance with 40 CFR 141.132 (b)(3)(i).

(B) With department approval, monthly bromate monitoring may be reduced to once per quarter in accordance with 40 CFR 141.132 (b)(3)(ii) (~~and 40 CFR 141.132(e)~~) (B).

(c) Disinfectant residuals.

(i) Chlorine and chloramines. Community and NTNC systems, including consecutive systems, that ~~(use)~~ deliver water treated with chlorine or chloramines shall monitor and record the residual disinfectant level in the distribution system under WAC 246-290-300 (2)(b), 246-290-451(6), 246-290-664 (6)(~~(a)~~), or 246-290-694 (8)(~~(a)~~), but in no case less than as required by 40 CFR 141.132(c) or 40 CFR 141.624.

(ii) Chlorine dioxide. Community, NTNC, or TNC systems that use chlorine dioxide shall monitor in accordance with 40 CFR 141.132 (c)(2) and record results.

(d) Disinfection (~~(by product)~~) byproducts precursors.

Community and NTNC surface water or GWI systems that use conventional filtration with sedimentation as defined in WAC 246-290-660(3) shall monitor under 40 CFR 141.132(d), and meet the requirements of 40 CFR 141.135.

(7) Organic chemicals.

(a) Purveyors of community and NTNC water systems shall comply with monitoring requirements under 40 CFR 141.24 (a) - (d), 141.24 (f)(1) - (f)(15), 141.24 (f)(18) - (19), 141.24 (f)(21), 141.24 (g)(1) - (9), 141.24 (g)(12) - (14), 141.24 (h)(1) - (11), and 141.24 (h)(14) - (17).

(b) Sampling locations shall be as defined in 40 CFR 141.24(f), 141.24(g), and 141.24(h)(~~and 141.40(b)~~).

(i) Wellfield samples shall be allowed from department designated wellfields; and

(ii) Under 40 CFR 141.24 (f)(3) and 141.24 (h)(3), alternate sampling locations may be allowed if approved by the department. These alternate locations are described in department guidance. Purveyors may ask the department to approve an alternate sampling location for multiple sources within a single system that are blended prior to entry to the distribution system. The alternate sampling location shall consider the following:

(A) Source vulnerability;

(B) An updated organic monitoring plan showing location of all sources with current and proposed sampling locations;

(C) Individual source characteristics;

(D) Previous water quality information;

(E) Status of monitoring waiver applications; and

(F) Other information deemed necessary by the department.

(c) Composite samples:

(i) Purveyors may ask the certified lab to composite samples representing as many as five individual samples from within one system. Sampling procedures and protocols are outlined in department guidance;

(ii) For systems serving a population of less than three thousand three hundred one, the department may approve composite sampling between systems when those systems are part of an approved satellite management agency.

(d) The department may require the purveyor to sample both before and after treatment for one or more organic contaminants. The department shall notify the purveyor if and when this additional source sampling is required.

(e) Organic chemical monitoring plans.

(i) Purveyors of community and NTNC systems shall prepare an organic chemical monitoring plan and base routine monitoring on the plan.

(ii) The purveyor shall:

(A) Keep the monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer reflects the monitoring requirements, procedures or sampling locations, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(f) Monitoring waivers.

(i) Purveyors may request in writing, a monitoring waiver from the department for any organic monitoring requirement except those relating to unregulated VOCs;

(ii) Purveyors requesting a monitoring waiver shall comply with 40 CFR 141.24 (f)(7), 141.24 (f)(10), 141.24 (h)(6), and 141.24 (h)(7);

(iii) Purveyors shall update and resubmit requests for waiver renewals as directed by the department; and

(iv) Failure to provide complete and accurate information in the waiver application shall be grounds for denial of the monitoring waiver.

(g) Purveyors with emergency and seasonal sources shall monitor those sources under the applicable requirements of this section when they are actively providing water to consumers.

(8) Radionuclides. Monitoring for radionuclides shall be conducted under 40 CFR 141.26.

(9) *Cryptosporidium* and *E. coli* source monitoring. Purveyors with surface water or GWI sources shall monitor the sources in accordance with 40 CFR 141.701 and 702.

(10) Other substances.

On the basis of public health concerns, the department may require the purveyor to monitor for additional substances.

Sample Type	Sample Location
Complete Inorganic Chemical & Physical	From a point representative of the source, after treatment, and prior to entry to the distribution system.
Lead/Copper	From the distribution system at targeted sample tap locations.
Nitrate/Nitrite	From a point representative of the source, after treatment, and prior to entry to the distribution system.
Disinfection ((By-Products) Byproducts - TTHMs and HAA5 - WAC 246-290-300(6))	Under 40 CFR 141.132 (b)(1) (Subpart L of the CFR).
Disinfection Byproducts - TTHMs and HAA5 - WAC 246-290-300(7)	Under 40 CFR 141.600 - 629 (IDSE and LRAA in Subparts U and V of the CFR).
Disinfection ((By-Products) Byproducts - Chlorite (Systems adding chlorine dioxide))	Under 40 CFR 141.132 (b)(2).
Disinfection ((By-Products) Byproducts - Bromate (Systems adding ozone))	Under 40 CFR 141.132 (b)(3).
Disinfectant Residuals - Chlorine and Chloramines	Under 40 CFR 141.132 (c)(1).
Disinfectant Residuals - Chlorine dioxide	Under 40 CFR 141.132 (c)(2).
Disinfection Precursors - Total Organic Carbon (TOC)	Under 40 CFR 141.132(d).
Disinfection Precursors - Bromide (Systems using ozone)	From the source before treatment.
Radionuclides	From a point representative of the source, after treatment and prior to entry to distribution system.
Organic Chemicals (VOCs & SOCs)	From a point representative of the source, after treatment and prior to entry to distribution system.
Other Substances (unregulated chemicals)	From a point representative of the source, after treatment, and prior to entry to the distribution system, or as directed by the department.

