

WSR 09-21-006**PERMANENT RULES****DEPARTMENT OF AGRICULTURE**

[Filed October 8, 2009, 8:49 a.m., effective November 8, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: When the terminology was changed from "restricted use" to "use restricted" for certain pesticides applied in eastern Washington counties in April of 2007, a few of the terminology changes were inadvertently omitted. This also corrects typographical omissions.

Citation of Existing Rules Affected by this Order: Amending WAC 16-230-410, 16-232-007, and title on chapter 16-232 WAC.

Statutory Authority for Adoption: Chapters 17.21, 15.58, and 34.05 RCW.

Adopted under notice filed as WSR 09-16-071 on July 30, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: October 8, 2009.

Dan Newhouse
Director

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-230-410 What are use restricted herbicides in Spokane County? All formulations of phenoxy hormone-type herbicides, (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba are declared as use restricted herbicides except as listed below:

(1) Salt formulations, including amine and sodium, distributed in quantities of one gallon or less;

(2) Dry formulations of phenoxy hormone-type herbicides (e.g., 2,4-D, 2,4-DB, 2,4-DP (dichlorprop), MCPA, MCPB, MCPP (mecoprop)) and dicamba labeled and intended only for home and garden use or for turf.

Chapter 16-232 WAC**~~((RESTRICTED))~~ USE RESTRICTED HERBICIDES IN CERTAIN COUNTIES**

AMENDATORY SECTION (Amending WSR 07-11-041A, filed 5/9/07, effective 6/9/07)

WAC 16-232-007 What are ~~((restricted))~~ use restricted pesticides in certain areas of Walla Walla County? The following pesticides are declared to be use restricted pesticides in areas 2B, 4, and 6:

(1) Use restricted herbicides*:

(a) Sulfonylurea herbicides (such as Glean, Telar, Finesse, Escort);

(b) Desiccants and defoliants (such as Paraquat, Diquat, Endothal);

(c) Glyphosate (such as Roundup, Landmaster);

(d) Phenoxy hormone-type herbicides (such as 2,4-D, MCPA);

(e) Dicamba (such as Banvel);

(f) Bromoxynil except that the cutoff dates of April 5, April 15 and May 15 do not apply.

*This is to be used only as a guide and may not include all brand or trade names under which these chemicals are distributed.

(2) All aerial applications of Category I insecticides with the signal words danger/poison on the label, except granular and pellet formulations.

WSR 09-21-008**PERMANENT RULES****HEALTH CARE AUTHORITY**

(Basic Health Program)

[Order 09-01—Filed October 8, 2009, 2:09 p.m., effective November 8, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To clarify the process by which an enrollee in the basic health program may be disenrolled from the program upon failure to comply with the recertification process.

Citation of Existing Rules Affected by this Order: Amending WAC 182-25-090.

Statutory Authority for Adoption: RCW 70.47.050.

Adopted under notice filed as WSR 09-18-034 on August 25, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 8, 2009.

Jason Siems
Rules Coordinator

AMENDATORY SECTION (Amending Order 04-03, filed 11/5/04, effective 1/1/05)

WAC 182-25-090 Disenrollment from BHP. (1) An enrollee or employer group may disenroll effective the first day of any month by giving BHP at least ten days prior notice of the intention to disenroll.

(2) BHP may disenroll any enrollee or group from BHP for good cause, which includes:

(a) Failure to meet the eligibility requirements set forth in WAC 182-25-030, 182-25-050, 182-25-060, and 182-25-070;

(b) Nonpayment of premium under the provisions of subsection (6) of this section;

(c) Changes in MHCS or program availability when the enrollee's MHCS will no longer be available to him or her and no other MHCS in the area where the enrollee lives is accepting new enrollment in the enrollee's program;

(d) Repeated failure to pay copayments, coinsurance, or other cost-sharing in full on a timely basis;

(e) Fraud, intentional misrepresentation of information or withholding information that the enrollee knew or should have known was material or necessary to accurately determine their eligibility or premium responsibility, failure to provide requested verification of eligibility or income, or knowingly providing false information;

(f) Abuse or intentional misconduct;

(g) Danger or threat to the safety or property of the MHCS or the health care authority or their staff, providers, patients or visitors; and

(h) Refusal to accept or follow procedures or treatment determined by a MHCS to be essential to the health of the enrollee, when the MHCS has advised the enrollee and demonstrated to the satisfaction of BHP that no professionally acceptable alternative form of treatment is available from the MHCS.

(3) In addition to being disenrolled, any enrollee who knowingly provides false information to BHP or to a participating managed health care system may be held financially responsible for any covered services fraudulently obtained through BHP.

(4) At least ten days prior to the effective date of disenrollment under subsection (2)(a) and (c) through (h) of this section, BHP will send enrollees written notice of disenrollment.

(a) The notice of disenrollment will:

(i) State the reason for the disenrollment;

(ii) State the effective date of the disenrollment;

(iii) Describe the procedures for disenrollment; and

(iv) Inform the enrollee of his or her right to appeal the disenrollment decision as set forth in WAC 182-25-100 and 182-25-105.

(b) The notice of disenrollment will be sent to both the employer or sponsor and to all members of an employer group, home care agency group or financial sponsor group that is disenrolled under these provisions. Enrollees affected by the disenrollment of a group account will be offered coverage under individual accounts. Coverage under individual accounts will not begin unless the premium for individual coverage is paid by the due date for the coverage month. A one-month break in coverage may occur for enrollees who choose to transfer to individual accounts.

(5) Enrollees covered under BHP Plus or receiving maternity benefits through medical assistance will not be disenrolled from those programs when other family members lose BHP coverage, as long as they remain eligible for those programs.

(6) Enrollees who are notified that they will be disenrolled due to incomplete recertification documents shall not be disenrolled if they submit complete documents within thirty days after the disenrollment letter is mailed.

(7) Under the provisions of this subsection, BHP will suspend or disenroll enrollees and groups who do not pay their premiums when due, including amounts owed for subsidy overpayment, if any. Partial payment or payment by check which cannot be processed or is returned due to non-sufficient funds will be regarded as nonpayment.

(a) At least ten days before coverage will lapse, BHP will send a delinquency notice to each subscriber whose premium payment has not been received by the due date. The delinquency notice will include a final due date and a notice that BHP coverage will lapse unless payment is received by the final due date.

(b) Except as provided in (c) of this subsection, coverage will be suspended for one month if an enrollee's premium payment is not received by the final due date, as shown on the delinquency notice. BHP will send written notice of suspension to the subscriber, which will include:

(i) The effective date of the suspension;

(ii) The due date by which payment must be received to restore coverage after the one-month suspension;

(iii) Notification that the subscriber and any enrolled dependents will be disenrolled if payment is not received by the final due date; and

(iv) Instructions for filing an appeal under WAC 182-25-105.

(c) Enrollees whose premium payment has not been received by the delinquency due date, and who have been suspended twice within the previous twelve months will be disenrolled for nonpayment as of the effective date of the third suspension.

(d) Enrollees who are suspended and do not pay the premium for the next coverage month by the due date on the notice of suspension will be immediately disenrolled and issued a notice of disenrollment, which will include:

(i) The effective date of the disenrollment; and

(ii) Instructions for filing an appeal under WAC 182-25-105.

~~((7))~~ (8)(a) Unless otherwise specified in this chapter, and subject to the provisions of WAC 182-25-030, enrollees who voluntarily disenroll or are disenrolled from BHP may not reenroll for a period of twelve months from the date their

coverage ended and until all other requirements for enrollment have been satisfied. An exception to this provision will be made for:

(i) Enrollees who left BHP for other health insurance, who are able to provide proof of continuous coverage from the date of disenrollment, and who apply to reenroll in BHP within thirty days of losing the other coverage;

(ii) Enrollees who left BHP because they lost eligibility and who subsequently become eligible to reenroll; and

(iii) Persons enrolling in subsidized BHP, who had enrolled and subsequently disenrolled from nonsubsidized BHP under subsection (1) or (2)(b) of this section while waiting on a reservation list for subsidized coverage.

(iv) Enrollees who were disenrolled by BHP because no MHCS was contracted to serve the program in which they were enrolled in the geographic area where they live; these enrollees may reenroll, provided all enrollment requirements are met, if a MHCS begins accepting enrollment for their program in their area or if they become eligible and apply for another BHP program.

(v) Enrollees who were disenrolled for failing to provide requested documentation of income or eligibility (~~(, who had attempted to comply with the request but were unable to meet the due date, and)~~) for recertification or as otherwise requested by BHP, who provide all required documentation within six months of disenrollment and are eligible to reenroll. Reenrollment in the plan will not be retroactive and shall take place within forty-five days of BHP receiving complete reenrollment documents that verify eligibility; subject to the provisions of WAC 182-25-080.

(b) An enrollee who is required to wait twelve months for reenrollment under (a) of this subsection may not reenroll prior to the end of the required twelve-month wait. If an enrollee satisfies the required twelve-month wait after applying for subsidized coverage and while waiting to be offered coverage, enrollment will not be completed until funding is available to enroll him or her.

WSR 09-21-009
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed October 8, 2009, 2:19 p.m., effective November 15, 2009]

Effective Date of Rule: November 15, 2009.

Purpose: The department is amending WAC 388-412-0040 Can I get my benefits replaced?

This rule change removes the requirement for clients to provide a signed affidavit when requesting replacement of benefits. The current rule requires a signed affidavit from clients who report that their benefits were lost or destroyed in a disaster in order for the benefits to be replaced. For Basic Food benefits, the Code of Federal Regulations imposes no such requirement on the states. Furthermore, the current process can be time-consuming and frustrating for clients. We are streamlining and expediting the benefits replacement process for clients.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-412-0040.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, and 74.08.090.

Adopted under notice filed as WSR 09-17-100 on August 18, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: October 7, 2009.

Stephanie E. Vaughn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-14-047, filed 6/24/08, effective 7/25/08)

WAC 388-412-0040 Can I get my benefits replaced?

Under certain conditions, we may replace your benefits.

(1) You may get your EBT benefits replaced if:

(a) We make a mistake that causes you to lose benefits;

(b) Both your EBT card and personal identification number (PIN) are stolen from the mail; you never had the ability to use the benefits; and you lost benefits;

(c) You left a drug or alcohol treatment on or before the fifteenth of the month and the facility does not have enough Basic Food benefits in their EBT account for one-half of the allotment that they owe you;

(d) Your EBT benefits that were recently deposited into an inactive EBT account were canceled by mistake along with your state benefits; or

(e) Your food that was purchased with Basic Food benefits was destroyed in a disaster.

(2) If you want a replacement, you must(~~(~~

~~(a))~~ report the loss to your local office within ten days from the date of the loss(~~(, and~~

~~(b) Sign a department affidavit form stating you had a loss of benefits)).~~

(3) For Basic Food, we replace the loss up to a one-month benefit amount.

(4) We will not replace your benefits if your loss is for a reason other than those listed in subsection (1) above or:

(a) We decided that your request is fraudulent;

(b) Your Basic Food benefits were lost, stolen or misplaced after you received them;

(c) You already got two countable replacements of Basic Food benefits within the last five months; or

(d) You got disaster food stamp benefits for the same month you requested a replacement for Basic Food.

(5) Your replacement does not count if:

(a) Your benefits are returned to us; or

(b) We replaced your benefits because we made an error.

WSR 09-21-013

PERMANENT RULES

GAMBLING COMMISSION

[Order 658—Filed October 9, 2009, 9:34 a.m., effective November 9, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This change removes wording that allows higher wagering limits for "all-in" wagers in Texas Hold'em poker games. This puts the limit for all poker wagers back to \$40. Effective July 1, 2009, WAC 230-15-135 authorized house-banked licensees the ability to offer up to a \$500 "all-in" wager on the game of Texas Hold'em. Unfortunately, after the rule passed staff identified a problem that would be created in the wagering structure for Texas Hold'em games. The change allows "all-in" wagers, only, to exceed the \$40 poker wagering limit. The rule does not allow players to make call or matching wagers exceeding the \$40 limit. Additionally, the rule is ambiguous as to who is eligible to make an "all-in" wager. Prior to the "all-in" wager change, all non-house-banked wagers were limited to \$40. By removing the "all-in" reference, the rule would revert back to the \$40 limit on all nonhouse-banked wagers.

Citation of Existing Rules Affected by this Order: Amending WAC 230-15-135.

Statutory Authority for Adoption: RCW 9.46.070, 9.46.0282.

Adopted under notice filed as WSR 09-16-116 on August 4, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: October 9, 2009.

Michelle M. Pardee
Acting Rules Coordinator

AMENDATORY SECTION (Amending Order 642, filed 4/10/09, effective 7/1/09)

WAC 230-15-135 Wagering limits for nonhouse-banked card games. Card room licensees must not exceed these wagering limits:

(1) **Poker** -

(a) There must be no more than five betting rounds in any one game; and

(b) There must be no more than four wagers in any betting round, for example, the initial wager plus three raises; and

(c) The maximum amount of a single wager must not exceed forty dollars (~~except that an all-in wager in the game of Texas Hold'em may not exceed five hundred dollars for house-banked card game licensees meeting the surveillance requirements specified in WAC 230-15-280; and~~

~~(d) An all-in wager is when a player wagers with all of their remaining chips on the current hand);~~

(2) **Games based on achieving a specific number of points** - Each point must not exceed five cents in value;

(3) **Ante** - No more than the maximum wager allowed for the first betting round for any game, except for Panguingue (Pan). The ante may, by house rule:

(a) Be made by one or more players, but the total ante may not exceed the maximum wager allowed for the first betting round; and

(b) Be used as part of a player's wager;

(4) **Panguingue (Pan)** - The maximum value of a chip must not exceed ten dollars. An ante must not exceed one chip. We prohibit doubling of conditions. Players going out may collect no more than two additional chips for going out from each participating player.

WSR 09-21-014

PERMANENT RULES

HORSE RACING COMMISSION

[Filed October 9, 2009, 10:34 a.m., effective November 9, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend WAC 260-36-085 to increase license fees to meet the requirements of RCW 67.16.020 and as authorized in ESHB 1244, which authorized the commission to raise license fees to meet [meet] its appropriation.

Citation of Existing Rules Affected by this Order: Amending WAC 260-36-085.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 09-17-027 on August 7, 2009.

Changes Other than Editing from Proposed to Adopted Version: Eliminated the proposed \$1.00 increase in fingerprint fees.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 8, 2009.

R. J. Lopez
Executive Secretary

AMENDATORY SECTION (Amending WSR 08-05-087, filed 2/15/08, effective 3/17/08)

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

Apprentice jockey	\$(76.00) <u>80.00</u>
Assistant trainer	\$(36.00) <u>38.00</u>
Association employee—management	\$(25.00) <u>26.00</u>
Association employee—hourly/seasonal	\$(15.00) <u>16.00</u>
Association volunteer nonpaid	No fee
Authorized agent	\$(25.00) <u>26.00</u>
Clocker	\$(25.00) <u>26.00</u>
Exercise rider	\$(76.00) <u>80.00</u>
Groom	\$(25.00) <u>26.00</u>
Honorary licensee	\$(15.00) <u>16.00</u>
Jockey agent	\$(76.00) <u>80.00</u>
Jockey	\$(76.00) <u>80.00</u>
Other	\$(25.00) <u>26.00</u>
Owner	\$(76.00) <u>80.00</u>
Pony rider	\$(76.00) <u>80.00</u>
Service employee	\$(25.00) <u>26.00</u>
Spouse groom	\$(25.00) <u>26.00</u>

Stable license	\$(47.00) <u>49.00</u>
Trainer	\$(76.00) <u>80.00</u>
Vendor	\$(116.00) <u>122.00</u>
Veterinarian	\$(116.00) <u>122.00</u>

The license fee for multiple licenses may not exceed ~~\$(116.00)~~ 122.00, except persons applying for owner, veterinarian or vendor license must pay the license fee established for each of these licenses.

The following are examples of how this section applies:

Example one - A person applies for the following licenses: Trainer (~~\$(76.00)~~ 80.00), exercise rider (~~\$(76.00)~~ 80.00), and pony rider (~~\$(76.00)~~ 80.00). The total license fee for these multiple licenses would only be ~~\$(116.00)~~ 122.00.

Example two - A person applies for the following licenses: Owner (~~\$(76.00)~~ 80.00), trainer (~~\$(76.00)~~ 80.00) and exercise rider (~~\$(76.00)~~ 80.00). The total cost of the trainer and exercise rider license would be ~~\$(116.00)~~ 122.00. The cost of the owner license (~~\$(76.00)~~ 80.00) would be added to the maximum cost of multiple licenses (~~\$(116.00)~~ 122.00) for a total license fee of ~~\$(192.00)~~ 202.00.

Example three - A person applies for the following licenses: Owner (~~\$(76.00)~~ 80.00), vendor (~~\$(116.00)~~ 122.00), and exercise rider (~~\$(76.00)~~ 80.00). The license fees for owner (~~\$(76.00)~~ 80.00) and vendor (~~\$(116.00)~~ 122.00) are both added to the license fee for exercise rider (~~\$(76.00)~~ 80.00) for a total license fee of ~~\$(268.00)~~ 282.00.

In addition to the above fees, except for association volunteers (nonpaid) at Class C race meets, a \$10.00 fee will be added to cover the costs of conducting a fingerprint-based background check. The background check fee will be assessed only once annually per person regardless of whether the person applies for more than one type of license in that year.

The commission will review license and fingerprint fees annually to determine if they need to be adjusted to comply with RCW 67.16.020.

WSR 09-21-015
PERMANENT RULES
HORSE RACING COMMISSION

[Filed October 9, 2009, 10:40 a.m., effective November 9, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend WAC 260-49-070 Distribution of source market fee, to comply with SB 5125, which renamed the "Washington-bred owners' bonus fund" to the "Washington-bred owners' bonus fund and award account."

Citation of Existing Rules Affected by this Order: Amending WAC 260-49-070.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 09-17-068 on August 13, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 8, 2009.

R. J. Lopez
Executive Secretary

AMENDATORY SECTION (Amending WSR 05-19-015, filed 9/9/05, effective 10/10/05)

WAC 260-49-070 Distribution of source market fee.

(1) A source market fee shall be paid monthly, unless otherwise directed by the commission, for the source market fee area on all accounts that have Washington as the principal residence address.

(2) The authorized advance deposit wagering service provider shall, at least monthly, unless otherwise directed by the commission, distribute the total source market fee as follows:

(a) Ninety percent of the total source market fee directly to the class 1 racing association and the remaining ten percent directly to the commission.

(b) The class 1 racing association shall distribute two and one-half percent of the total source market fee to the (~~breeders' award fund~~) Washington bred owners' bonus fund and breeder award account as provided in RCW 67.16.175.

(c) The class 1 racing association and the recognized horsemen's organization shall negotiate a separate agreement for contributions to the purse account from the source market fee and submit the agreement for review and approval by the commission. The class 1 racing association shall distribute the horsemen's share of the source market fee in accordance with the horseman's agreement.

(d) The commission shall distribute two and one-half percent of the total source market fee to the Washington bred owners' bonus fund and breeder award account and one-half of one percent of the total source market fee to the class C purse fund account and seven percent of the total source market fee to the commission's operating account.

(3) The commission shall annually review the distribution of the source market fee. Any changes to the distribution shall be adopted by rule.

WSR 09-21-016

PERMANENT RULES

HORSE RACING COMMISSION

[Filed October 9, 2009, 10:44 a.m., effective November 9, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To adopt a new section in chapter 260-60 WAC (WAC 260-60-405) to allow an owner or trainer to declare his/her horse, at the time of entry, ineligible to be claimed, if the horse has been laid off and not started in a race for one hundred and eighty days.

Statutory Authority for Adoption: RCW 67.16.020 and 67.16.040.

Adopted under notice filed as WSR 09-17-069 on August 13, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 8, 2009.

R. J. Lopez
Executive Secretary

NEW SECTION

WAC 260-60-405 Claiming—Declaring a horse ineligible to be claimed at time of entry. (1) At the time of entry, the owner, trainer, or if designated, the jockey agent, may opt to declare a horse ineligible to be claimed provided:

(a) The horse has been laid off and has not started in a race for a minimum of one hundred eighty days; and

(b) The horse is entered for a claiming price equal to or greater than the price at which the horse last started.

(2) Failure to declare the horse ineligible to be claimed at the time of entry may not be remedied.

(3) The provisions of this rule will only apply to the first start following each layoff.

WSR 09-21-019

PERMANENT RULES

**SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed October 9, 2009, 11:40 a.m., effective November 9, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: There has come into question conflicts between WAC 392-121-108(1) allowing for twenty days of

absence and WAC 392-121-106(4) which states that a student cannot be counted if they haven't attended within the first four days of the current school term. The conflict arises within the second school term where the student may not have been absent for twenty days, but WAC 392-121-106(4) prohibits the district from counting the student. This simply changes the wording to say current school year rather than current school term which would then allow for the district to exercise the twenty day absence rule.

Citation of Existing Rules Affected by this Order: Amending WAC 392-121-106.

Statutory Authority for Adoption: RCW 28A.150.290 (1).

Adopted under notice filed as WSR 09-11-030 on May 11, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 24, 2009.

Randy I. Dorn
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 95-03, filed 4/25/95, effective 5/26/95)

WAC 392-121-106 Definition—Enrolled student. As used in this chapter, "enrolled student" means a person residing in Washington state who:

(1) Is eligible to enroll in the school district's education programs because he or she:

(a) Resides in the school district with or without an address (RCW 28A.225.010, 28A.225.160 and 28A.225.-215);

(b) Resides on a United States reservation, national park, national forest, or Indian reservation contiguous to the school district (RCW 28A.225.170);

(c) Resides in a school district not offering the grade for which they are eligible to enroll such as a nonhigh district (RCW 28A.225.210);

(d) Has been released from the school district he or she resides in and has been accepted by the school district claiming enrollment (RCW 28A.225.225 and 28A.225.230);

(e) Will be attending the school district as part of an interdistrict cooperative program (RCW 28A.225.250); or

(f) Will be attending school in a school district in another state per a reciprocity agreement pursuant to RCW 28A.225.-260.

(2) After the close of the prior school year has presented himself or herself, or has been presented, to the school district's appropriate official to be entered on the school district's rolls for the purpose of attending school in grades kindergarten through twelve;

(3) Is under twenty-one years of age at the beginning of the school year;

(4) Actually participated on a school day during the first four school days of the current school term (semester or quarter), or on a school day during the current school (~~term~~) year on or prior to the date being counted, in a course of study offered by the school district as defined in WAC 392-121-107; and

(5) Does not qualify for any of the enrollment exclusions set forth in WAC 392-121-108.

WSR 09-21-020

PERMANENT RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed October 9, 2009, 11:46 a.m., effective November 9, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Create chapter 392-124 WAC, Finance—National Guard youth challenge apportionment.

Citation of Existing Rules Affected by this Order: Amending [new sections] WAC 392-124-005 through 392-124-110.

Statutory Authority for Adoption: RCW 28A.150.310.

Adopted under notice filed as WSR 09-08-013 on March 20, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 13, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: May 14, 2009.

Randy I. Dorn
Superintendent of
Public Instruction

Chapter 392-124 WAC

FINANCE—NATIONAL GUARD YOUTH CHALLENGE APPORTIONMENT

NEW SECTION

WAC 392-124-005 Authority. The authority for this chapter is RCW 28A.300.165 which authorizes the superintendent of public instruction to adopt rules and regulations for the implementation of chapter 28A.150 RCW.

NEW SECTION

WAC 392-124-010 Purpose. The purpose of this chapter is to establish policies and procedures for the distribution of state moneys to school districts for the National Guard youth challenge program authorized by RCW 28A.150.310.

NEW SECTION

WAC 392-124-020 Definition—National Guard youth challenge. National Guard youth challenge means an alternative program that is operated in conjunction with the military department as defined in 2SHB 1646 in the 2002 legislative session. For the purposes of funding, the National Guard youth challenge program shall be defined as a separate and unique entity.

NEW SECTION

WAC 392-124-030 Definition—State average rate. For the purpose of this chapter, the state average rate for basic and vocational programs shall be those rates established annually for the running start program.

NEW SECTION

WAC 392-124-035 Definition—State average rate free and reduced price lunch program. For the purpose of this chapter, the state average rate for the free and reduced price lunch program shall be the statewide average of all students of all districts participating in the free and reduced price lunch program as reported to the superintendent of public instruction.

NEW SECTION

WAC 392-124-040 Definition—Form P-223YC. "Form P-223YC" means the report of school district enrollment for students enrolled in a National Guard youth challenge program submitted monthly by the hosting school district(s) to the superintendent of public instruction for the school year for the purpose of calculating the program allocations.

(1) The count dates for the National Guard youth challenge program shall be:

(a) The fourth day of school in the months of January and July, or the start of the term of the educational program; and

(b) The first day of school in the months of February through June and the months of August through December.

(2) This report shall indicate the enrollment by resident school district and serving school district.

NEW SECTION

WAC 392-124-050 Definition—Full-time equivalency. For the purposes of this chapter, full-time equivalency is calculated as a 1.0 FTE for every one hundred hours of instruction each month in a course of study as defined in WAC 392-121-107, a course of study shall encompass that instruction which will generate credit towards a high school diploma when successfully completed. Students who participate in more than one hundred hours may be counted for more than a 1.0 FTE. FTE shall be rounded to two decimal places (e.g., 1.725 would be reported as 1.73).

NEW SECTION

WAC 392-124-060 Definition—Annual average full-time equivalency. For the purposes of this chapter, annual average full-time equivalency shall be calculated by taking the annual total of full-time equivalent students enrolled on the twelve count dates of the school year and reported to the superintendent of public instruction Form P-223YC for the months of September through August divided by nine. This calculation applies to the reporting of basic education and vocational students.

NEW SECTION

WAC 392-124-070 Definition—Headcount. For the purposes of this chapter students may be counted for a maximum of one headcount for basic education, special education, or bilingual education. A student who participates in more than one of these educational opportunities shall be counted for a maximum of one headcount under each separate category.

NEW SECTION

WAC 392-124-080 Definition—Annual average headcount. For the purposes of this chapter, annual average headcount shall be calculated by taking the sum of the monthly headcounts as reported on Form P-223YC for the months of September through August divided by twelve. This calculation applies to the reporting of basic education, special education, and bilingual education students.

NEW SECTION

WAC 392-124-090 Definition—Eligible student. An eligible student shall be one who:

(1) Is likely to be expelled or is enrolled in a school district but has been suspended;

(2) Is academically at risk; or

(3) Has been subject to repeated disciplinary actions due to behavioral problems.

NEW SECTION**WAC 392-124-100 Definition—Apportionment.**

Apportionment shall be paid to the school district the National Guard youth challenge program is operating within pursuant to chapter 28A.510 RCW.

NEW SECTION

WAC 392-124-110 Definition—Apportionment allocation. The apportionment allocation shall be based and made consistent with state funding formulas with the following items set as:

- (1) The basic education funding rate shall be the basic state average rate as defined in WAC 392-124-030.
- (2) The vocational education funding rate shall be the vocational state average rate as defined in WAC 392-124-030.
- (3) The special education rate shall be 93.09% of the basic state average rate as defined in WAC 392-124-030 with the number of funded special education headcount limited to 12.7% of the reported basic education headcount.
- (4) Funding under the following categorical programs shall use the legislative provided formulas and rates. Categorical programs are subject to legislative allotment and program standards and include:
 - (a) Highly capable;
 - (b) Bilingual;
 - (c) Learning assistance - shall use the statewide average for the free and reduced price lunch rate;
 - (d) Student achievement.
- (5) Funding for categorical programs and vocational education is subject to program approval by the superintendent of public instruction.

WSR 09-21-022**PERMANENT RULES****DEPARTMENT OF HEALTH**

(Veterinary Board of Governors)

[Filed October 9, 2009, 3:30 p.m., effective November 9, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Veterinary technicians must complete an American Veterinary Medical Association (AVMA) approved program. The AVMA recognizes the Canadian Veterinary Medical Association (CVMA) process for accreditation of Canadian veterinary technician programs. The amended rule recognizes veterinary technology or technician programs that are accredited by the CVMA. Recognition of accredited Canadian programs will reduce the barriers for Canadian graduates.

Citation of Existing Rules Affected by this Order: Amending WAC 246-935-060.

Statutory Authority for Adoption: RCW 18.92.030.

Adopted under notice filed as WSR 09-13-098 on June 17, 2009.

A final cost-benefit analysis is available by contacting Judy Haenke, Program Manager, P.O. Box 47868, Olympia,

WA 98504-7868, phone (360) 236-4947, fax (360) 236-2901, e-mail judy.haenke@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 31, 2009.

Harmon A. Rogers, DVM, Chair
Veterinary Board of Governors

AMENDATORY SECTION (Amending WSR 02-02-046, filed 12/27/01, effective 1/27/02)

WAC 246-935-060 Eligibility for examination as veterinary technician. Applicants must meet one of the following criteria to be eligible for the examination.

(1) Completion of ~~((a))~~ an approved postsecondary educational program for animal or veterinary technology.

(a) Completion of a program for animal or veterinary technology approved by the Committee on Veterinary Technician Education and Activities (CVTEA) of the American Veterinary Medical Association (AVMA). The board approves all institutions accredited by, and in good standing with, the AVMA. ~~((AVMA-accredited programs in veterinary technology means any postsecondary educational program of two or more academic years that has fulfilled the essential criteria established by the Committee on Veterinary Technician Education and Activities and approved by the AVMA House of Delegates (AVMA/NAVTA Liaison Committee Model Practice Act adopted 1992).))~~

(b) Completion of a program for animal or veterinary technology approved by the Animal Health Technologist/Veterinary Technician Program Accreditation Committee (AHT/VTPAC) of the Canadian Veterinary Medical Association (CVMA). The board approves all institutions accredited by, and in good standing with, the CVMA.

(c) Other institutions applying for board approval must meet the accreditation standards of the CVTEA. It is the responsibility of the institution to apply for approval and of a student to ascertain whether or not a school has been approved by the board.

(d) The examination may ~~((not))~~ be taken ~~((prior to))~~ no sooner than six months ~~((preceding))~~ before graduation from the approved course of instruction.

(2) Graduation from a two-year curriculum in animal health or veterinary technology which is not accredited by the CVTEA or AHT/VTPAC plus a minimum of thirty-six months of full-time experience under the supervision of a

licensed veterinarian(s) who must attest to the completion of that experience.

(3) Award of a D.V.M. or V.M.D. degree or equivalent from an American Veterinary Medical Association accredited or listed college of veterinary medicine.

(4) Registration, certification, or licensure as an animal health or veterinary technician in one or more states and thirty-six months of full-time experience under the supervision of a licensed veterinarian(s).

(5) Completion of a course in veterinary technician education as a member of the United States military and completion of a tour of active duty as a veterinary technician or specialist.

(6) Five years full-time experience as an unregistered assistant under the supervision of a licensed veterinarian(s) who must attest to the completion of that experience.

WSR 09-21-032

PERMANENT RULES

ENVIRONMENTAL HEARINGS OFFICE

(Shorelines Hearings Board)

[Filed October 13, 2009, 10:41 a.m., effective November 13, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of the amendment to WAC 461-08-330 is to incorporate the legislature's amendment to RCW 90.58.185 into the agency's rules. The amendment, contained in SB 6165 that was passed in the 2009 regular session, became effective July 25, 2009. It allows the chair of the hearings board to designate cases for review by a short-board panel.

Reasons Supporting Proposal: The legislature amended RCW 90.58.185 in the 2009 regular session to allow greater flexibility in utilizing short-board panels as a cost-saving measure.

Citation of Existing Rules Affected by this Order: Amending WAC 461-08-330.