TABLE 3

MONITORING LOCATION

Sample Type	Sample Location
Asbestos	One sample from distribution system or if required by department, from the source.
Bacteriological	From representative points throughout distribution system.
<i>Cryptosporidium</i> and <i>E. coli</i> (Source Water) - WAC 246-290-630(16)	Under 40 CFR 141.703.

**AMENDATORY SECTION** (Amending WSR 08-03-061, filed 1/14/08, effective 2/14/08)

**WAC 246-290-310 Maximum contaminant levels (MCLs) and maximum residual disinfectant levels (MRDLs).** (1) General.

(a) The purveyor shall be responsible for complying with the standards of water quality identified in this section. If a substance exceeds its MCL or its maximum residual disinfectant level (MRDL), the purveyor shall take follow-up action under WAC 246-290-320.

(b) When enforcing the standards described under this section, the department shall enforce compliance with the primary standards as its first priority.

(2) Bacteriological.



(a) MCLs under this subsection shall be considered primary standards.

(b) If coliform presence is detected in any sample, the purveyor shall take follow-up action under WAC 246-290-320(2).

(c) Acute MCL. An acute MCL for coliform bacteria occurs when there is:

- (i) Fecal coliform presence in a repeat sample;
- (ii) *E. coli* presence in a repeat sample; or
- (iii) Coliform presence in any repeat samples collected as a follow-up to a sample with fecal coliform or *E. coli* presence.

Note: For the purposes of the public notification requirements in Part 7, Subpart A of this chapter, an acute MCL is a violation that requires Tier 1 public notification.

(d) Nonacute MCL. A nonacute MCL for coliform bacteria occurs when:

- (i) Systems taking less than forty routine samples during the month have more than one sample with coliform presence; or
- (ii) Systems taking forty or more routine samples during the month have more than 5.0 percent with coliform presence.

(e) MCL compliance. The purveyor shall determine compliance with the coliform MCL for each month the system provides drinking water to the public. In determining MCL compliance, the purveyor shall:

- (i) Include:
  - (A) Routine samples; and
  - (B) Repeat samples.
- (ii) Not include:
  - (A) Samples invalidated under WAC 246-290-320(2)(d); and
  - (B) Special purpose samples.
- (3) Inorganic chemical and physical.

(a) The primary and secondary MCLs are listed in Table 4 and 5:

TABLE 4  
INORGANIC CHEMICAL CHARACTERISTICS

Substance	Primary MCLs (mg/L)
Antimony (Sb)	0.006
Arsenic (As)	0.010*
Asbestos	7 million fibers/liter (longer than 10 microns)
Barium (Ba)	2.0
Beryllium (Be)	0.004
Cadmium (Cd)	0.005
Chromium (Cr)	0.1
Copper (Cu)	**
Cyanide (HCN)	0.2
Fluoride (F)	4.0
Lead (Pb)	**
Mercury (Hg)	0.002

Substance	Primary MCLs (mg/L)
Nickel (Ni)	0.1
Nitrate (as N)	10.0
Nitrite (as N)	1.0
Selenium (Se)	0.05
Sodium (Na)	**
Thallium (Tl)	0.002
Substance	Secondary MCLs (mg/L)
Chloride (Cl)	250.0
Fluoride (F)	2.0
Iron (Fe)	0.3
Manganese (Mn)	0.05
Silver (Ag)	0.1
Sulfate (SO <sub>4</sub> )	250.0
Zinc (Zn)	5.0

Note\* Does not apply to TNC systems.  
 Note\*\* Although the state board of health has not established MCLs for copper, lead, and sodium, there is sufficient public health significance connected with copper, lead, and sodium levels to require inclusion in inorganic chemical and physical source monitoring. For lead and copper, the EPA has established distribution system related levels at which a system is required to consider corrosion control. These levels, called "action levels," are 0.015 mg/L for lead and 1.3 mg/L for copper and are applied to the highest concentration in ten percent of all samples collected from the distribution system. The EPA has also established a recommended level of twenty mg/L for sodium as a level of concern for those consumers that may be restricted for daily sodium intake in their diets.

TABLE 5  
PHYSICAL CHARACTERISTICS

Substance	Secondary MCLs
Color	15 Color Units
Specific Conductivity	700 umhos/cm
Total Dissolved Solids (TDS)	500 mg/L

(b) Compliance with the MCLs, except for nitrate and nitrite, in this subsection is determined by a running annual average at each sampling point. The system will not be considered in violation of the MCL until it has completed one year of quarterly sampling and at least one sampling point is in violation of the MCL. If one sampling point is in violation of the MCL, the system is in violation of the MCL.

(i) If any sample will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately.

(ii) If a system fails to collect the required number of samples, compliance will be based on the total number of samples collected.

(iii) If a sample result is less than the detection limit, zero will be used to calculate the running annual average.

(c) Compliance with the MCLs for nitrate and nitrite is determined based on one sample if the levels of these contaminants are below the MCLs as determined under Table 4

of this section. If the levels of nitrate or nitrite exceed the MCLs in the initial sample, a confirmation sample is required under 40 CFR 141.23 (f)(2), and compliance shall be determined based on the average of the initial and confirmation samples.

(4) Disinfection (~~((by-products))~~) byproducts.

(a) The department shall consider standards under this subsection as primary standards. The MCLs in this subsection apply to monitoring required by WAC 246-290-300(6) and 40 CFR 141.620 - 629.