Statutory Authority for Adoption: RCW 90.58.175, chapter 34.05 RCW.

Adopted under notice filed as WSR 09-13-052 on June 12, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 13, 2009.

Andrea McNamara Doyle
Director of the
Environmental Hearings Office
Chair of the
Shorelines Hearings Board

AMENDATORY SECTION (Amending WSR 07-03-074, filed 1/17/07, effective 2/17/07)

WAC 461-08-330 Board decision making on appeals.

The number of board members required to make a decision on a case differs depending on the type of case.

(1) **Short-board appeals.** Pursuant to RCW 90.58.185, petitions for review that involve a single-family residence or an appurtenance to a single-family residence, including a dock or pier for a single-family residence, and petitions for review involving a penalty of fifteen thousand dollars or less, may be heard by a panel of three board members. The chair of the hearings board may also designate other cases for review by a short-board appeal panel. In designating these cases, the chair shall consider factors such as the complexity and precedential nature of the case and the efficiency and cost-effectiveness of using a short board versus a full board.

A short-board appeal panel must have at least one but not more than two members of the pollution control hearings board. Two members of the panel must agree to issue a final decision. The decision of the panel is the final decision of the full board.

(2) **Full-board appeals.** All other appeals are full-board appeals. Four members of the board constitute a quorum for making a decision and may act even if the other two members are unavailable or have not yet been appointed.

(3) **Administrative appeals judges.** For both full-board and short-board cases, the chairperson may appoint an administrative appeals judge from the environmental hearings office to be the presiding officer.

WSR 09-21-033

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed October 13, 2009, 12:45 p.m., effective November 13, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department plans to amend these existing rules to clarify language used to describe the individual and family services (IFS) level. These changes will not affect the calculation of the IFS algorithm. The department wants to ensure that existing rule language is clear and easy to understand.

Citation of Existing Rules Affected by this Order: Amending WAC 388-828-9040 and 388-828-9060.

Statutory Authority for Adoption: RCW 71A.12.010 and 71A.12.030.

Other Authority: Title 71A RCW.

Adopted under notice filed as WSR 09-18-061 on August 28, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: October 9, 2009.

Stephanie E. Vaughn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-828-9040 How does DDD determine your individual and family services level? (1) DDD determines your individual and family services level using the following table:

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your <u>unadjusted</u> individual and family services level is:
0	None	1	None	1
0	None	1	Low	1
0	None	1	Medium	1
0	None	1	High	2
0	None	2 or 3	None	1
0	None	2 or 3	Low	1
0	None	2 or 3	Medium	2
0	None	2 or 3	High	2
0	Low	1	None	1
0	Low	1	Low	1
0	Low	1	Medium	1
0	Low	1	High	2
0	Low	2 or 3	None	1
0	Low	2 or 3	Low	1
0	Low	2 or 3	Medium	2
0	Low	2 or 3	High	2
0	Medium	1	None	1
0	Medium	1	Low	1
0	Medium	1	Medium	1
0	Medium	1	High	2
0	Medium	2 or 3	None	1
0	Medium	2 or 3	Low	1
0	Medium	2 or 3	Medium	2
0	Medium	2 or 3	High	2
0	High	1	None	1
0	High	1	Low	1
0	High	1	Medium	2
0	High	1	High	2
0	High	2 or 3	None	2
0	High	2 or 3	Low	2
0	High	2 or 3	Medium	2
0	High	2 or 3	High	3
0	Immediate	1	None	1

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your <u>unadjusted</u> individual and family services level is:
0	Immediate	1	Low	1
0	Immediate	1	Medium	2
0	Immediate	1	High	2
0	Immediate	2 or 3	None	2
0	Immediate	2 or 3	Low	2
0	Immediate	2 or 3	Medium	2
0	Immediate	2 or 3	High	3
1	None	1	None	1
1	None	1	Low	1
1	None	1	Medium	1
1	None	1	High	2
1	None	2 or 3	None	1
1	None	2 or 3	Low	1
1	None	2 or 3	Medium	2
1	None	2 or 3	High	3
1	Low	1	None	1
1	Low	1	Low	1
1	Low	1	Medium	1
1	Low	1	High	2
1	Low	2 or 3	None	1
1	Low	2 or 3	Low	1
1	Low	2 or 3	Medium	2
1	Low	2 or 3	High	3
1	Medium	1	None	1
1	Medium	1	Low	1
1	Medium	1	Medium	2
1	Medium	1	High	3
1	Medium	2 or 3	None	1
1	Medium	2 or 3	Low	2
1	Medium	2 or 3	Medium	2
1	Medium	2 or 3	High	3
1	High	1	None	2
1	High	1	Low	2
1	High	1	Medium	2
1	High	1	High	3
1	High	2 or 3	None	2
1	High	2 or 3	Low	2
1	High	2 or 3	Medium	3
1	High	2 or 3	High	4
1	Immediate	1	None	2
1	Immediate	1	Low	2
1	Immediate	1	Medium	2
1	Immediate	1	High	3
1	Immediate	2 or 3	None	2
1	Immediate	2 or 3	Low	2

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your <u>unadjusted</u> individual and family services level is:
1	Immediate	2 or 3	Medium	3
1	Immediate	2 or 3	High	4
2 or 3	None	1	None	1
2 or 3	None	1	Low	1
2 or 3	None	1	Medium	2
2 or 3	None	1	High	3
2 or 3	None	2 or 3	None	2
2 or 3	None	2 or 3	Low	2
2 or 3	None	2 or 3	Medium	2
2 or 3	None	2 or 3	High	4
2 or 3	Low	1	None	1
2 or 3	Low	1	Low	1
2 or 3	Low	1	Medium	2
2 or 3	Low	1	High	3
2 or 3	Low	2 or 3	None	2
2 or 3	Low	2 or 3	Low	2
2 or 3	Low	2 or 3	Medium	2
2 or 3	Low	2 or 3	High	4
2 or 3	Medium	1	None	2
2 or 3	Medium	1	Low	2
2 or 3	Medium	1	Medium	2
2 or 3	Medium	1	High	3
2 or 3	Medium	2 or 3	None	2
2 or 3	Medium	2 or 3	Low	2
2 or 3	Medium	2 or 3	Medium	3
2 or 3	Medium	2 or 3	High	4
2 or 3	High	1	None	2
2 or 3	High	1	Low	2
2 or 3	High	1	Medium	2
2 or 3	High	1	High	3
2 or 3	High	2 or 3	None	2
2 or 3	High	2 or 3	Low	2
2 or 3	High	2 or 3	Medium	3
2 or 3	High	2 or 3	High	4
2 or 3	Immediate	1	None	2
2 or 3	Immediate	1	Low	2
2 or 3	Immediate	1	Medium	2
2 or 3	Immediate	1	High	3
2 or 3	Immediate	2 or 3	None	2
2 or 3	Immediate	2 or 3	Low	2
2 or 3	Immediate	2 or 3	Medium	3
2 or 3	Immediate	2 or 3	High	4
4	None	1	None	2
4	None	1	Low	2
4	None	1	Medium	2

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your <u>unadjusted</u> individual and family services level is:
4	None	1	High	3
4	None	2 or 3	None	2
4	None	2 or 3	Low	2
4	None	2 or 3	Medium	3
4	None	2 or 3	High	4
4	Low	1	None	2
4	Low	1	Low	2
4	Low	1	Medium	2
4	Low	1	High	3
4	Low	2 or 3	None	2
4	Low	2 or 3	Low	2
4	Low	2 or 3	Medium	3
4	Low	2 or 3	High	4
4	Medium	1	None	2
4	Medium	1	Low	2
4	Medium	1	Medium	3
4	Medium	1	High	3
4	Medium	2 or 3	None	2
4	Medium	2 or 3	Low	3
4	Medium	2 or 3	Medium	3
4	Medium	2 or 3	High	4
4	High	1	None	2
4	High	1	Low	2
4	High	1	Medium	3
4	High	1	High	3
4	High	2 or 3	None	2
4	High	2 or 3	Low	3
4	High	2 or 3	Medium	4
4	High	2 or 3	High	4
4	Immediate	1	None	2
4	Immediate	1	Low	2
4	Immediate	1	Medium	3
4	Immediate	1	High	3
4	Immediate	2 or 3	None	2
4	Immediate	2 or 3	Low	3
4	Immediate	2 or 3	Medium	4
4	Immediate	2 or 3	High	4
5	None	1	None	2
5	None	1	Low	2
5	None	1	Medium	3
5	None	1	High	4
5	None	2 or 3	None	3
5	None	2 or 3	Low	3
5	None	2 or 3	Medium	4
5	None	2 or 3	High	5

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your <u>unadjusted</u> individual and family services level is:
5	Low	1	None	2
5	Low	1	Low	2
5	Low	1	Medium	3
5	Low	1	High	4
5	Low	2 or 3	None	3
5	Low	2 or 3	Low	3
5	Low	2 or 3	Medium	4
5	Low	2 or 3	High	5
5	Medium	1	None	2
5	Medium	1	Low	2
5	Medium	1	Medium	3
5	Medium	1	High	4
5	Medium	2 or 3	None	3
5	Medium	2 or 3	Low	3
5	Medium	2 or 3	Medium	4
5	Medium	2 or 3	High	5
5	High	1	None	2
5	High	1	Low	2
5	High	1	Medium	3
5	High	1	High	4
5	High	2 or 3	None	3
5	High	2 or 3	Low	3
5	High	2 or 3	Medium	4
5	High	2 or 3	High	5
5	Immediate	1	None	2
5	Immediate	1	Low	2
5	Immediate	1	Medium	3
5	Immediate	1	High	4
5	Immediate	2 or 3	None	3
5	Immediate	2 or 3	Low	3
5	Immediate	2 or 3	Medium	4
5	Immediate	2 or 3	High	5
6	None	1	None	2
6	None	1	Low	3
6	None	1	Medium	3
6	None	1	High	4
6	None	2 or 3	None	3
6	None	2 or 3	Low	3
6	None	2 or 3	Medium	4
6	None	2 or 3	High	5
6	Low	1	None	2
6	Low	1	Low	3
6	Low	1	Medium	3
6	Low	1	High	4
6	Low	2 or 3	None	3

If your protective supervision support level is:	And your primary caregiver risk level is:	And your backup caregiver risk score is:	And your behavioral acuity level is:	Then your <u>unadjusted</u> individual and family services level is:
6	Low	2 or 3	Low	3
6	Low	2 or 3	Medium	4
6	Low	2 or 3	High	5
6	Medium	1	None	3
6	Medium	1	Low	3
6	Medium	1	Medium	3
6	Medium	1	High	4
6	Medium	2 or 3	None	3
6	Medium	2 or 3	Low	4
6	Medium	2 or 3	Medium	4
6	Medium	2 or 3	High	5
6	High	1	None	3
6	High	1	Low	3
6	High	1	Medium	4
6	High	1	High	4
6	High	2 or 3	None	4
6	High	2 or 3	Low	4
6	High	2 or 3	Medium	5
6	High	2 or 3	High	5
6	Immediate	1	None	3
6	Immediate	1	Low	3
6	Immediate	1	Medium	4
6	Immediate	1	High	4
6	Immediate	2 or 3	None	4
6	Immediate	2 or 3	Low	4
6	Immediate	2 or 3	Medium	5
6	Immediate	2 or 3	High	5

(2) DDD adds one level to your individual and family services level when your individual and family services level is determined to be:

(a) Level one, two, three, or four; and

(b) You have a score of four for question two "Other caregiving for persons who are disabled, seriously ill, or under five" in the DDD caregiver status acuity scale. See WAC 388-828-5260.

If your <u>unadjusted</u> individual and family services level is:	Then your individual and family services support rating is:
3	336
4	432
5	528

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

WAC 388-828-9060 How does DDD determine your individual and family services rating? (1) Your individual and family services rating is determined by using the following table:

If your <u>unadjusted</u> individual and family services level is:	Then your individual and family services support rating is:
1	0
2	240

WSR 09-21-035

PERMANENT RULES

MARINE EMPLOYEES' COMMISSION

[Filed October 13, 2009, 2:06 p.m., effective November 13, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Due to changes in chapter 44-14 WAC, WAC 316-02-800 and 316-02-810 required modifications to comply with those changes.

Citation of Existing Rules Affected by this Order: Repealing WAC 316-02-810; and amending WAC 316-02-800.

Statutory Authority for Adoption: RCW 34.05.230.

Adopted under notice filed as WSR 09-16-002 on August 18 [July 22], 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 13, 2009.

Kathy J. Marshall
Administrator

AMENDATORY SECTION (Amending WSR 90-01-115, filed 12/20/89, effective 1/20/90)

WAC 316-02-800 Commission records—Public access. The commission will maintain for public inspection:

(1) An index to all proceedings filed with and processed by the commission;

(2) A docket for each proceeding filed with and processed by the commission showing the actions taken on and the final resolution of each such proceeding;

(3) A schedule of hearing dates assigned in particular cases; and

(4) The files for all proceedings, including all documents filed with the commission in the particular case, except materials held in confidence as provided in ((WAC 316-02-810)) subsection (10) of this section.

(5) Public records availability. All public records of the commission, unless exempt from disclosure under chapter 42.17, 42.30, or 42.56 RCW, shall be available for public inspection and copying in the commission office from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays and during commission meetings.

(6) Public records officer. The commission's public records shall be in the charge of the public records officer designated by the chair. The public records officer shall be responsible for implementing the commission's rules and regulations regarding release of public records.

(7) Public records requests. Any member of the public may examine public records of the commission by making a request in writing to the public records officer. Requestors are encouraged to use the form provided by the commission which is available by U.S. mail, fax, e-mail, or on the agency web site. The form includes:

(a) Name of the person requesting the record;

(b) Time of day and calendar date of the request;

(c) The public records being requested;

(d) If the matter requested is referenced within the current case index maintained by the public records officer, a reference to the requested record as it is described in such current index; and

(e) If the requested matter is not identifiable by reference to the current index, an appropriate description of the request is requested.

The public records officer shall provide an initial response within five business days. If he or she finds that the requested public records should not be disclosed for a reason permissible under chapter 42.17, 42.30, or 42.56 RCW, the requestor will be notified.

(8) Copying costs. No fees shall be charged for the inspection of public records. Requestors may put a Post-it® Note on to identify the pages the requestor wants copied and staff will make the copies. Public records of the commission may be copied only on the copying machine of the commission by staff. The commission shall charge fifteen cents per page for providing copies of public records; fees will be waived for fewer than twenty pages. This charge is the amount necessary to reimburse the commission for its actual costs related to such copying. There will be no charge for public records copied onto a compact disc.

(9) Exemptions. The public records officer may determine that all or a portion of a public record is exempt under the provisions of chapter 42.17, 42.30, or 42.56 RCW. As outlined in RCW 42.17.260(1) and 42.17.310(2), the public records officer may redact (delete) portions of the public records that are exempt from disclosure.

(10) Confidentiality. The commission, in order to protect the privacy of individual employees and in order to respect the confidential nature of the mediation process and other labor-management relations processes, shall not permit the disclosure to any person of:

(a) Any evidence filed as a showing of interest in support of a representation petition or motion for intervention; or

(b) Any notes and memoranda made by any member of the commission or its staff as a recording of communication made or received while acting in the capacity of a mediator between the parties to a labor dispute; or

(c) Any other documents or materials related to mediation other than scheduling information.

Other specifically exempt records are listed in WAC 316-85-020.

(11) Review of denials of public records requests. Any person objecting to a denial of a request for public records may submit a written request for review to the commission specifically referring to the denial and containing a brief statement that gives reasons for reconsideration of the denial. Upon receiving the written request for review, the chairperson will review the denial and issue a written decision within two business days of receiving the request for review. This written decision regarding the request for review shall be the final action by the agency.

(12) Protection of public records. Records are available for inspection and copying at the location and during office hours listed above and then only in the presence of an authorized staff person of the commission and with the aid and assistance of such staff person.

The following guidelines must be complied with while inspecting public records:

(a) No public record may be removed from the agency's premises.

(b) A designated department employee must be present during the inspection of a public record.

(c) A public record may not be marked or defaced in any manner during inspection.

(d) Public records may not be dismantled which are maintained in a file or jacket, or in chronological or other filing order, or those records which, if lost or destroyed, would constitute excessive interference with the department's essential functions.

(e) Access to file cabinets, shelves, vaults, or other storage areas is restricted to department personnel, unless other arrangements are made with the public records officer or designee.

(f) Staff members will not allow records to be inspected or copied by anyone who is intoxicated, violent, abusive, threatening, or otherwise disruptive. Anyone who displays these characteristics during a records inspection may have the inspection terminated by department staff.

(13) Records index. The staff of the commission shall make available to all persons documents which provide identifying information as to the following records issued, adopted, or promulgated by the commission. The commission will maintain for public inspection:

(a) An index to all proceedings filed with and processed by the commission;

(b) A docket for each proceeding filed with and processed by the commission showing the actions taken on and the final resolution of each such proceeding;

(c) A schedule of hearing dates assigned in particular cases; and

(d) The files for all proceedings, including all documents filed with the commission in the particular case, except materials held in confidence as provided in WAC 316-02-800(10).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 316-02-810 Commission records—Confidentiality.

**WSR 09-21-039
PERMANENT RULES
GROWTH MANAGEMENT
HEARINGS BOARDS**

[Filed October 13, 2009, 2:43 p.m., effective November 13, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of these amendments to the rules is to reflect the consolidation of the administrative functions of the three growth management hearings boards into a single office. Amendments are needed to provide accurate contact information and clarity as to procedures along with consistency of terminology.

Citation of Existing Rules Affected by this Order: Amending WAC 242-02-040, 242-02-072, and 242-02-834.

Statutory Authority for Adoption: RCW 36.70A.270(7).

Adopted under notice filed as WSR 09-15-158 on July 21, 2009.

Changes Other than Editing from Proposed to Adopted Version: WAC 242-02-072, title changed from board offices to the singular "board office."

WAC 242-02-072(1), physical address changed to include "Suite 103."

WAC 242-02-072(1), typographical error corrected so e-mail address reads central@cps.gmhb.wa.gov.

WAC 242-02-072(2), modification of the word "briefings" to "briefs."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 30, 2009.

James J. McNamara, Chair
Rules Committee

AMENDATORY SECTION (Amending WSR 98-01-144, filed 12/19/97, effective 1/20/98)

WAC 242-02-040 Definitions. As used in this title, the following terms shall have the following meaning:

(1) "Act" means the Growth Management Act, chapter 36.70A RCW, and subsequent amendments.

(2) "Board" means the Eastern Washington, Western Washington or Central Puget Sound growth management hearings board.

(3) "Final decision" means:

(a) Any final order as provided in RCW 36.70A.300; or

(b) Any other written finding, determination or order of the board which finally determines a legal right, duty, or other legal interest of the parties in the case and which clearly states such written finding, determination or order that it is a final decision subject to appeal to superior court.

(4) "Hearing examiner" means an authorized agent of a board who has a demonstrated knowledge of land use planning and law, appointed to assist the board in the performance of its hearing function as delegated by the board as provided by the act.

(5) "Joint boards" means the three independent boards meeting or acting jointly.

(6) "Office of the growth management hearings boards" means the administrative office of the three growth management hearings boards established in RCW 36.70A.250.

(7) "Participant" means any person with standing to challenge a legislative action as set forth in RCW 36.70A.330(2).

~~((7))~~ (8) "Party" means any person named in the caption of a case before a board.

~~((8))~~ (9) "Person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit, or public or private organization or entity of any character.

~~((9))~~ (10) "Petitioner" means a person who appeals any matter or who brings a petition for rule making to the board. A petitioner is a party to a case before the board.

~~((10))~~ (11) "Presiding officer" means any member of a board, or a hearing examiner, who is assigned to conduct a conference or hearing as directed by a board. The presiding officer shall be designated pursuant to WAC 242-02-521 and have authority as provided by WAC 242-02-522.

~~((11))~~ (12) "Publication" means:

(a) For a city, the date the city publishes the ordinance or summary of the ordinance adopting a comprehensive plan, development regulation or subsequent amendment, as is required to be published, or the date the city publishes notice that the shoreline master program or amendment has been approved or disapproved by the department of ecology;

(b) For a county, the date the county publishes the notice that it has adopted a comprehensive plan, development regulations or other enactments, or subsequent amendments pursuant to RCW 36.70A.290(2), or the date the county publishes notice that the shoreline master program or amendment has been approved or disapproved by the department of ecology.

~~((12))~~ (13) "Respondent" means a person who is named as a responding party in any petition for review before a board.

AMENDATORY SECTION (Amending WSR 08-10-029, filed 4/28/08, effective 5/29/08)

WAC 242-02-072 ((Principal)) Board offices. ((The principal offices of each board are as follows:

(1) Eastern Washington Growth Management Hearings Board
15 West Yakima Avenue, Suite 102
Yakima, Washington 98902
509-574-6960
509-574-6964 fax
e-mail: A.Andreas@EW.GMHB.WA.GOV
web site: www.gmhb.wa.gov/eastern

(2) Western Washington Growth Management Hearings Board
319 7th Avenue S.E. (as of June 2008)
Olympia, WA 98501
P.O. Box 40953
Olympia, Washington 98504-0953
(360) 664-8966
(360) 664-8975 fax
e-mail: western@www.gmhb.wa.gov

web site: www.gmhb.wa.gov/western

(3) Central Puget Sound Growth Management Hearings Board
800 Fifth Avenue, Suite 2356
Seattle, Washington 98104
(206) 389-2625

(206) 389-2588 fax

e-mail: central@cps.gmhb.wa.gov

web site: www.gmhb.wa.gov/central)) (1) The administration of the three boards is consolidated in one office - the office of the growth management hearings boards:

Office of the Growth Management Hearings Boards

319 - 7th Avenue S.E., Suite 103

Olympia, WA 98501

P.O. Box 40953

Olympia, WA 98504-0953

360-586-0260

360-664-8975 Fax

e-mail: eastern@ew.gmhb.wa.gov

e-mail: western@www.gmhb.wa.gov

e-mail: central@cps.gmhb.wa.gov

web site: www.gmhb.wa.gov

(2) The filing of all petitions, briefs, exhibits, and other documents related to any proceeding before an individual board shall be made to the office of the growth management hearings boards, with specific indication of the appropriate board's name - Eastern, Western, or Central Puget Sound.

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

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

AMENDATORY SECTION (Amending WSR 03-15-047, filed 7/11/03, effective 8/11/03)

WAC 242-02-834 Publication of final decision and orders. Copies of all final decisions and orders are available ~~((from the))~~ for an individual board that entered the decision and order from the office of the growth management hearings boards. The growth management hearings boards web site is www.gmhb.wa.gov. Each board posts its decisions within its individual portion of the web site and maintains a digest of its decisions.

WSR 09-21-040

PERMANENT RULES

GROWTH MANAGEMENT HEARINGS BOARDS

[Filed October 13, 2009, 2:49 p.m., effective November 13, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of these amendments to the rules is to reflect the consolidation of the administrative functions of the three growth management hearings boards into a single office. Amendments are needed to provide accurate contact

information and clarity as to procedures along with consistency of terminology.

Citation of Existing Rules Affected by this Order: Amending chapter 242-04 WAC (all sections).

Statutory Authority for Adoption: RCW 36.70A.270(7).

Adopted under notice filed as WSR 09-15-153 on July 21, 2009.

Changes Other than Editing from Proposed to Adopted Version: WAC 242-04-050(1) was amended to include "Suite 103" in the address line.

WAC 242-04-050(1) was amended to provide correct e-mail address for the western board.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 14, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 14, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 30, 2009.

James J. McNamara
Chair, Rules Committee

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 09-22 issue of the Register.

WSR 09-21-041
PERMANENT RULES
GROWTH MANAGEMENT
HEARINGS BOARDS

[Filed October 13, 2009, 2:51 p.m., effective November 13, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of these amendments to the rules is to reflect the consolidation of the administrative functions of the three growth management hearings boards into a single office. Amendments are needed to provide facilitated administrative functions and are related to the internal operations of the boards, including quorum voting procedures, location for meetings, and notification for special meetings.

Citation of Existing Rules Affected by this Order: Amending WAC 242-02-070, 242-02-074, and 242-02-075.

Statutory Authority for Adoption: RCW 36.70A.270(7).

Adopted under notice filed as WSR 09-15-157 on July 21, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 30, 2009.

James J. McNamara
Chair, Rules Committee

AMENDATORY SECTION (Amending WSR 03-15-047, filed 7/11/03, effective 8/11/03)

WAC 242-02-070 Quorum. (1) Joint boards. For the purpose of adopting, amending, or repealing these rules or transacting other administrative business, at least two members of each board (~~(must concur)~~) shall constitute a quorum of the joint boards. A quorum being present, any action may be taken upon the vote of the majority of the joint board members.

(2) Individual board. For purposes of making orders or decisions or transacting other official administrative business for an individual board, two members of a board shall constitute a quorum and may act even though one position on the board is vacant. One member or designated hearing examiner may hold hearings and take testimony. The findings of such member or hearing examiner shall not become final until approved by a majority of the board. A board member who does not attend a hearing shall review a transcript or recording of the hearing before signing the decision.

AMENDATORY SECTION (Amending WSR 08-10-029, filed 4/28/08, effective 5/29/08)

WAC 242-02-074 Regular meetings. (1) Regular meetings of each board will be held at (~~(its principal)~~) the office of the growth management hearings boards, or a designated location at the following times:

(a) Eastern Washington board - on the first Wednesday of each month at 10:00 a.m. or following any scheduled hearing on that date.

(b) Western Washington board - on the second Wednesday of each month at 11:00 a.m. or following any scheduled hearing on that date.

(c) Central Puget Sound board - on the first Monday of each month at 10:00 a.m. or following any scheduled hearing on that date.

(2) The joint boards shall meet annually at a time and location to be announced.

(3) An individual board shall make available the location of such a meeting if it is not to be held at the office of the growth management hearings boards.

AMENDATORY SECTION (Amending WSR 08-21-015, filed 10/3/08, effective 11/3/08)

WAC 242-02-075 Special meeting. (1) A special meeting of the joint boards may be called at the request of any three of the nine board members. To call a special meeting, a written notice of the meeting shall be posted on the boards' web site and personally e-mailed to:

(a) Each member of the boards; and

(b) Each general circulation newspaper, television or radio station which has on file with the boards a written request to be notified of special meetings.

(2) The written notice shall state the date and time of the meeting, and shall specify the business to be transacted by the boards. The boards will not take final action on any matter that is not specified in the written notice.

(3) Notices of special meetings shall be sent by e-mail:

(a) ~~((Ten days))~~ One day (twenty-four hours) before the scheduled meeting; except

(b) When a special meeting is called to consider rule changes pursuant to chapter 34.05 RCW, the notice shall be sent at least twenty days prior to the meeting; and except

(c) In the event of an emergency requiring board action, the notice and timing requirements may be waived as provided in RCW 42.30.080.

(4) The special meeting shall be chaired by one of the board members who called the meeting.

(5) A special meeting may be held by telephone conference call.

(6) Two members of each board will constitute a quorum for a special meeting.

(7) Members of the public may attend a special meeting by appearing at any of the three board offices, or the location of the special meeting, at the date and time set for the meeting.

WSR 09-21-045

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed October 13, 2009, 4:51 p.m., effective January 4, 2010]

Effective Date of Rule: January 4, 2010.

Purpose: Chapter 246-290 WAC, Group A public water supplies, federal Stage 2 disinfectants and disinfection byproducts rule (Stage 2). The public health objective of the federal Stage 2 rule is to increase protection against the potential risks for cancer and reproductive and developmental health effects associated with disinfection byproducts. The rule requires water systems to reduce peak and average levels of disinfection byproducts in drinking water supplies. This rule adopts the United States Environmental Protection Agency's (EPA) Stage 2 rule.

Citation of Existing Rules Affected by this Order: Amending WAC 246-290-010, 246-290-025, 246-290-300, 246-290-310, 246-290-480, 246-290-694, 246-290-72001, and 246-290-72005.

Statutory Authority for Adoption: RCW 43.20.050.

Adopted under notice filed as WSR 09-10-091 on May 6, 2009.

Changes Other than Editing from Proposed to Adopted Version: The department made two corrections to the rules that are not substantive changes. In WAC 246-290-300 (6)(c) we had proposed adding "community and NTNC" before the word "systems" because those are the water systems affected by Stage 2. However, by doing so TNC water systems were inadvertently exempted from residual monitoring even if they practice disinfection themselves or if they purchase surface water (as required by the surface water treatment rule). This was not the intent of the proposed change; so the department removed the wording "community and NTNC." The department also updated WAC 246-290-025 by updating the C.F.R. reference date from July 1, 2007, to July 1, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 8, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 8, Repealed 0.

Date Adopted: October 13, 2009.

B. White
for 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. ((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;~~

~~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;
~~GWI~~—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;
~~kPa~~—kilo pascal (SI units of pressure);
~~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;
~~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.

"ADD" means an average day demand.

"AG" means an air gap.

"**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.

"ANSI" means the American National Standards Institute.

"**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:

(a) 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((:))

(b) 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 diameter 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:

(a) 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;

(b) Makes decisions whether to improve, expand, purchase, or sell the system; or

(c) 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.

"AVB" means an atmospheric vacuum breaker.

"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).

"AWWA" means the American Water Works Association.

"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).

"BAT" means a backflow assembly tester.

"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.

"CCS" means a cross-connection control specialist.

"CFR" means the Code of Federal Regulations.

"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:

(a) Is supplied only by the purveyor's water;

(b) Does not have a fire department pumper connection; and

(c) 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:

- (a) Assessment of plant performance;
- (b) Evaluation of major unit processes;
- (c) Identification and prioritization of performance limiting factors;
- (d) Assessment of the applicability of comprehensive technical assistance; and
- (e) 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:

- (*) (a) Project construction in accordance with this chapter and general standards of engineering practice;
- (*) (b) Physical capacity changes; and
- (*) (c) 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).

"CPE" means a comprehensive performance evaluation.

"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 **"CT_{calc}"** means the product of "residual disinfectant concentration" (C) and the corresponding "disinfectant contact time" (T) i.e., "C" x "T."

"CT_{99.9}" means the CT value required for 99.9 percent (3 log) inactivation of *Giardia lamblia* cysts.

"CTA" means comprehensive technical assistance.

"CT_{req}" 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.

"Curtailed" means short-term, infrequent actions by a purveyor and its consumers to reduce their water use during or in anticipation of a water shortage.

"CWSSA" means a critical water supply service area.

"DBPs" means disinfection byproducts.

"DCDA" means a double check detector assembly.

"DCVA" means a double check valve assembly.

"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) A precoat cake of graded diatomaceous earth filter media is deposited on a support membrane (septum); and

(b) 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:

(a) 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

(b) 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.

"DVGW" means Deutsche Vereinigung des Gas und Wasserfaches.

"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:

(*) (a) Engineering review of a project report and/or construction documents under the submittal exception process in WAC 246-290-125(3); and

(*) (b) Design in accordance with this chapter and general standards of engineering practice.

(c) The completed form must be stamped with engineer's seal, and signed and dated by a professional engineer.

"EPA" means the Environmental Protection Agency.

"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.

"ERU" means an equivalent residential unit.

"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) A system that connects new approved individual retail or direct service connections onto an existing distribution system within an existing service area; or

(b) 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:

(a) Is supplied only by the purveyor's water;

(b) Does not have a fire department pumper connection;

(c) Is constructed of approved potable water piping and materials to which sprinkler heads are attached; and

(d) 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.

"GAC" means granular activated carbon.

"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.

"gph" means gallons per hour.

"gpm" means gallons per minute.