(b) The MCLs for disinfection (~~((by-products))~~) byproducts are as follows:

Disinfection ( <del>((By-Product))</del> ) <u>Byproduct</u>	MCL (mg/L)
Total Trihalomethanes (TTHMs)	0.080
Haloacetic acids (five) (HAA5)	0.060
Bromate	0.010
Chlorite	1.0

(c) Whether a system has exceeded the disinfection byproduct MCLs shall be determined in accordance with 40 CFR 141.133. Beginning on the dates specified for compliance in 40 CFR 141.620(c), compliance with the TTHMs and HAA5 MCLs shall be based on the LRAAs as required by 40 CFR 141.64 (b)(2) and 40 CFR 141.620(d). Compliance with the Bromate and Chlorite MCL will continue to be determined in accordance with 40 CFR 141.133.

(5) Disinfectant residuals.

(a) The department shall consider standards under this subsection primary standards. The MRDLs in this subsection apply to monitoring required by WAC 246-290-300(6).

(b) The MRDL for disinfectants is as follows:

Disinfectant Residual	MRDL (mg/L)
Chlorine	4.0 (as Cl <sub>2</sub> )
Chloramines	4.0 (as Cl <sub>2</sub> )
Chlorine Dioxide	0.8 (as ClO <sub>2</sub> )

(c) Whether a system has exceeded MRDLs shall be determined in accordance with 40 CFR 141.133.

(6) Radionuclides.

(a) The department shall consider standards under this subsection primary standards.

(b) The MCLs for radium-226 and radium-228, gross alpha particle activity, beta particle and photon radioactivity, and uranium shall be as listed in 40 CFR 141.66.

(7) Organic chemicals.

(a) The department shall consider standards under this subsection primary standards.

(b) VOCs.

(i) The MCLs for VOCs shall be as listed in 40 CFR 141.61(a).

(ii) The department shall determine compliance with this subsection based on compliance with 40 CFR 141.24(f).

(c) SOCs.

(i) MCLs for SOCs shall be as listed in 40 CFR 141.61(c).

(ii) The department shall determine compliance with this subsection based on compliance with 40 CFR 141.24(h).

(8) Other chemicals.

(a) The state board of health shall determine maximum contaminant levels for any additional substances.

(b) Purveyors may be directed by the department to comply with state advisory levels (SALs) for contaminants that do not have a MCL established in chapter 246-290 WAC. SALs shall be:

(i) MCLs that have been promulgated by the EPA, but which have not yet been adopted by the state board of health; or

(ii) State board of health adopted levels for substances recommended by the department and not having an EPA established MCL. A listing of these may be found in the department document titled *Procedures and References for the Determination of State Advisory Levels for Drinking Water Contaminants* dated June 1996, that has been approved by the state board of health and is available.

AMENDATORY SECTION (Amending WSR 08-03-061, filed 1/14/08, effective 2/14/08)

**WAC 246-290-480 Recordkeeping and reporting.** (1)

Records. The purveyor shall keep the following records of operation and water quality analyses:

(a) Bacteriological and turbidity analysis results shall be kept for five years. Chemical analysis results shall be kept for as long as the system is in operation. Records of source meter readings shall be kept for ten years. Other records of operation and analyses required by the department shall be kept for three years. All records shall bear the signature of the operator in responsible charge of the water system or his or her representative. Systems shall keep these records available for inspection by the department and shall send the records to the department if requested. Actual laboratory reports may be kept or data may be transferred to tabular summaries, provided the following information is included:

(i) The date, place, and time of sampling, and the name of the person collecting the sample;

(ii) Identification of the sample type (routine distribution system sample, repeat sample, source or finished water sample, or other special purpose sample);

(iii) Date of analysis;

(iv) Laboratory and person responsible for performing analysis;

(v) The analytical method used; and

(vi) The results of the analysis.

(b) Records of action taken by the system to correct violations of primary drinking water standards. For each violation, records of actions taken to correct the violation, and copies of public notifications shall be kept for no less than three years after the last corrective action taken.

(c) Copies of any written reports, summaries, or communications relating to sanitary surveys or SPIs of the system conducted by system personnel, by a consultant or by any local, state, or federal agency, shall be kept for ten years after completion of the sanitary survey or SPI involved.

(d) Copies of project reports, construction documents and related drawings, inspection reports and approvals shall be kept for the life of the facility.

(e) Where applicable, records of the following shall be kept for a minimum of three years:

- (i) Chlorine residual;
- (ii) Fluoride level;
- (iii) Water treatment plant performance including, but not limited to:

- (A) Type of chemicals used and quantity;
- (B) Amount of water treated;
- (C) Results of analyses; and
- (iv) Other information as specified by the department.

(f) The purveyor shall retain copies of public notices made under Part 7, Subpart A of this chapter and certifications made to the department under 40 CFR 141.33(e) for a period of at least three years after issuance.

(g) Purveyors using conventional, direct, or in-line filtration that recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes within their treatment plant shall, beginning no later than June 8, 2004, collect and retain on file the following information for review and evaluation by the department:

(i) A copy of the recycle notification and information submitted to the department under WAC 246-290-660(4)(a)(i).

(ii) A list of all recycle flows and the frequency with which they are returned.

(iii) Average and maximum backwash flow rate through the filters and the average and maximum duration of the filter backwash process in minutes.

(iv) Typical filter run length and a written summary of how filter run length is determined.

(v) The type of treatment provided for the recycle flow.

(vi) Data on the physical dimensions of the equalization and/or treatment units, typical and maximum hydraulic loading rates, type of treatment chemicals used and average dose and frequency of use, and frequency at which solids are removed, if applicable.

(h) Purveyors required to conduct disinfection profiling and benchmarking under 40 CFR 141.530 through 141.544 shall retain the results on file indefinitely.

(i) Copies of monitoring plans developed under this chapter shall be kept for the same period of time as the records of analyses taken under the plan are required to be kept under (a) of this subsection.

(j) Purveyors using surface water or GWI sources must keep the records required by 40 CFR 141.722.

(2) Reporting.

(a) Unless otherwise specified in this chapter, the purveyor shall report to the department within forty-eight hours the failure to comply with any national primary drinking water regulation (including failure to comply with any monitoring requirements) as set forth in this chapter. For violations assigned to Tier 1 in WAC 246-290-71001, the department must be notified as soon as possible, but no later than twenty-four hours after the violation is known.

(b) The purveyor shall submit to the department reports required by this chapter, including tests, measurements, and analytic reports. Monthly reports are due before the tenth day

of the following month, unless otherwise specified in this chapter.

(c) The purveyor shall submit to the department copies of any written summaries or communications relating to the status of monitoring waivers during each monitoring cycle or as directed by the department.

(d) Source meter readings shall be made available to the department.

(e) Water facilities inventory form (WFI).

(i) Purveyors of **community** and **NTNC** systems shall submit an annual WFI update to the department;

(ii) Purveyors of **TNC** systems shall submit an updated WFI to the department as requested;

(iii) Purveyors shall submit an updated WFI to the department within thirty days of any change in name, category, ownership, or responsibility for management of the water system, or addition of source or storage facilities; and

(iv) At a minimum the completed WFI shall provide the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system.

(f) Bacteriological. The purveyor shall notify the department of the presence of:

(i) Coliform in a sample, within ten days of notification by the laboratory; and

(ii) Fecal coliform or *E. coli* in a sample, by the end of the business day in which the purveyor is notified by the laboratory. If the purveyor is notified of the results after normal close of business, then the purveyor shall notify the department before the end of the next business day.

(g) Systems monitoring for disinfection (~~((by-products))~~ byproducts) under WAC 246-290-300(6) shall report information to the department as specified in 40 CFR 141.134.

(h) Systems monitoring for disinfectant residuals under WAC 246-290-300(6) shall report information to the department as specified in subsection (2)(~~((a))~~) (b) of this section, and 40 CFR 141.134(b).

(i) Systems required to monitor for disinfection (~~((by-product))~~ byproduct) precursor removal under WAC 246-290-300(6) shall report information to the department as specified in 40 CFR 141.134(d).

(j) Systems required to monitor for disinfection byproducts under WAC 246-290-300(6) shall report information to the department as specified in 40 CFR 141.600 - 629.

(k) Systems subject to the enhanced treatment requirements for *Cryptosporidium* under WAC 246-290-630(4) shall report information to the department as specified in 40 CFR 141.706 and 141.721.

~~((4))~~ (l) Systems that use acrylamide and epichlorohydrin in the treatment of drinking water, must certify annually in writing to the department that the combination (or product) of dose and monomer level does not exceed the levels specified in ~~((4))~~ (l)(i) and (ii) of this subsection. Certifications shall reference maximum use levels established by an ANSI-accredited listing organization approved by the department.

(i) Acrylamide = 0.05 percent dosed at 1 ppm (or equivalent); and

(ii) Epichlorohydrin = 0.01 percent dosed at 20 ppm (or equivalent).

~~((4))~~ (m) Use of products that exceed the specified levels constitutes a treatment technique violation and the public

must be notified under the public notice requirements under Part 7, Subpart A of this chapter.

~~((m))~~ (n) Systems shall submit to the department, in accordance with 40 CFR 141.31(d), a certification that the system has complied with the public notification regulations (Part 7, Subpart A of this chapter) when a public notification is required. Along with the certification, the system shall submit a representative copy of each type of notice.

**AMENDATORY SECTION** (Amending WSR 08-03-061, filed 1/14/08, effective 2/14/08)

**WAC 246-290-694 Monitoring for unfiltered systems.** (1) Source coliform monitoring for systems without a limited alternative to filtration.

(a) The purveyor shall ensure that source water samples of each surface or GWI source are representative and:

(i) Collected before the first point of disinfectant application; and

(ii) Analyzed for fecal coliform density in accordance with methods acceptable to the department.

(b) The purveyor shall ensure source samples are collected for fecal coliform analysis each week the system serves water to the public based on the following schedule:

Population Served	Minimum Number/week*
25 - 500	1
501 - 3,300	2
3,301 - 10,000	3
10,001 - 25,000	4
>25,000	5

\*Must be taken on separate days.

(c) Each day the system serves water to the public and the turbidity of the source water exceeds 1.0 NTU, the purveyor shall ensure one representative source water sample is collected before the first point of disinfectant application and analyzed for fecal coliform density. This sample shall count toward the weekly source coliform sampling requirement.

(d) The purveyor using a surface water or GWI source and that meets the criteria to remain unfiltered under WAC 246-290-690, shall collect at least one sample near the first service connection each day the turbidity level of the source water, measured as specified under WAC 246-290-694, exceeds 1 NTU. This sample must be analyzed for the presence of total coliform. When one or more turbidity measurements in any day exceed 1 NTU, the system must collect this coliform sample within twenty-four hours of the first exceedance, unless the department determines that the system, for logistical reasons outside the system's control, cannot have the sample analyzed within thirty hours of collection. Sample results from this coliform monitoring must be included in determining compliance with the MCL for total coliforms under WAC 246-290-310(2).

(e) A purveyor shall not be considered in violation of (c) of this subsection, if the purveyor demonstrates to the department's satisfaction that, for valid logistical reasons outside the purveyor's control, the additional fecal coliform sample

could not be analyzed within a time frame acceptable to the department.

(2) Source coliform monitoring for systems with a limited alternative to filtration.

(a) The purveyor shall ensure that source water samples of each surface or GWI source are:

(i) Collected before the first point of primary disinfection; and

(ii) Analyzed for fecal coliform density in accordance with methods acceptable to the department.