"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:

(a) Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia* or, *Cryptosporidium*; or

(b) 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.

"GWI" means ground water under the direct influence of surface water.

"HAA5" means haloacetic acids (five).

"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.

"HPC" means heterotrophic plate count.

"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.

"IAPMO" means the International Association of Plumbing and Mechanical Officials.

"IDSE" means an initial distribution system evaluation.

"Inactivation" means a process which renders pathogenic microorganisms incapable of producing disease.

"Inactivation ratio" means the ratio obtained by dividing CTcalc by CTreq.

"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.

"kPa" means kilo pascal (SI units of pressure).

"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.

"LRAA" means the locational running annual average.

"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).

"MCL" means the maximum contaminant level.

"MDD" means the maximum day demand.

"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.

"mg/L" means milligrams per liter (1 mg/L = 1 ppm).

"mL" means a milliliter.

"mm" means a millimeter.

"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.

"MRDL" means the maximum residual disinfectant level.

"MRDLG" means the maximum residual disinfectant level goal.

"MTTP" means maximum total trihalomethane potential.

"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.

"NSF" means NSF International (formerly known as the National Sanitation Foundation (NSF)).

"NTNC" means nontransient noncommunity.

"NTU" means a nephelometric turbidity unit.

"ONORM" means Osterreichisches Normungsinstitut.

"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.

"PAA" means a project approval application.

"pCi/L" means picocuries per liter.

"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.

"PHD" means peak hourly demand.

"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.

"ppm" means parts per million (1 ppm = 1 mg/L).

"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.

"psi" means pounds per square inch.

"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.

"PVBA" means a pressure vacuum breaker assembly.

"RAA" means the running annual average.

"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.

"RPBA" means reduced pressure backflow assembly.

"RPDA" means reduced pressure detector assembly.

"SAL" means state advisory level.

"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:

(a) Source(s);

(b) Facilities(s);

(c) Equipment(s);

(d) Administration and operation(s);

(e) Maintenance procedures(s);

(f) Monitoring(s);

(g) Recordkeeping(s);

(h) Planning documents and schedules(s); and

(i) 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 system 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.

"SCA" means a sanitary control area.

"SDWA" means the Safe Drinking Water Act.

"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.

"SEPA" means the State Environmental Policy Act.

"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:

(a) Divide the average population served each day by two and one-half; or

(b) Using actual water use data, calculate the total ERUs represented by the service connection in accordance with department design guidance.

(c) 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(☺):

(a) Repeated violations of monitoring requirements(☺);

(b) Failure to address an exceedance of permissible levels of regulated contaminants(☺); or

(c) 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/ft²) that results in substantial particulate removal (> 2 log *Giardia lamblia* cysts) by physical and biological mechanisms.

"SMA" means a satellite system management agency.

"SOC" means a synthetic organic chemical.

"Societal perspective" means:

A point of view that includes a broad spectrum of public benefits, including, but not limited to(☺):

(a) Enhanced system reliability;

(b) Savings that result from delaying, deferring, or minimizing capital costs; and

(c) 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:

(a) For unfiltered systems, enters the system immediately before the first point of disinfectant application; and

(b) For filtered systems, enters immediately before the first treatment unit of a water treatment facility.

"SPI" means a special purpose investigation.

"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.

"SRF" means the state revolving fund.

"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.

"SUVA" means specific ultraviolet absorption.

"SVBA" means spill resistant vacuum breaker assembly.

"SWTR" means the surface water treatment rule.

"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.

"T" means disinfectant contact time in minutes.

"Time-of-travel" means the time required for ground water to move through the water bearing zone from a specific point to a well.

"TNC" means transient noncommunity.

"TNTC" means too numerous to count.

"TOC" means total organic carbon.

"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.

"TTHM" means total trihalomethane.

"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.

"ug/L" means micrograms per liter.

"UL" means the Underwriters Laboratories, Inc.

"umhos/cm" means micromhos per centimeter.

"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.

"UPC" means the Uniform Plumbing Code.

"Used water" means water which has left the control of the purveyor.

"UTC" means the utilities and transportation commission.

"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.

"VOC" means a volatile organic chemical.

"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.

"WAC" means the Washington Administrative Code.

"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 incen-

tives 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:

(a) Ultimately drains into a surface water source diverted for drinking water supply; and

(b) 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((:);

(a) Source location((:);

(b) Name of any body of water and water resource inventory area from which water is diverted or withdrawn((:);

(c) Production capacity((:);

(d) The source's natural variability((:);

(e) The system's water rights for the source((~~and~~);

(f) Other legal demands on the source such as water rights for other uses((:);

(g) Conditions established to protect species listed under the Endangered Species Act in 50 CFR 17.11;

(h) Instream flow restrictions established under Title 173 WAC((:); and

(i) 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:

(a) System-wide water audits((:);

(b) Documenting authorized uses((:);

(c) Conducting leak surveys; and

(d) Repairs on:

(i) Meters((:);

(ii) Lines((:);

(iii) Storage facilities((:); and

(iv) 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:

(a) 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

(b) 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.

"WFI" means a water facilities inventory form.

"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.

"WHPA" means a wellhead protection area.

"WUE" means water use efficiency.

"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)) 2009, 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).	141.81	Applicability of corrosion control treatment steps to small, medium-size and large water systems.
141.12 Maximum contaminant levels for organic chemicals.	141.82(a) - 141.83	141.82(h) Description of corrosion control treatment requirements. Source water treatment requirements.
141.13 Maximum contaminant levels for turbidity.	141.84	Lead service line replacement requirements.
141.21 Coliform monitoring.	141.85	Public education and supplemental monitoring requirements.
141.22 Turbidity sampling and analytical requirements.	141.86 (a) - (f)	Monitoring requirements for lead and copper in tap water.
141.23(a) - 141.23(j), Inorganic chemical sampling, excluding (i)(2)	141.87	Monitoring requirements for water quality parameters.
141.23(m) - 141.23(o)	141.88	Monitoring requirements for lead and copper in source water.
141.24(a) - 141.24(d), Organic chemicals other than total trihalomethanes.	141.89	Analytical methods for lead and copper testing.
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)	141.90, excluding (a)(4)	Reporting requirements.
141.25(a), 141.25 (c) - (d), Analytical methods for radioactivity.	141.91	Recordkeeping requirements.
141.26 Monitoring frequency and compliance for radioactivity in community water systems.	Disinfectants and Disinfection ((By Products)) <u>Byproducts (D/DBP)</u>	
141.31(d) Reporting of public notices and compliance certifications.	141.130	General requirements.
141.33(e) Record maintenance of public notices and certifications.	141.131	Analytical requirements.
<u>141.40</u> <u>Requirements for unregulated contaminants.</u>	141.132	Monitoring requirements.
141.61 Maximum contaminant levels for organic contaminants.	141.133	Compliance.
141.62, Maximum contaminant levels for inorganic chemical and physical contaminants.	141.134	Reporting and recordkeeping.
((141.64(e) Best Available Technologies (BATs) for Disinfection By Products.))	141.135	Treatment technique for control of disinfection ((by product)) <u>byproduct</u> precursors.
<u>141.64</u> <u>Maximum contaminant levels and Best Available Technologies (BATs) for disinfection byproducts.</u>	Enhanced Filtration - Reporting and Recordkeeping	
141.65(c) Best Available Technologies (BATs) for Maximum Residual Disinfectant Levels.	141.175(b)	Individual filter reporting and follow-up action requirements for systems treating surface water with conventional, direct, or in-line filtration and serving at least 10,000 people.
141.66 Maximum contaminant levels for radionuclides.	Subpart Q - Public Notification	
Control of Lead and Copper	141.201, excluding (3)(ii) of Table 1	General public notification requirements.
141.80 General requirements.	141.202, excluding (3) of Table 1	Tier 1 Public Notice - Form, manner, and frequency of notice.
	141.203	Tier 2 Public Notice - Form, manner, and frequency of notice.
	141.204	Tier 3 Public Notice - Form, manner, and frequency 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 unregulated contaminant monitoring results.

141.208 Special notice for exceedances of the SMCL for fluoride.

141.211 Special notice for *Cryptosporidium* monitoring 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 monitoring 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 department order; or

(vi) Additional monitoring is needed to evaluate continuing 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 requirements 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 personnel, and other parties approved by the department may conduct measurements for pH, temperature, residual disinfectant 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 ¹	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
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

Population Served ¹	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		
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
600,001 - 780,000	240	240
780,001 - 970,000	270	270
970,001 - 1,230,000 ³	300	300

¹ 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.

² 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.

³ Systems serving populations larger than 1,230,000 shall contact the department for the minimum number of samples required per month.

⁴In 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 GW systems that ~~((add))~~ deliver water that has been treated with ~~((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 ¹
<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>
<u>Less than 10,000</u>	<u>October 1, 2013²</u> <u>October 1, 2014³</u>

¹ Systems that have nonemergency interties with other systems must comply with the dates associated with the largest system in their combined distribution system.

² Surface water and GWI systems that did not have to do *Cryptosporidium* monitoring under 40 CFR 141.701 (a)(4).

³ 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>

40 CFR 141.60340/30 certification.40 CFR 141.604Very small system waivers.40 CFR 141.605Subpart V compliance monitoring location recommendations.(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. Systems that ~~((use))~~ deliver water continuously treated with chlorine or chloramines, including consecutive systems, 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 141.74 (b)(6), 40 CFR 141.74 (c)(3), 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.

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.
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.

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*

Substance	Primary MCLs (mg/L)
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
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 ₄)	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 ((By-Product)) <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 ₂)
Chloramines	4.0 (as Cl ₂)
Chlorine Dioxide	0.8 (as ClO ₂)

(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.

~~((k))~~ (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 ~~((k))~~ (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).

~~((h))~~ (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)((+)). 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 additional 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 09-21-046

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed October 14, 2009, 9:08 a.m., effective November 4, 2009]

Effective Date of Rule: November 4, 2009. These rules become permanent effective November 4, 2009, which is less than thirty-one days after filing. RCW 34.05.380 (3)(a) states that a rule may become effective on a subsequent earlier date if the action is required by state or federal constitution, a statute or court order. Public Law No. 11-08 Omnibus Appropriations Act of 2009 and clarification from the Food and Nutrition Services Administration, USDA, state that special immigrants from Afghanistan are eligible for eight months of assistance, instead of six months. When effective, this permanent filing will supersede emergency rules filed as WSR 09-15-029 and 09-18-006.

Purpose: The purpose of these amendments is to allow special immigrants from Afghanistan to be eligible for refugee cash assistance (RCA), refugee medical assistance (RMA), and federally funded Washington Basic Food program benefits for up to eight months as allowed under federal law.

Citation of Existing Rules Affected by this Order: Amending WAC 388-424-0020, 388-466-0120, and 388-466-0130.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.08A.320.

Other Authority: Pub. L. No. 110-181, National Defense Authorization Act for Fiscal Year 2008 (NDAA 2008), Pub. L. No. 111-08, the Omnibus Appropriations Act of 2009, Division F, Title VI, Section 602; Office of Refugee Resettlement (ORR) State Letter 09-17 from April 9, 2009; federal guidance issued on May 15, 2009, by the Food and Nutrition Service, United States Department of Agriculture.

Adopted under notice filed as WSR 09-17-097 on August 18, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 3, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: October 13, 2009.

Stephanie E. Vaughn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-14-116, filed 6/30/08, effective 8/1/08)

WAC 388-424-0020 How does my alien status impact my eligibility for the federally funded Washington Basic Food program benefits? (1) If you are a U.S. citizen or U.S. national as defined in WAC 388-424-0001 and meet all other eligibility requirements, you may receive federal Basic Food benefits.

(2) If you are not a U.S. citizen or U.S. national, you must fall within (a), (b), or (c) (~~or (d)~~) of this subsection, and meet all other eligibility requirements, in order to receive federal Basic Food benefits:

(a) You are a member of one of the following groups of "qualified aliens" or similarly defined lawful immigrants as defined in WAC 388-424-0001:

- (i) Amerasian;
- (ii) Asylee;
- (iii) Cuban or Haitian entrant;
- (iv) Deportation or removal withheld;
- (v) Refugee;
- (vi) Victim of trafficking;
- (vii) Noncitizen American Indian; or
- (viii) Hmong or Highland Lao tribal member.

(b)(i) You are a member of one of the following groups of qualified aliens as defined in WAC 388-424-0001:

- (A) Conditional entrant;
- (B) Lawful permanent resident (LPR);
- (C) Paroled for one year or more; or
- (D) Victim of domestic violence or parent or child of a victim.

(ii) And, one of the following also applies to you:

(A) You have worked or can get credit for forty Social Security Administration (SSA) work quarters - as described in WAC 388-424-0008;

(B) You are an active duty personnel or honorably discharged veteran of the U.S. military or you are the spouse, unmarried surviving spouse, or unmarried dependent child of someone who meets this requirement, as described in WAC 388-424-0007(1);

(C) You receive cash or medical benefits based on Supplemental Security Income (SSI) criteria for blindness or disability;

(D) You have lived in the U.S. as a "qualified alien" as described in WAC 388-424-0001 for at least five years;

(E) You are under age eighteen; or

(F) You were lawfully residing in the U.S. on August 22, 1996 and were born on or before August 22, 1931.

(c) You are a special immigrant from Iraq or Afghanistan eligible for eight months of federally funded assistance from the date of your entry into the United States or from the date you received special immigrant status if this occurred after your U.S. entry.

~~((d) You are a special immigrant from Afghanistan eligible for six months of federally funded assistance from the date of your entry into the United States or from the date you received special immigrant status if this occurred after your U.S. entry.))~~

(3) If you are ineligible for federal Basic Food benefits due to your alien status, you may be eligible for state Basic Food benefits (see WAC 388-424-0025).

AMENDATORY SECTION (Amending WSR 08-14-116, filed 6/30/08, effective 8/1/08)

WAC 388-466-0120 Refugee cash assistance (RCA).

(1) Who can apply for refugee cash assistance (RCA)?

Anyone can apply to the department of social and health services (DSHS) for refugee cash assistance and have their eligibility determined within thirty days.

(2) ((How do I know if I qualify for RCA)) Who is eligible for refugee cash assistance?

You may be eligible for RCA if you meet all of the following conditions:

(a) You have resided in the United States for less than eight months;

(b) You meet the immigration status requirements of WAC 388-466-0005;

(c) You meet the income and resource requirements under chapters 388-450 and 388-470 WAC;

(d) You meet the work and training requirements of WAC 388-466-0150; and

(e) You provide the name of the voluntary agency (VOLAG) which helped bring you to this country.

(3) ((What are the other reasons for not being)) Who is not eligible for RCA?

You may not get RCA if you:

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

(b) Have been denied TANF due to your refusal to meet TANF eligibility requirements; or

(c) Are employable and have voluntarily quit or refused to accept a bona fide offer of employment within thirty consecutive days immediately prior to your application for RCA; or

(d) Are a full-time student in a college or university.

(4) If I am an asylee, what date will be used as an entry date?

If you are an asylee, your entry date will be the date that your asylum status is granted. For example: You entered the United States on December 1, 1999 as a tourist, then applied for asylum on April 1, 2000, interviewed with the asylum office on July 1, 2000 and were granted asylum on September 1, 2000. Your entry date is September 1, 2000. On September 1, 2000, you may be eligible for refugee cash assistance.

(5) If I am a victim of human trafficking, what kind of documentation do I need to provide to be eligible for RCA?

You are eligible for RCA to the same extent as a refugee if you are:

(a) An adult victim, eighteen years of age or older, you provide the original certification letter from the U.S. Department of Health and Human Services (DHHS), and you meet eligibility requirements in subsections (2)(c) and (d) of this section. You do not have to provide any other documentation of your immigration status. Your entry date will be the date on your certification letter;

(b) A child victim under the age of eighteen, in which case you do not need to be certified. DHHS issues a special letter for children. Children also have to meet income eligibility requirement;

(c) A family member of a certified victim of human trafficking, you have a T-2, T-3, T-4, or T-5 Visa (Derivative T-Visas), and you meet the eligibility requirements in subsections (2)(c) and (d) of this section.