(b) At a minimum, the purveyor shall ensure source samples are collected for fecal coliform analysis at a frequency equal to ten percent the number of routine coliform samples collected within the distribution system each month under WAC 246-290-300, or once per calendar month, whichever is greater, up to a maximum of one sample per day.

(3) Coliform monitoring at entry to distribution for systems without a limited alternative to filtration.

(a) The purveyor shall collect and have analyzed one coliform sample at the entry point to the distribution system each day that a routine or repeat coliform sample is collected within the distribution system under WAC 246-290-300(3) or 246-290-320(2), respectively.

(b) The purveyor shall use the results of the coliform monitoring at entry to distribution along with inactivation ratio monitoring results to demonstrate the adequacy of source treatment.

(4) Source turbidity monitoring for systems without a limited alternative to filtration.

(a) The purveyor shall continuously monitor and record turbidity:

(i) On representative source water samples before the first point of primary disinfectant application; and

(ii) In accordance with the analytical techniques in WAC 246-290-638.

(b) If source water turbidity is not the same as the turbidity of water delivered to consumers, the purveyor shall continuously monitor and record turbidity of water delivered.

(5) Source turbidity monitoring for systems with a limited alternative to filtration. The purveyor shall:

(a) Continuously monitor turbidity on representative source samples before the first point of primary disinfection application;

(b) Record continuous turbidity measurements at equal intervals, of at least four hours, in accordance with a department-approved sampling schedule; and

(c) Conduct monitoring in accordance with the analytical techniques under WAC 246-290-638.

(6) Monitoring the level of inactivation.

(a) Each day the system is in operation, the purveyor shall determine the total level of inactivation of *Giardia lamblia* cysts, viruses, and, if providing a limited alternative to filtration, any other pathogenic organisms of health concern including *Cryptosporidium* oocysts, achieved through disinfection.

(b) At least once per day, the purveyor shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection:

(i) Temperature of the disinfected water at each residual disinfectant concentration sampling point used for CT calculations; and

(ii) If using chlorine, pH of the disinfected water at each chlorine residual disinfectant concentration sampling point used for CT calculations.

(c) Each day during peak hourly flow, the purveyor shall:

(i) Determine disinfectant contact time, T, to the point at which C is measured; and

(ii) Measure the residual disinfectant concentration, C, of the water at the point for which T is calculated. The C measurement point must be before or at the first consumer.

(7) Monitoring the residual disinfectant concentration entering the distribution system for either unfiltered systems, or systems using a limited alternative to filtration.

(a) Systems serving more than thirty-three hundred people.

(i) The purveyor shall continuously monitor and record the residual disinfectant concentration of water entering the distribution system and report the lowest value each day.

(ii) If the continuous monitoring equipment fails, the purveyor shall measure the residual disinfectant concentration on grab samples collected at least every four hours at the entry to the distribution system while the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment back on-line within five working days following failure.

(b) Systems serving thirty-three hundred or less people.

(i) The purveyor shall collect grab samples or use continuous monitoring and recording to measure the residual disinfectant concentration entering the distribution system.

(ii) A purveyor choosing to take grab samples shall collect:

(A) Samples at the following minimum frequencies:

Population Served	Number/day
25 - 500	1
501 - 1,000	2
1,001 - 2,500	3
2,501 - 3,300	4

(B) At least one of the grab samples at peak hourly flow based on historical flows for the system; and

(C) The remaining sample or samples at intervals evenly spaced over the time the system is disinfecting water that will be delivered to the public.

(iii) When grab samples are collected and the residual disinfectant concentration at the entry to distribution falls below 0.2 mg/L, the purveyor shall collect a grab sample every four hours until the residual disinfectant concentration is 0.2 mg/L or more.

(8) Monitoring residual disinfectant concentration within the distribution system for either unfiltered systems, or systems using a limited alternative to filtration.

(a) The purveyor shall measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat coliform sample is collected under WAC 246-290-300(3) or 246-290-320(2) or once per day, whichever is greater.

(b) The purveyor of a system that purchases completely treated surface or GWI water as determined by the department shall comply with the requirements of (a) of this subsection or as otherwise directed by the department under WAC 246-290-300 (2)((e)). At a minimum, the purveyor shall measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat coliform sample is collected under WAC 246-290-300(3) or 246-290-320(2).

(c) The purveyor may measure HPC within the distribution system in lieu of measuring the residual disinfectant concentration under this subsection.

AMENDATORY SECTION (Amending WSR 08-03-061, filed 1/14/08, effective 2/14/08)

**WAC 246-290-72001 Purpose and applicability of the consumer confidence report requirements.** WAC 246-290-72001 through 246-290-72012 establishes minimum requirements for the content of annual reports that community water systems must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner.

(1) This section applies only to community water systems.

(2) For the purpose of WAC 246-290-72001 through 246-290-72012:

(a) "Customers" means billing units or service connections to which water is delivered by a community water system.

(b) "Detected" means at or above the levels prescribed by WAC 246-290-300(4) for inorganic contaminants, at or above the levels prescribed by WAC 246-290-300(7) for organic contaminants, at or above the levels prescribed by 40 CFR 141.131 (b)(2)(iv) for disinfection byproducts, and at or above the levels prescribed by 40 CFR 141.25(c) for radioactive contaminants.

AMENDATORY SECTION (Amending WSR 08-03-061, filed 1/14/08, effective 2/14/08)

**WAC 246-290-72005 Report contents—Information on detected contaminants.** (1) This section specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring. It applies to:

(a) Contaminants subject to an MCL, action level, maximum residual disinfectant level or treatment technique (regulated contaminants);

(b) Contaminants for which monitoring is required under 40 CFR 140.40; and

(c) Disinfection (~~by products~~) byproducts for which monitoring is required by WAC 246-290-300(6) and 40 CFR 141.142 or microbial contaminants for which monitoring is required by WAC 246-290-300(3) and 40 CFR 141.143, except as provided under WAC 246-290-72006(1), and which are detected in the finished water.

(2) The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any addi-

tional monitoring results which a community water system chooses to include in its report must be displayed separately.

(3) The data must be derived from data collected to comply with EPA and state monitoring and analytical requirements during the previous calendar year except that:

(a) Where a system is allowed to monitor for regulated contaminants less than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. No data older than five years need be included.

(b) Results of monitoring in compliance with 40 CFR 141.142 and 40 CFR 141.143 need only be included for five years from the date of last sample or until any of the detected contaminants becomes regulated and subject to routine monitoring requirements, whichever comes first.

(4) For detected regulated contaminants listed in WAC 246-290-72012, the table(s) must contain:

(a) The MCL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in WAC 246-290-72012);

(b) The MCLG for that contaminant expressed in the same units as the MCL;

(c) If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in WAC 246-290-72004;

(d) For contaminants subject to an MCL, except turbidity and total coliforms, the highest contaminant level used to determine compliance with a National Primary Drinking Water Regulation and the range of detected levels, as follows:

(i) When compliance with the MCL is determined annually or less frequently: The highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL.

(ii) When compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point: The highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL. For the TTHM and HAA5 MCLs determined on the basis of the LRAA, systems must include the highest LRAA for TTHM and HAA5 and the range of individual sample results for all monitoring locations expressed in the same units as the MCL. If more than one location exceeds the TTHM or HAA5 MCL, the system must include the LRAA for all locations that exceed the MCL.

(iii) When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all sampling points: The average and range of detection expressed in the same units as the MCL. The system is required to include individual sample results for the IDSE conducted under WAC 246-290-300 (6)(b)(i)(F) when determining the range of TTHM and HAA5 results to be reported in the annual consumer confidence report for the calendar year that the IDSE samples were taken.

(iv) Note to WAC 246-290-72005 (4)(d): When rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in WAC 246-290-72012;

(e) For turbidity:

(i) When it is reported under chapter 246-290 WAC Part 6, Subpart C: The highest average monthly value.

(ii) When it is reported under the requirements of chapter 246-290 WAC Part 6, Subpart D: The highest monthly value. The report should include an explanation of the reasons for measuring turbidity.

(iii) When it is reported under chapter 246-290 WAC Part 6, Subpart B: The highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in chapter 246-290 WAC Part 6, Subpart B for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity;

(f) For lead and copper: The 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level;

(g) For total coliform:

(i) The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or

(ii) The highest monthly percentage of positive samples for systems collecting at least 40 samples per month;

(h) For fecal coliform: The total number of positive samples; and

(i) The likely source(s) of detected contaminants to the best of the purveyor's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the purveyor. If the purveyor lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in WAC 246-290-72012 which are most applicable to the system.

(5) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.

(6) The table(s) must clearly identify any data indicating violations of MCLs, MRDLs, or treatment techniques and the report must contain a clear and readily understandable explanation of the violation including: The length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language of WAC 246-290-72012.

(7) For detected unregulated contaminants for which monitoring is required, the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

**WSR 09-10-093**  
**PROPOSED RULES**  
**LIQUOR CONTROL BOARD**

[Filed May 6, 2009, 10:46 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-07-104.

Title of Rule and Other Identifying Information: Chapter 314-64 WAC, amending WAC 314-64-020, 314-64-040, 314-64-050, and 314-64-08001.

Hearing Location(s): Washington State Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Lacey, WA 98504, on June 10, 2009, at 10:00 a.m.

Date of Intended Adoption: June 17, 2009.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504-3080, e-mail rules@liq.wa.gov, fax (360) 664-9689, by June 10, 2009.

Assistance for Persons with Disabilities: Contact Karen McCall by June 10, 2009, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: As part of the liquor control board's on-going rules review process, chapter 314-64 WAC is being reviewed for relevance, clarity, and accuracy. The proposed rules reflect current agency practices and more clearly provide direction to individuals who submit samples to the board or to licensees to negotiate a sale.

Reasons Supporting Proposal: The existing rules included language that is no longer relevant and needs to be eliminated. Clarification of existing rules will benefit those individuals requiring current practices.

Statutory Authority for Adoption: RCW 66.08.030.

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

Name of Proponent: [Liquor control board], governmental.

Name of Agency Personnel Responsible for Drafting: Karen McCall, 3000 Pacific Avenue S.E., Lacey, WA 98504, (360) 664-1631; Implementation: Debi Besser, Director of Purchasing, 3000 Pacific Avenue S.E., Lacey, WA 98504, (360) 664-1668; and Enforcement: Pat Parmer, Chief of Enforcement, 3000 Pacific Avenue S.E., Lacey, WA 98504, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposal imposes only minor impact on businesses or individuals that may submit samples to the board or licensees to negotiate a sale.

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

May 6, 2009

Lorraine Lee  
Chairman

AMENDATORY SECTION (Amending Order 40, filed 8/21/75)

**WAC 314-64-020 Definitions.** Samples shall mean:

~~((1) Beer and/or containers submitted to the board for chemical analysis of the beer, as required by WAC 314-20-020 (2)(b).~~

~~(2) Wine and/or containers submitted to the board for chemical analysis of the wine, as required by WAC 314-24-040 (1)(b).~~

~~(3) Malt liquor)) Beer, wine, spirits and/or containers submitted to the board for the purpose of negotiating the sale of liquor to the state liquor control board as provided in RCW 66.28.040.~~

AMENDATORY SECTION (Amending Order 200, Resolution No. 209, filed 10/21/86)

**WAC 314-64-040 Procedures for board samples.** Procedures for submitting samples to the board for the purpose of negotiating the sale of liquor to the board are as follows:

(1) Quantity. Samples shall not exceed in quantity that authorized by the ~~((U.S. Bureau of Alcohol, Tobacco and Firearms))~~ Tobacco Tax and Trade Bureau.