(6) Does getting a ~~(one-time)~~ onetime cash grant from a voluntary agency (VOLAG) affect my eligibility for RCA?

No. In determining your eligibility for RCA DSHS does not count a onetime resettlement cash grant provided to you by your VOLAG.

(7) What is the effective date of my eligibility for RCA?

The date DSHS has sufficient information to make eligibility decision is the date your RCA begins.

(8) When does my RCA end?

(a) Your RCA ends on the last day of the eighth month starting with the month of your arrival to the United States. Count the eight months from the first day of the month of your entry into the United States. For example, if you entered the United States on May 28, 2000, May is your first month and December 2000 is your last month of RCA.

~~(b) (If you are from Afghanistan and were granted special immigrant status under section 101 (a)(27) of the Immigration and Nationality Act (INA), your RCA ends on the last day of the sixth month starting from the month of your arrival to the United States or from the month you received special immigrant status if this occurred after your entry.~~

~~(c)) If you get a job, your income will affect your RCA based on the TANF rules (chapter 388-450 WAC). If you earn more than is allowed by WAC 388-478-0035, you are no longer eligible for RCA. Your medical coverage may continue for up to eight months from your month of arrival in the United States (WAC 388-466-0130).~~

(9) Are there other reasons why RCA may end?

Your RCA also ends if:

(a) You move out of Washington state;

(b) Your unearned income and/or resources go over the maximum limit (WAC 388-466-0140); or

(c) You, without good cause, refuse to meet refugee employment and training requirements (WAC 388-466-0150).

(10) Will my spouse be eligible for RCA, if he/she arrives in the U.S. after me?

When your spouse arrives in the United States, DSHS determines his/her eligibility for RCA and/or other income assistance programs.

(a) Your spouse may be eligible for up to eight months of RCA based on his/her date of arrival into the United States. ~~((Spouses from Afghanistan who have been granted special immigrant status under section 101 (a)(27) of the INA, are eligible for RCA for up to six months from the date of their entry into the United States or from the month they received special immigrant status if this occurred after their U.S. entry.))~~

(b) If you live together, you and your spouse are part of the same assistance unit and your spouse's eligibility for RCA is determined based on your and your spouse's combined income and resources (WAC 388-466-0140).

(11) Can I get additional money in an emergency?

If you have an emergency and need a cash payment to get or keep your housing or utilities, you may apply for the DSHS program called additional requirements for emergent needs (AREN). To receive AREN, you must meet the requirements in WAC 388-436-0002.

(12) What can I do if I disagree with a decision or action that has been taken by DSHS on my case?

If you disagree with a decision or action taken on your case by the department, you have the right to request a review of your case or ~~(a fair)~~ an administrative hearing (WAC 388-02-0090). Your request must be made within ninety days of the date of the decision or action.

AMENDATORY SECTION (Amending WSR 08-14-116, filed 6/30/08, effective 8/1/08)

WAC 388-466-0130 Refugee medical assistance (RMA). (1) Who can apply for refugee medical assistance?

Anyone can apply for refugee medical assistance (RMA) and have eligibility determined by the department of social and health services (DSHS).

(2) Who is eligible for refugee medical assistance?

(a) You are eligible for RMA if you meet all of the following conditions:

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

(ii) Income and resource requirements of WAC 388-466-0140;

(iii) Monthly income standards up to two hundred percent of the federal poverty level (FPL). Spenddown is available for applicants whose income exceeds two hundred percent of FPL (see WAC 388-519-0110); and

(iv) Provide the name of the voluntary agency (VOLAG) which helped bring you to this country, so that DSHS can promptly notify the agency (or sponsor) about your application for RMA.

(b) You are eligible for RMA if you:

(i) Receive refugee cash assistance (RCA) and are not eligible for medicaid or children's healthcare programs as described in WAC 388-505-0210; or

(ii) Choose not to apply for or receive RCA and are not eligible for medicaid or children's healthcare programs as described in WAC 388-505-0210, but still meet RMA eligibility requirements.

(3) Who is not eligible for refugee medical assistance?

You are not eligible to receive RMA if you are:

(a) Already eligible for medicaid or children's healthcare programs as described in WAC 388-505-0210;

(b) A full-time student in an institution of higher education unless the educational activity is part of a department-approved individual responsibility plan (IRP);

(c) A nonrefugee spouse of a refugee.

(4) If I have already received a cash assistance grant from voluntary agency (VOLAG), will it affect my eligibility for RMA?

No. A cash assistance payment provided to you by your VOLAG is not counted in determining eligibility for RMA.

(5) If I get a job after I have applied but before I have been approved for RMA, will my new income be counted in determining my eligibility?

No. Your RMA eligibility is determined on the basis of your income and resources on the date of the application.

(6) Will my sponsor's income and resources be considered in determining my eligibility for RMA?

Your sponsor's income and resources are not considered in determining your eligibility for RMA unless your sponsor is a member of your assistance unit.

(7) How do I find out if I am eligible for RMA?

DSHS will send you a letter in both English and your primary language informing you about your eligibility. DSHS will also let you know in writing every time there are any changes or actions taken on your case.

(8) Will RMA cover my medical expenses that occurred after I arrived in the U.S. but before I applied for RMA?

You may be eligible for RMA coverage of your medical expenses for three months prior to the first day of the month of your application. Eligibility determination will be made according to medicaid rules.

(9) If I am a victim of human trafficking, what kind of documentation do I need to provide to be eligible for RMA?

You are eligible for RMA to the same extent as a refugee, if you are:

(a) An adult victim, eighteen years of age or older, and you provide the original certification letter from the U.S. Department of Health and Human Services (DHHS). You also have to meet eligibility requirements in subsections (2)(a) and (b) of this section. You do not have to provide any other documentation of your immigration status. Your entry date will be the date on your certification letter.

(b) A child victim under the age of eighteen, in which case you do not need to be certified. DHHS issues a special letter for children. Children also have to meet income eligibility requirements.

(c) A family member of a certified victim of human trafficking, you have a T-2, T-3, T-4, or T-5 Visa (Derivative T-Visas), and you meet eligibility requirements in subsections (2)(a) and (b) of this section.

(10) If I am an asylee, what date will be used as an entry date?

If you are an asylee, your entry date will be the date that your asylum status is granted. For example, if you entered the United States on December 1, 1999 as a tourist, then applied for asylum on April 1, 2000, interviewed with the asylum office on July 1, 2000 and granted asylum on September 1,

2000, your date of entry is September 1, 2000. On September 1, 2000 you may be eligible for refugee medical assistance.

(11) When does my RMA end?

~~((a))~~ Your refugee medical assistance will end on the last day of the eighth month from the month of your entry into the United States. Start counting the eight months with the first day of the month of your entry into the U.S. For example, if you entered the U.S. on May 28, 2000, your last month is December 2000.

~~((b) If you are from Afghanistan and were granted Special Immigrant status under section 101 (a)(27) of the Immigration and Nationality Act (INA), your RMA ends on the last day of the sixth month starting with the month of your arrival to the United States or from the month you received Special Immigrant status if this occurred after your U.S. entry.)~~

(12) What happens if my earned income goes above the income standards?

(a) If you are getting RMA, your medical eligibility will not be affected by the amount of your earnings;

(b) If you were getting medicaid and it was terminated because of your earnings, we will transfer you to RMA for the rest of your RMA eligibility period. You will not need to apply.

(13) Will my spouse also be eligible for RMA, if he/she arrives into the U.S. after me?

When your spouse arrives in the U.S., we will determine his/her eligibility for medicaid and other medical programs.

~~(a) If your spouse (~~may be~~) is eligible for RCA, he/she is automatically eligible for RMA (~~if so, he/she would have a maximum of eight months of RMA starting on the first day of the month of his/her arrival~~).~~

~~(b) ((Spouses from Afghanistan who have been granted special immigrant status under section 101 (a)(27) of the Immigration and Nationality Act (INA), are eligible for RMA for a maximum of six months from the date of entry into the United States or from the month they received special immigrant status if this occurred after their U.S. entry)) If your spouse is not eligible for RCA because your household's countable income exceeds the TANF income and resource standards described in chapter 388-450 and 388-470 WAC, he/she is eligible for RMA as long as the countable household income is below two hundred percent of Federal Poverty Level (FPL) per WAC 388-466-0140(2).~~

~~(c) If your spouse is approved for RMA, he/she would have a maximum of eight months of RMA starting on the first day of the month of his/her arrival.~~

(14) What do I do if I disagree with a decision or action that has been taken by DSHS on my case?

If you disagree with the decision or action taken on your case by department you have the right to request a review of your case or request ~~((a fair))~~ an administrative hearing (see WAC 388-02-0090). Your request must be made within ninety days of the date of the decision or action~~(())~~.

(15) What happens to my medical coverage after my eligibility period is over?

We will determine your eligibility for other medical programs. You may have to complete an application for another program.

WSR 09-21-048
PERMANENT RULES
LIQUOR CONTROL BOARD

[Filed October 14, 2009, 11:13 a.m., effective November 14, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rules implement Interim Board Policy #4-2009, Delegation of Authority. New rules were created and existing rules were revised on contested liquor license applications and renewals. These new rules provide clarity to stakeholders and liquor licensees.

Citation of Existing Rules Affected by this Order: Amending WAC 314-09-010 and 314-09-015.

Statutory Authority for Adoption: RCW 66.08.030.

Adopted under notice filed as WSR 09-16-057 on July 29, 2009.

Changes Other than Editing from Proposed to Adopted Version: Minor revision in WAC 314-09-010(2) and 314-09-015(2) to clarify "the intent to deny notification." Also made clarifying revision to language in WAC 314-09-010(1).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 14, 2009.

Sharon Foster
 Chairman

NEW SECTION

WAC 314-07-121 Board delegation of authority to make initial threshold determinations. (1) The board may delegate to the licensing and regulation division director the authority to make initial threshold determinations on liquor license applications and renewals where:

(a) Objections have been submitted; or

(b) The applicant/licensee appears to be ineligible for a license due to failure to meet requirements under statute or rule. Failure to meet eligibility requirements includes data obtained through a criminal background check or criminal history record information (CHRI) report.

(2) Threshold determinations will be made in accordance with the provisions of RCW 66.24.010 as well as all other relevant sections of state law and Title 314 WAC. The licensing and regulation division director shall:

(a) Give substantial weight to objections from a local authority where objections are based on chronic illegal activity;

(b) Give due consideration to the location of a new liquor license application as it relates to the proximity to churches, schools, and public institutions as well as other considerations raised by the local authority.

(3) If the licensing and regulation director determines that the board will seek denial of a license application or non-renewal of an existing license, an aggrieved applicant/licensee may request an adjudicative hearing before an administrative law judge (see chapter 314-09 WAC).

(4) If the licensing and regulation director determines that the board will seek to approve a license or renewal over the objection of the local authority, the local authority may request an adjudicative hearing before an administrative law judge (see chapter 314-09 WAC). The licensing and regulation director will determine whether an adjudicative hearing will be granted to the local authority.

An adjudicative hearing will be granted where the objection is based on alleged conduct related to public safety within the jurisdiction of the board under Title 66 RCW.

AMENDATORY SECTION (Amending WSR 05-07-011, filed 3/4/05, effective 4/4/05)

WAC 314-09-010 Objections to liquor license applications. (1) **How can persons, entities, and governmental jurisdictions object to the issuance of a liquor license or permit?** Per RCW 66.24.010 (8) and (9), the board will notify certain entities of the following types of annual or special occasion liquor license or permit applications. In addition to the following entities, any person or group may comment in writing to the board regarding ~~((a))~~ an application.

Type of Application	Entities the board will notify
<ul style="list-style-type: none"> Applications for an annual license or permit at a new location that would allow the sale and/or service of alcohol beverage to the public for on-premises consumption or to-go; and Applications to change the class of an existing annual liquor license or permit that allows the sale and/or service of alcohol beverage to the public for on-premises consumption or to-go. 	<ul style="list-style-type: none"> Governmental jurisdictions in which the premises is located, and Schools, churches, and public institutions within 500 feet of the premises to be licensed (as measured according to RCW 66.24.010(9)).
<ul style="list-style-type: none"> Applications for any ((annual or)) special occasion liquor license ((or permit)) that allows the sale and/or service of alcohol beverage; and Changes of ownership at existing licensed premises. 	<ul style="list-style-type: none"> ((a)) Governmental jurisdictions only.

(2) **What will happen if a person or entity objects to a liquor license application?** When deciding whether to issue or deny a liquor license application ~~((for permit))~~ or permit, the board will give due consideration to input from governmental jurisdictions in which the premises is located; private schools, churches, and public institutions within 500 feet of the premises (as measured according to RCW 66.24.010(9)); and other persons or groups. Note~~((a))~~; Per RCW 66.24.010 (9), the board shall not issue a new ~~((retail))~~ retail liquor

license if a tax-supported public elementary or secondary school within 500 feet of the premises to be licensed objects to the application (500 feet as measured according to RCW 66.24.010(9)).

(a) If the board contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW). If the board, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the licensee will be notified and given the opportunity to present evidence at the hearing.

(b) If the board denies a liquor license application based on the objection from a governmental jurisdiction; a private school, church, or public institution within 500 feet of the premises (as measured according to RCW 66.24.010(9)); and/or other persons or groups, the applicant(s) may either:

(i) Reapply for the license or permit no sooner than one year from the original denial date; or

(ii) Submit a written request on a form provided by the board for an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW). The request must be received within twenty days of the date (of licensee's receipt [of]) the (denial letter, for an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW)) intent to deny notification was mailed.

AMENDATORY SECTION (Amending WSR 05-07-011, filed 3/4/05, effective 4/4/05)

WAC 314-09-015 Objections to liquor license renewals. (1) How can local governmental jurisdictions object to the renewal of a liquor license?

(a) The board will give governmental jurisdictions approximately ninety days written notice of premises that hold annual liquor licenses in that jurisdiction that are up for renewal.

(b) Per RCW 66.24.010(8), if a governmental jurisdiction wants to object to the renewal of a liquor license in its jurisdiction, it must submit a letter to the board detailing the reason(s) for the objection and a statement of all facts on which the objections are based.

~~((e))~~ (c) This letter must be received by the board at least thirty days before the liquor license expires. The objection must state specific reasons and facts that show issuance of the liquor license at the proposed location or to the applicant business will detrimentally impact the safety, health, or welfare of the community.

~~((d) If the objection is received within 30 days of the expiration date or the licensee has already renewed the license, the objection will be considered as a complaint and possible license revocation by the Enforcement Division.)~~

(d) If the objection is received within thirty days of the expiration date or the licensee has already renewed the license, the objection will be considered as a complaint and possible license revocation may be pursued by the enforcement division.

(e) Objections from the public will be referred to the appropriate governmental jurisdiction for action under sub-

section (2) ~~((below))~~ of this section. Upon receipt of the objection, the board licensing and regulation division will acknowledge receipt of the objection(s) and forward to the appropriate governmental jurisdiction. Such jurisdiction may or may not, based on the public objection, request nonrenewal.

(2) **What will happen if a governmental jurisdiction objects to the renewal of a liquor license?** The board will give due consideration to a governmental jurisdiction's objection to a liquor license renewal of a premises in its jurisdiction. Based on the governmental jurisdiction's input and any information in the licensing file, the board will decide to either renew the liquor license, or to ~~((proceed with))~~ pursue nonrenewal.

((b)) (a) Board decides to renew the liquor license:	((e)) (b) Board decides to ((pursue nonrenewal of [not renew])) pursue nonrenewal of the liquor license:
(i) The board will notify the governmental jurisdiction(s) in writing of its intent to renew the license, stating the reason for this decision. (ii) The governmental jurisdiction(s) may contest the renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) <u>by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to renew notification was mailed.</u>	(i) The board will notify the licensee in writing of its intent to not renew the license, stating the reason for this decision. (ii) The licensee may contest the nonrenewal action and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) <u>by submitting a written request on a form provided by the board. The request must be received within twenty days of the date the intent to deny notification was mailed.</u> (iii) If the licensee requests a hearing, the governmental jurisdiction ((s)) will be ((notified)) notified. ((vi)) (iv) During the hearing and any subsequent appeal process, the licensee is issued a temporary operating permit for the liquor license until a final decision is made.

**WSR 09-21-049
PERMANENT RULES
DEPARTMENT OF HEALTH**

[Filed October 14, 2009, 11:34 a.m., effective November 14, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rules clarify renewal procedures for certified Clandestine Drug Lab (CDL) workers, supervisors, contractors, and trainers and reduce certificate renewal fees. The rules establish a single certificate expiration date for CDL certificates and simplify the renewal application process. The rules also reduce the renewal fees for certificateholders.

Citation of Existing Rules Affected by this Order: WAC 246-205-021, 246-205-061, 246-205-071, 246-205-081, and 246-205-990.

Statutory Authority for Adoption: RCW 64.44.070.

Other Authority: RCW 64.44.060 and 43.70.250.

Adopted under notice filed as WSR 09-17-131 on August 19, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Date Adopted: October 13, 2009.

B. White
for Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 03-02-022, filed 12/23/02, effective 1/23/03)

WAC 246-205-021 Training provider certification.

(1) Persons wanting to become an illegal drug lab decontamination training provider must obtain department approval of instructors and courses. The types of drug lab decontamination courses that may be approved by the department are:

- (a) Basic worker;
- (b) Basic supervisor; and
- (c) Refresher worker and supervisor.

(2) To be certified as a training provider for the refresher training course, applicants must be certified as a training provider for the basic worker and basic supervisor courses.

(3) To obtain approval of instructors, the applicant must demonstrate that the person has the breadth of knowledge and experience necessary to properly train workers and supervisors.

~~((3))~~ (4) To obtain approval of course work, the applicant must demonstrate the:

- (a) Adequacy and accuracy of content; and
- (b) Adequacy of training techniques.

~~((4))~~ (5) Applicants for training provider certification shall:

(a) Submit a completed training provider application as specified under subsection ~~((5))~~ (6) of this section;

(b) Submit the required fee as specified under WAC 246-205-990; and

(c) Ensure the department receives the application sixty or more days before the requested approval date.

~~((5))~~ (6) A training provider application includes, but is not limited to:

(a) A completed training provider application form provided by the department;

(b) A list of all personnel involved in course presentation and a description of their qualifications;

(c) A detailed description of course content and the amount of time allotted to each major topic;

(d) A description of teaching methods;

(e) A list of questions for development of an examination; and

(f) Copies of all materials proposed for use, when requested from the department.

~~((6))~~ (7) Training provider certification is valid for two years from the date of issuance. All training provider certificates issued after December 1, 2009, will expire on the same day: November 30, 2011, and on November 30th in every odd-numbered year thereafter. Certification fees will be prorated by the month for applications submitted during the two-year period.

~~((7))~~ (8) Training provider certification may be terminated if the training provider fails to:

(a) Maintain the course content and quality as approved by the department; and

(b) Make changes to a course as required by the department.

AMENDATORY SECTION (Amending WSR 03-02-022, filed 12/23/02, effective 1/23/03)

WAC 246-205-061 Training provider certification renewal. (1) Training provider certificate renewal is valid for two years from the date of issuance. All training provider certificates issued after December 1, 2009, will expire on the same day: November 30, 2011, and on November 30th in every odd-numbered year thereafter. Certification fees will be prorated by the month for applications submitted during the two-year period.

(2) Training providers seeking renewal certification shall submit the following to the department thirty or more days before expiration of the current certificate:

~~((1))~~ (a) A completed training provider application as described in WAC 246-205-021(5); and

~~((2))~~ (b) A fee as prescribed in WAC 246-205-990.

(3) If a training provider fails to renew his or her certificate before it expires, the department shall notify the trainer that the certificate is temporarily valid for sixty days beginning on the expiration date of the trainer's certificate.

(4) If a training provider renews his or her certificate during the sixty-day period, he or she shall pay the full two-year certificate renewal fee.

(5) If the training provider fails to renew the certificate within the sixty-day period, the certificate is invalid. The department shall notify the trainer in writing of an invalid certificate.

(6) A training provider who fails to renew his or her certificate while it is valid may reapply for certification, but must meet the requirements for a new applicant established in WAC 246-205-021.

AMENDATORY SECTION (Amending WSR 03-02-022, filed 12/23/02, effective 1/23/03)

WAC 246-205-071 Worker and supervisor certification. (1) Applicants seeking certification as a decontamination worker shall ensure the department receives the follow-

ing within ~~((sixty))~~ ninety days of completing the basic worker course:

- (a) A completed decontamination worker application;
- (b) A fee as prescribed in WAC 246-205-990;
- (c) Evidence of satisfying the requirements of WAC 296-62-30410;
- (d) Evidence of successful completion of a department sponsored or approved basic decontamination worker course; and
- (e) Evidence of passing the basic decontamination worker examination administered by the department with a score of seventy percent or higher.

(2) Applicants seeking certification as a decontamination supervisor shall ensure the department receives the following within ~~((sixty))~~ ninety days of completing the basic supervisor course:

- (a) A completed decontamination supervisor application;
- (b) A fee as prescribed in WAC 246-205-990;
- (c) Evidence of a valid Washington state decontamination worker certificate;
- (d) Evidence of forty or more hours of on-site experience in hazardous material or illegal drug manufacturing or storage site decontamination projects;
- (e) Evidence of satisfying the requirements of WAC 296-62-30415.
- (f) Evidence of successful completion of a department sponsored or approved basic decontamination supervisor course; and
- (g) Evidence of passing the basic decontamination supervisor examination administered by the department with a score of seventy percent or higher.

~~(3) ((Applicants for decontamination supervisor certification who can demonstrate that their work experience and training has resulted in experience and training equivalent to the requirements in WAC 246-205-031 and 246-205-071 (1)(c) and (2)(c), (d), and (e) may be certified as a CDL supervisor when they apply prior to May 1, 2003.~~

~~(a) For purposes of this subsection, an application includes:~~

- ~~(i) A completed decontamination supervisor application form;~~
- ~~(ii) A fee as prescribed in WAC 246-205-990; and~~
- ~~(iii) Evidence of meeting the requirements of this subsection.~~

~~(b) All other decontamination supervisor certification requirements of this chapter apply.)~~ If a previously certified worker applies for certification following expiration of the previous certificate, but less than two years after expiration of the previous certificate, the worker shall:

- (a) Submit to the department a completed application form for certificate renewal;
- (b) Submit to the department a fee prescribed in WAC 246-205-990; and
- (c) Retake the entire basic worker course.

(4) Worker and supervisor certificates are valid for two years from the date of issuance. All worker and supervisor certificates issued after December 1, 2009, will expire on the same day: November 30, 2011, and on November 30th in every odd-numbered year thereafter. Certification fees will

be prorated by the month for applications submitted during the two-year period.

(5) Workers and supervisors shall make certificates available for inspection at all times during an illegal drug manufacturing or storage site decontamination project.

(6) The certificate may be denied, suspended, or revoked as described in WAC 246-205-121 and RCW 64.44.060.

(7) If a previously certified supervisor applies for certification following expiration of the previous certificate, but less than two years after expiration of the previous certificate, the supervisor shall:

(a) Submit to the department a completed application form for certificate renewal;

(b) Submit to the department a fee prescribed in WAC 246-205-990; and

(c) Retake the entire basic supervisor course.

AMENDATORY SECTION (Amending WSR 03-02-022, filed 12/23/02, effective 1/23/03)

WAC 246-205-081 Worker and supervisor certification renewal. (1) Worker and supervisor ~~((certification))~~ certificate renewal is valid for two years from the date of issuance. All worker and supervisor certificates issued after December 1, 2009, will expire on the same day: November 30, 2011, and on November 30th in every odd-numbered year thereafter. Certification fees will be prorated by the month for applications submitted during the two-year period.

(2) Certified workers and supervisors seeking certificate renewal shall submit to the department thirty or more days before expiration of the current certificate:

- (a) A completed application form for certificate renewal;
- (b) A fee prescribed in WAC 246-205-990; and
- (c) Evidence of successful completion of a department sponsored or approved refresher training course.

(3) If a ~~((previously certified worker applies for certification following expiration of the previous certificate, but less than two years after expiration of the previous certificate, the worker shall:~~

~~(a) Submit to the department a completed application form for certificate renewal;~~

~~(b) Submit to the department a fee prescribed in WAC 246-205-990; and~~

~~(c) Retake the entire basic worker course.~~

~~(4) If a previously certified supervisor applies for certification following expiration of the previous certificate, but less than two years after expiration of the previous certificate, the supervisor shall:~~

~~(a) Submit to the department a completed application form for certificate renewal;~~

~~(b) Submit to the department a fee prescribed in WAC 246-205-990; and~~

~~(c) Retake the entire basic supervisor course.)~~ worker or supervisor fails to renew his or her certificate before it expires, the department shall notify the worker or supervisor that the certificate is temporarily valid for sixty days beginning on the expiration date of the worker's or supervisor's certificate.

(4) If a worker or supervisor renews his or her certificate during the sixty-day period, he or she shall pay the full two-year certificate renewal fee.

(5) If the worker or supervisor fails to renew the certificate within the sixty-day period, the certificate is invalid. The department shall notify the worker or supervisor in writing of an invalid certificate.

(6) A worker or supervisor who fails to renew his or her certificate while it is valid may reapply for certification, but must meet the requirements for a previously certified worker or supervisor established in WAC 246-205-071.

AMENDATORY SECTION (Amending WSR 06-16-119, filed 8/1/06, effective 9/1/06)

WAC 246-205-990 Fees. ~~(1) ((The department charges the following fees for issuing and renewing certificates.~~

~~(2) The fees must cover the cost of issuing certificates, filing papers and notices, and administering this chapter. The costs include reproduction, travel, per diem, and administrative and legal support costs.~~

~~(3)) Fees are nonrefundable and must be paid by check or money order made payable to the department.~~

~~((4)) (2) Fees shall be prorated by the month for certificates issued for less than two years.~~

(3) An applicant must pay the following fees based on a two-year certification period when submitting an application:

(a) \$100 for each initial(~~(-renewal,))~~ or reciprocal worker certificate application.

(b) \$50 for each renewal worker certificate application.

(c) \$200 for each initial(~~(-renewal,))~~ or reciprocal supervisor certificate application.

~~((e) \$1,125 for each initial, renewal, or reciprocal authorized contractor certificate application. The applicant's certificate shall expire annually on the expiration date of the contractor's license issued under chapter 18.27 RCW.))~~

(d) \$150 for each renewal supervisor certificate application.

(e) \$1,000 for each initial application and ~~\$(750))~~ 500 for each renewal application for training provider certification for the worker drug lab decontamination course.

~~((e)) (f) \$1,000 for each initial application and ~~\$(750))~~ 500 for each renewal application for training provider certification for the supervisor drug lab decontamination course.~~

~~((f) To be certified as a training provider for the refresher training course, applicants must be certified as a training provider for the worker and supervisor courses.)) (g) There is no fee for application as a training provider for the refresher training course.~~

(4) An applicant must pay \$1,125 for each initial, renewal, or reciprocal authorized contractor certificate application, based on a one-year certification period. The applicant's certificate shall expire annually on the expiration date of the contractor's license issued under chapter 18.27 RCW.

WSR 09-21-050
PERMANENT RULES
LIQUOR CONTROL BOARD

[Filed October 14, 2009, 11:36 a.m., effective November 14, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The proposed rules will create consistency in standard penalties for commonly violated laws that are not represented in the current penalty matrix, and provide clarity to liquor licensees of the progression of penalties for subsequent violations in various categories.

Citation of Existing Rules Affected by this Order: Amending WAC 314-29-015, 314-29-020, 314-29-025, 314-29-030, and 314-29-035.

Statutory Authority for Adoption: RCW 66.08.030.

Adopted under notice filed as WSR 09-15-112 on July 16, 2009.

Changes Other than Editing from Proposed to Adopted Version: Revisions to clarify WAC 314-29-015 and 314-29-020 were made regarding monetary penalties in lieu of suspension.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 14, 2009.

Sharon Foster
Board Chairman

AMENDATORY SECTION (Amending WSR 03-09-015, filed 4/4/03, effective 5/5/03)

WAC 314-29-015 What are the penalties if a liquor license holder violates a liquor law or rule? (1) The purpose of WAC 314-29-015 through 314-29-040 is to outline what penalty a liquor licensee can expect if a licensee or employee violates a liquor control board law or rule (the penalty guidelines for mandatory alcohol server training permit holders are in WAC 314-17-100 through 314-17-110). WAC rules listed in the categories provide reference areas, and may not be all inclusive.

(2) Penalties for violations by liquor licensees or employees are broken down into four categories:

(a) Group One—Public safety violations, WAC 314-29-020.

(b) Group Two—~~((Conduct))~~ Regulatory violations, WAC 314-29-025.

(c) Group Three—~~((Regulatory))~~ License violations, WAC 314-29-030.

(d) Group Four—Nonretail violations involving the manufacture, supply, and/or distribution of liquor by nonretail licensees and prohibited practices between nonretail licensees and retail licensees, WAC 314-29-035.

(3) For the purposes of chapter 314-29 WAC, a two year window for violations is measured from the date one violation occurred to the date a subsequent violation occurred.

(4) The following schedules are meant to serve as guidelines. Based on mitigating or aggravating circumstances, the liquor control board may impose a different penalty than the standard penalties outlined in these schedules. Based on mitigating circumstances, the board may offer a monetary option in lieu of suspension during a settlement conference as outlined in WAC 314-29-010(3).

<p>(a) Mitigating circumstances</p> <p>((Examples of)) Mitigating circumstances that may result in ((a)) fewer ((number of)) days of suspension <u>and/or</u> a lower monetary option <u>may</u> include ((, but are not limited to, having in place)) <u>demonstrated</u> business policies and/or practices ((such as:</p> <ul style="list-style-type: none"> • Using licensee certification cards that are correctly filled out and filed; • Having direct on-site supervision of employees; • Having a signed acknowledgment of the business' alcohol policy on file for each employee; • Having an employee training plan that includes annual training on liquor laws; • Showing cooperation with local law enforcement; etc.)) <u>that reduce the risk of future violations.</u> <p>Examples include:</p> <ul style="list-style-type: none"> • <u>Having a signed acknowledgment of the business' alcohol policy on file for each employee;</u> • <u>Having an employee training plan that includes annual training on liquor laws.</u> 	<p>(b) Aggravating circumstances</p> <p>((Examples of)) Aggravating circumstances that may result in ((a higher number of)) <u>increased</u> days of suspension, ((a higher)) <u>and/or</u> increased monetary option, <u>and/or</u> cancellation of a liquor license <u>may</u> include ((, but are not limited to:</p> <ul style="list-style-type: none"> • Failing to cooperate with local law enforcement or liquor control board employees; • Not calling for local law enforcement when requested by a customer or liquor control board agent; • Not checking to ensure employees are of legal age or have appropriate work permits; • Committing the violation willfully; etc.)) <u>business operations or behaviors that create an increased risk for a violation and/or intentional commission of a violation.</u> <p>Examples include:</p> <ul style="list-style-type: none"> • <u>Failing to call 911 for local law enforcement or medical assistance when requested by a customer, a liquor control board officer, or when people have sustained injuries;</u> • <u>Not checking to ensure employees are of legal age or have appropriate work permits.</u>
<p><u>(c) In addition to the examples in (a) and (b) of this subsection, the liquor control board will provide and maintain a list of business practices for reference as examples where business policies and/or practices may influence mitigating and/or aggravating circumstances. The established list will not be all inclusive for determining mitigating and/or aggravating circumstances, and may be modified by the liquor control board. The list shall be accessible to all stakeholders and the general public via the internet.</u></p>	

AMENDATORY SECTION (Amending WSR 03-09-015, filed 4/4/03, effective 5/5/03)

WAC 314-29-020 Group 1 violations against public safety. Group 1 violations are considered the most serious because they present a direct threat to public safety. Violations beyond the first violation do not have a monetary option upon issuance of a violation notice. The liquor control board may offer a monetary option in lieu of suspension days based on mitigating circumstances as outlined in WAC 314-29-015(4).