(2) Identification. Suppliers shall identify the items on the cartons and shipping documents as "samples for the board."

(3) Shipping instructions. Suppliers shall deliver or ship samples prepaid to the Washington State Liquor Control Board, Attention ~~((Liquor Purchasing Agent))~~ Director of Purchasing, ((1025 East Union Avenue)) 3000 Pacific Ave. S.E., Olympia, Washington 98504.

(4) In those instances where it becomes necessary for the board to incur some costs in receiving the samples, such costs shall be recovered from the supplier.

(5) Use and disposition of samples. Samples furnished for the purpose of negotiating the sale of liquor to the board shall be examined and tested by members of the board, or their designees, and/or the ~~((liquor purchasing agent))~~ director of purchasing, or ((his)) their designee, for appearance, aroma and taste, and to determine their probable customer acceptability. ~~((After such examination and testing, any remaining portion of said samples shall be disposed of by members of the board, or their designees who examined and tested said samples, or by the purchasing agent, or his designee who examined and tested said samples.))~~

(6) Reports. Members of the board, or their designees, and/or the ~~((liquor purchasing agent, or his))~~ director of purchasing or their designee, shall report their findings and recommendations on ~~((appropriate forms))~~ sample surveys to the ~~((liquor purchasing agent for consolidation and report to the board))~~ director of purchasing or their designee. The board shall consider such findings and recommendations, along with other documents furnished by the supplier, in determining whether the items represented by the samples shall be purchased by the board for resale through state liquor stores.

(7) Excess. Samples received in excess of the quantity authorized in ~~((WAC 314-64-040))~~ this section for the purpose of negotiating the sale of liquor to the board will be held by the ~~((Liquor board purchasing agent))~~ director of purchasing until the supplier has been notified of the overshipment and given fifteen days in which to respond as to whether he wants the excess returned to him at his expense. Failure of the supplier to respond within the time limitation, or notification from the supplier that he does not want the excess returned to him, will result in the excess item or items being destroyed by

a liquor control board auditor in the presence of the ~~((liquor purchasing agent))~~ director of purchasing, or ~~((his))~~ their designee, after which a destruction notice will be prepared by the auditor and be certified by the ~~((liquor board purchasing agent))~~ director of purchasing or ~~((his))~~ their designee who witnessed the destruction. Copies of such destruction notices shall be ~~((distributed to members of the board, the liquor purchasing agent, and the liquor control board controller))~~ kept in the purchasing division of the liquor control board.

(8) Containers. Containers submitted without alcohol to the board for the purpose of negotiating the sale of liquor shall, after examination by the board and/or the ~~((liquor purchasing agent))~~ director of purchasing, be disposed of as follows:

(a) Figurines, decanters, or other decorative containers may be retained for public display in the board offices in Olympia. After such display, the containers shall be disposed of as provided in (b) of this subsection.

(b) Figurines, decanters, or other decorative containers will be held by the ~~((liquor purchasing agent))~~ director of purchasing until the supplier has been notified that the containers have been examined by the board, and the supplier will be given fifteen days in which to respond as to whether he wants the containers returned to him at his expense. Failure of the supplier to respond within the time limitation, or notification from the supplier that he does not want the containers returned to him, will result in the containers being disposed of as surplus property, pursuant to RCW 43.19.1919, if the anticipated revenue to be derived from the sale of the containers as surplus property is deemed to exceed the anticipated costs attributable to the sale.

~~((e) Containers whose anticipated revenue to be derived from their sale as surplus property is deemed not to exceed the anticipated costs attributable to the sale shall be disposed of by members of the board, or their designees who examined and tested said samples, or by the liquor purchasing agent, or his designee who examined and tested said samples.))~~

AMENDATORY SECTION (Amending WSR 91-19-070, filed 9/16/91, effective 10/17/91)

**WAC 314-64-050 Accounting for board samples.** Samples as defined in WAC 314-64-020 shall be accounted for as follows:

~~((1) Malt liquor, wine or spirits submitted to the board for the purpose of negotiating the sale of liquor to the board.~~

~~((a))~~ (1) Upon receipt of the samples by the ~~((liquor purchasing agent))~~ director of purchasing in Olympia, the ~~((liquor purchasing agent))~~ director of purchasing, or his designee, shall ~~((prepare a multiple copy receiving and disposition report))~~ record the receipt for said samples ~~((clearly identifying them as "samples for the purpose of negotiating the sale of liquor to the board."~~

~~((b))~~.

(2) If more than the amount authorized in WAC 314-64-040 is received, the ~~((liquor purchasing agent))~~ director of purchasing, or ~~((his))~~ their designee, ~~((shall prepare a separate receiving report for the))~~ will record them as excess samples and dispose of them as provided in WAC 314-64-040(7).

~~((e))~~ (3) The ~~((liquor purchasing agent))~~ director of purchasing, or ~~((his))~~ their designee, shall sign the ~~((multiple copy receiving and disposition report in the applicable section,))~~ record of receipt indicating ~~((his))~~ receipt of the samples.

~~((d))~~ (4) The ~~((liquor purchasing agent))~~ director of purchasing, or ~~((his))~~ their designee, shall ~~((distribute))~~ retain the signed ~~((multiple copies of the receiving and disposition reports as follows: The original to be retained by the liquor purchasing agent, one copy to each member of the board, and one copy to the liquor control board controller))~~ record of receipt.

~~((e))~~ (5) The ~~((purchasing agent))~~ director of purchasing, or ~~((his))~~ their designee, shall provide ~~((an analysis report form, as required in WAC 314-64-040(6))~~ a sample survey for each sample. ~~((The receiving and disposition reports and analysis report forms shall be numbered consecutively, and shall correspond one with the other.~~

~~((f))~~ (6) The ~~((liquor purchasing agent))~~ director of purchasing shall deliver a copy of the ~~((receiving and disposition report and the analysis report forms))~~ sample survey with the samples, to members of the board, or their designees, and/or to the ~~((liquor purchasing agent))~~ director of purchasing, or ~~((his))~~ their designee, for examination, testing and reporting as provided in WAC 314-64-040 (4)(c) and (5) ~~((and (6))~~.

~~((g))~~ (7) Members of the board, or their designees, and/or the ~~((liquor purchasing agent))~~ director of purchasing, or ~~((his))~~ their designee, shall sign the ~~((receiving and disposition report))~~ copy of the record of receipt in the applicable section, indicating receipt of the samples.

~~((h) The purchasing agent shall distribute the signed receiving and disposition report as follows: The original to the member of the board, or his designee, or the liquor purchasing agent, or his designee, to whom the sample was delivered; one copy to the liquor control board controller, and one copy to be retained by the liquor purchasing agent.~~

~~((i))~~ (8) Members of the board, or their designees, and/or the ~~((liquor purchasing agent))~~ director of purchasing, or ~~((his))~~ their designee, shall examine, test and report on the sample, as provided in WAC 314-64-040 ~~((4), (5), and (6);))~~ complete the ~~((analysis report form,))~~ sample survey, sign, and ~~((distribute the form as follows: The original))~~ return to the ~~((liquor purchasing agent, one copy to the liquor control board controller, and one copy to be retained by the member of the board, or his designee, and/or the liquor purchasing agent, or his designee who examined and tested the sample.~~

~~((j))~~ director of purchasing, or their designee.

(9) The ~~((liquor control board controller))~~ purchasing division shall maintain the official copies of the ~~((receiving and disposition reports))~~ records of receipt, together with the ~~((matching analysis report forms))~~ sample surveys, and, where applicable, the destruction notices.

AMENDATORY SECTION (Amending WSR 94-14-022, filed 6/27/94, effective 7/28/94)

**WAC 314-64-080 Procedures.** Procedures for furnishing samples of beer and wine to licensees for the purpose of negotiating a sale are as follows:



(1) Quantity. Except as provided in (d) of this subsection, samples may be furnished only in their original packages or containers as produced by the manufacturer or bottler, as follows:

(a) Wholesaler or importer. A brewer, winery or importer may furnish a sample of beer or wine to a wholesaler or importer who has not previously purchased the brand and type or vintage year from the supplier furnishing the sample. For each wholesaler or importer, the brewer, winery or importer may give not more than seventy-two ounces of any brand and type of beer, and not more than one liter of any brand and type of wine.

(b) Retailer. A brewer, winery, importer or wholesaler may, except as hereinafter provided, furnish a sample of beer or wine to a retail licensee who has not previously purchased the brand and type or vintage year from the supplier furnishing the sample. For each retail licensee, the brewer, winery, importer or wholesaler may give not more than seventy-two ounces of any brand and type of beer, and not more than one liter of any brand and type of wine. If a particular product is not available in a size within the quantity limitations of this section, a brewer, winery, importer or wholesaler may furnish the next largest size.

(c) Out-of-state brewers and wineries who hold a certificate of approval to ship their products into this state who provide samples to retailers as outlined in (b) of this subsection shall be responsible for reporting monthly to the board any shipments of samples to retailers in Washington state and shall also be responsible for paying the taxes due on such beer and wine samples provided to retailers as provided for in WAC 314-20-010 and 314-24-110 as if they were a domestic brewer or a domestic winery.

(d) Samples in other than the original packages or containers may, subject to the conditions and limitations stated in (a), (b), and (c) of this subsection, be furnished as follows:

(i) A brewery, winery, importer, or wholesaler, either directly or through their licensed agents, may furnish to authorized licensees at their licensed premises or business office samples of beer and wine from an opened container carried by a licensed agent, provided such samples are furnished only in single-serving samples not to exceed two ounces of wine or twelve ounces of beer.

(ii) A brewery, winery, importer, or wholesaler, either directly or through their licensed agents, may furnish samples of beer or wine to authorized licensees at the premises of a retail licensee.

(iii) A licensed importer or licensed wholesaler may furnish samples to authorized licensees on the licensed premises of the importer or wholesaler.

(2) Identification. Brewers, wineries, importers or wholesalers shall identify the samples on the containers, cartons and shipping documents as "Samples for licensees."

(3) Shipping instructions. Brewers, wineries, importers or wholesalers shall, except as provided in subsection (1)(d) of this section, deliver or ship samples to licensees at their licensed premises or business office.

(4) Use and disposition of samples. Samples may be furnished for the purpose of negotiating a sale of beer or wine to a wholesaler, importer, or retail licensee.

AMENDATORY SECTION (Amending WSR 98-08-041, filed 3/25/98, effective 4/25/98)

**WAC 314-64-08001 Procedures for providing spirit samples to authorized retail licensees for the purpose of negotiating a sale.** A distiller, craft distiller, or their agent may, for the purpose of product promotion, provide without charge single samples to retail licensees authorized to sell spirits and their employees.

1. Samples are limited to 1.7 ounces (50 ml) and no more than one sample of each product may be provided to any one licensed business.

2. All spirit samples must be purchased at retail from the board from existing stocks or by special order.

3. Only products not previously purchased or existing products with a change in alcohol proof or formula may be sampled.

4. Both the retailer and distiller must retain records of sampling for a period of two years. The records shall include the brand and type of sample and the date of sampling.