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
<p><u>Violations involving minors:</u> <u>Sale or service to minor:</u> Sale or service of alcohol to a person under 21 years of age. <u>Minor frequenting a tavern, lounge, or other restricted area.</u> RCW 66.44.270 RCW 66.44.310 WAC 314-11-020 WAC 314-16-150</p>	<p>5 day suspension or \$500 monetary option</p>	<p>7 day suspension ((with no monetary option))</p>	<p>30 day suspension ((with no monetary option))</p>	<p>Cancellation of license</p>

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
((Minor frequenting a tavern, lounge, or other age-restricted area.	5 day suspension or \$500 monetary option	7 day suspension with no monetary option	30 day suspension with no monetary option	Cancellation of license))
Sale or service to apparently intoxicated person: Sale or service of alcohol to, or permitting consumption or possession by, an apparently intoxicated person. <u>RCW 66.44.200</u> <u>WAC 314-16-150</u>	5 day suspension or \$500 monetary option	((5)) 7 day suspension ((or \$2,500 monetary option))	((10)) 30 day suspension ((or \$5,000 monetary option))	Cancellation of license
Conduct violations: Disorderly conduct by licensee or employee, or permitting on premises. Licensee and/or employee intoxicated on the licensed premises and/or drinking on duty. Criminal conduct: Permitting or engaging in criminal conduct. <u>WAC 314-11-015</u>	5 day suspension or \$500 monetary option	((5)) 7 day suspension ((or \$2,500 monetary option))	((10)) 30 day suspension ((or \$5,000 monetary option))	Cancellation of license
((Criminal conduct: Permitting or engaging in criminal conduct.	5 day suspension or \$500 monetary option	7 day suspension with no monetary option	30 day suspension with no monetary option	Cancellation of license))
Lewd conduct: <u>Engaging in or permitting conduct in violation of WAC 314-11-050.</u>	<u>5 day suspension or \$500 monetary option</u>	<u>7 day suspension</u>	<u>30 day suspension</u>	<u>Cancellation of license</u>
Refusal to allow an inspection and/or obstructing a law enforcement officer from performing their official duties. <u>RCW 66.28.090</u> <u>RCW 66.44.370</u> <u>WAC 314-11-090</u>	<u>5 day suspension or \$500 monetary option</u>	<u>7 day suspension</u>	<u>30 day suspension</u>	<u>Cancellation of license</u>
Condition of suspension violation: Failure to follow any suspension restriction while liquor license is suspended. <u>WAC 314-29-040</u>	<u>Original penalty plus 10 day suspension with no monetary option</u>	<u>Cancellation of license</u>		

AMENDATORY SECTION (Amending WSR 03-09-015, filed 4/4/03, effective 5/5/03)

WAC 314-29-025 Group 2 ((conduct)) regulatory violations. Group 2 violations are violations involving ((conduct)) general regulation and administration of retail or nonretail ((licensee, employees, or patrons)) licenses.

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
(Misuse or unauthorized use of liquor license.	5 day suspension or \$1,500 monetary option	Cancellation of license	Cancellation of license	Cancellation of license
Sale of alcohol in violation of a board approved alcohol impact area restriction.	5 day suspension or \$500 monetary option	7 day suspension or \$1,500 monetary option	10 day suspension with no monetary option	Cancellation of license))
Club liquor to the public. WAC 314-40-010	<u>5 day suspension or \$500 monetary option</u>	<u>5 day suspension or \$1,500 monetary option</u>	<u>10 day suspension or \$3,000 monetary option</u>	<u>Cancellation of license</u>
Employee under legal age or without required mandatory alcohol server training permit. RCW 66.44.316 RCW 66.44.318 RCW 66.44.340 RCW 66.44.350 WAC 314-11-040 WAC 314-11-045 Chapter 314-17 WAC	5 day suspension or ((\$250) <u>\$500</u> monetary option	5 day suspension or \$1,500 monetary option	10 day suspension or \$3,000 monetary option	Cancellation of license
Failure to follow 11:00 p.m. entertainment rules. WAC 314-02-025(2)	<u>5 day suspension or \$500 monetary option</u>	<u>5 day suspension or \$1,500 monetary option</u>	<u>10 day suspension or \$3,000 monetary option</u>	<u>Cancellation of license</u>
Hours of service: Sales, service, removal, or consumption of alcohol between 2:00 a.m. and 6:00 a.m. WAC 314-11-070	5 day suspension or ((\$250) <u>\$500</u> monetary option	5 day suspension or \$1,500 monetary option	10 day suspension or \$3,000 monetary option	Cancellation of license
Keg registration: Failure to properly register kegs. RCW 66.28.200 RCW 66.28.210 WAC 314-02-115	<u>5 day suspension or \$500 monetary option</u>	<u>5 day suspension or \$1,500 monetary option</u>	<u>10 day suspension or \$3,000 monetary option</u>	<u>Cancellation of license</u>
Spirituos liquor not sold by the individual drink. RCW 66.24.400 WAC 314-02-015 (1)(a)	<u>5 day suspension or \$500 monetary option</u>	<u>5 day suspension or \$1,500 monetary option</u>	<u>10 day suspension or \$3,000 monetary option</u>	<u>Cancellation of license</u>
Food service: Required food service not available. WAC 314-02-035 WAC 314-02-0411 WAC 314-02-065 WAC 314-02-075	5 day suspension or \$250 monetary option	5 day suspension or \$1,500 monetary option	10 day suspension or \$3,000 monetary option	Cancellation of license
Hours of operation: Failure to meet required hours of operation. WAC 314-02-015(2)	<u>5 day suspension or \$250 monetary option</u>	<u>5 day suspension or \$1,500 monetary option</u>	<u>10 day suspension or \$3,000 monetary option</u>	<u>Cancellation of license</u>

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
<u>NSF check:</u> Payment by a retail licensee for alcohol purchases. WAC 314-13-020	<u>5 day suspension or \$250 monetary option</u>	<u>5 day suspension or \$1,500 monetary option</u>	<u>10 day suspension or \$3,000 monetary option</u>	<u>Cancellation of license</u>
<u>Premises not open to the general public while liquor is sold, served, or consumed.</u> WAC 314-11-072	<u>5 day suspension or \$250 monetary option</u>	<u>5 day suspension or \$1,500 monetary option</u>	<u>10 day suspension or \$3,000 monetary option</u>	<u>Cancellation of license</u>
<u>Sampling and/or cooking class violations.</u> WAC 314-02-105	<u>5 day suspension or \$250 monetary option</u>	<u>5 day suspension or \$1,500 monetary option</u>	<u>10 day suspension or \$3,000 monetary option</u>	<u>Cancellation of license</u>
<u>Substituting, tampering, improper labeling, unlawful removal, possession, or unauthorized sale of liquor.</u> WAC 314-11-065 WAC 314-11-080 WAC 314-16-020	<u>5 day suspension or \$250 monetary option</u>	<u>5 day suspension or \$1,500 monetary option</u>	<u>10 day suspension or \$3,000 monetary option</u>	<u>Cancellation of license</u>
((<u>Lewd conduct:</u> Engaging in or permitting conduct in violation of WAC 314-11-050.	<u>5 day suspension or \$250 monetary option</u>	<u>5 day suspension or \$1,500 monetary option</u>	<u>10 day suspension or \$3,000 monetary option</u>	<u>Cancellation of license</u>
<u>Inspections:</u> Refusing to allow inspection(s) by law enforcement.	<u>5 day suspension or \$100 monetary option</u>	<u>5 day suspension or \$500 monetary option</u>	<u>10 day suspension or \$1,000 monetary option</u>	<u>20 day suspension with no monetary option</u>
<u>Advertising:</u> Advertising violations other than those involving prohibited practices between a nonretail and a retail licensee. Chapter 314-52 WAC.	<u>5 day suspension or \$100 monetary option</u>	<u>5 day suspension or \$500 monetary option</u>	<u>10 day suspension or \$1,000 monetary option</u>	<u>20 day suspension</u>
<u>Hotel/motel honor bar violation.</u> WAC 314-02-080	<u>5 day suspension or \$100 monetary option</u>	<u>5 day suspension or \$500 monetary option</u>	<u>10 day suspension or \$1,000 monetary option</u>	<u>20 day suspension</u>
<u>Inventory:</u> Inventory below required amount. WAC 314-02-100 WAC 314-02-105	<u>5 day suspension or \$100 monetary option</u>	<u>5 day suspension or \$500 monetary option</u>	<u>10 day suspension or \$1,000 monetary option</u>	<u>20 day suspension</u>
<u>Lighting:</u> Inadequate lighting. WAC 314-11-055	<u>5 day suspension or \$100 monetary option</u>	<u>5 day suspension or \$500 monetary option</u>	<u>10 day suspension or \$1,000 monetary option</u>	<u>20 day suspension</u>
<u>Liquor purchased from unauthorized source or sale below cost</u> in violation of liquor law or rule. WAC 314-11-085 WAC 314-13-010 WAC 314-13-040	<u>5 day suspension or \$100 monetary option</u>	<u>5 day suspension or \$500 monetary option</u>	<u>10 day suspension or \$1,000 monetary option</u>	<u>20 day suspension</u>

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Private club violations: Club regulations other than club liquor to the public. Chapter 314-40 WAC	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension
Records: Improper recordkeeping. WAC 314-11-090 WAC 314-11-095 WAC 314-12-135	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension
Retailer/nonretailer violation: Violation on the part of a retail licensee that involves a nonretail licensee, other than group four violations.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension ((with no monetary option))
Signs: Failure to post required signs. WAC 314-11-060	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension
Unauthorized alterations, change of trade name, or added activity. WAC 314-02-025 WAC 314-02-125 WAC 314-02-130	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension

AMENDATORY SECTION (Amending WSR 03-09-015, filed 4/4/03, effective 5/5/03)

WAC 314-29-030 Group 3 ((regulatory)) license violations. Group 3 violations are violations involving ((administrative)) licensing requirements, license classification, and special restrictions.

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
(Keg registration: Failure to properly register kegs.	5 day suspension or \$500 monetary option	5 day suspension or \$1,000 monetary option	10 day suspension or \$1,500 monetary option	20 day suspension with no monetary option
Signs: Failure to post required signs.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option
Records: Improper recordkeeping.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option
Advertising: Advertising violations other than those involving prohibited practices between a nonretail and a retail licensee.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option
Inventory: Inventory below required amount.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option
Unauthorized alterations, change of trade name, or added activity.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Lighting: Inadequate lighting.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option
Liquor purchased from unauthorized source or sale below cost in violation of liquor law or rule.	5 day suspension or \$100 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension with no monetary option))
<u>True party of interest violation.</u> RCW 66.24.010(1) WAC 314-12-030	Cancellation of license			
<u>Failure to furnish required documents.</u> WAC 314-12-035	Cancellation of license			
<u>Misrepresentation of fact.</u> WAC 314-12-010	Cancellation of license			
<u>Misuse or unauthorized use of liquor license (operating outside of license class, lending or contracting license to another person/entity).</u> Chapter 66.24 RCW WAC 314-02-015 WAC 314-02-041 WAC 314-02-045 WAC 314-02-065 WAC 314-02-070 WAC 314-02-075 WAC 314-02-090 WAC 314-02-095 WAC 314-02-100 WAC 314-02-105 WAC 314-02-110 WAC 314-12-030	5 day suspension or \$1,500 monetary option	Cancellation of license		
<u>Operating plan:</u> Violations of a board-approved operating plan. WAC 314-16-270 WAC 314-16-275	5 day suspension or \$500 monetary option	7 day suspension or \$1,500 monetary option	10 day suspension with no monetary option	Cancellation of license
<u>Sale of alcohol in violation of a board-approved local authority restriction.</u> Chapter 66.24 RCW	5 day suspension or \$500 monetary option	7 day suspension or \$1,500 monetary option	10 day suspension with no monetary option	Cancellation of license
<u>Sale of alcohol in violation of a board-approved alcohol impact area restriction.</u> WAC 314-12-215	5 day suspension or \$500 monetary option	7 day suspension or \$1,500 monetary option	10 day suspension with no monetary option	Cancellation of license

Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Catering endorsement violation. <u>WAC 314-02-060</u> <u>WAC 314-02-061</u>	<u>5 day suspension or \$250 monetary option</u>	<u>5 day suspension or \$1,500 monetary option</u>	<u>10 day suspension or \$3,000 monetary option</u>	<u>Cancellation of license</u>

AMENDATORY SECTION (Amending WSR 03-09-015, filed 4/4/03, effective 5/5/03)

WAC 314-29-035 Group 4 nonretail violations. Group 4 violations are violations involving the manufacture, supply, and/or distribution of liquor by nonretail licensees and prohibited practices between a nonretail licensee and a retail licensee.

Violation type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Providing credit to a retail licensee. <u>RCW 66.28.010</u> <u>WAC 314-12-140</u> <u>WAC 314-12-145</u> <u>WAC 314-13-015</u> <u>WAC 314-13-020</u>	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option
Quantity discount. <u>RCW 66.28.170</u> <u>RCW 66.28.180</u>	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option
Giving away liquor in violation of liquor law or rule. <u>RCW 66.28.040</u> <u>WAC 314-64-080</u> <u>WAC 314-64-08001</u>	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option
Consignment sales/return of product in violation of liquor law or rule. <u>RCW 66.28.010</u> <u>WAC 314-12-140</u> <u>WAC 314-13-015</u> <u>WAC 314-20-070</u> <u>WAC 314-20-090</u> <u>WAC 314-24-210</u>	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option
Advertising violations involving prohibited practices between a nonretail and a retail licensee. <u>RCW 66.28.010</u> <u>RCW 66.24.570</u> <u>WAC 314-05-030</u> <u>WAC 314-52-040</u> <u>WAC 314-52-070</u> <u>WAC 314-52-080</u> <u>WAC 314-52-090</u> <u>WAC 314-52-113</u>	3 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	20 day suspension or \$10,000 monetary option

Violation type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
<p>Price ((posting)) lists/ labeling/packaging violations. <u>RCW 66.24.145</u> <u>RCW 66.28.100</u> <u>RCW 66.28.110</u> <u>RCW 66.28.120</u> <u>RCW 66.28.180</u> <u>WAC 314-20-020</u> <u>WAC 314-20-030</u> <u>WAC 314-20-100</u> <u>WAC 314-20-130</u> <u>WAC 314-24-003</u> <u>WAC 314-24-006</u> <u>WAC 314-24-040</u> <u>WAC 314-24-080</u> <u>WAC 314-24-090</u> <u>WAC 314-24-190</u> <u>WAC 314-28-090</u></p>	<p>3 day suspension or \$500 monetary option</p>	<p>5 day suspension or \$2,500 monetary option</p>	<p>10 day suspension or \$5,000 monetary option</p>	<p>20 day suspension or \$10,000 monetary option</p>
<p>Agents violations: Non-retail licensee employing an unlicensed agent. <u>RCW 66.24.310</u> <u>RCW 66.28.050</u> <u>WAC 314-44-005</u></p>	<p>3 day suspension or \$500 monetary option</p>	<p>5 day suspension or \$2,500 monetary option</p>	<p>10 day suspension or \$5,000 monetary option</p>	<p>20 day suspension or \$10,000 monetary option</p>
<p>Unauthorized product/unapproved storage or delivery. <u>RCW 66.24.140</u> <u>RCW 66.24.160</u> <u>RCW 66.24.170</u> <u>RCW 66.24.185</u> <u>RCW 66.24.200</u> <u>RCW 66.24.203</u> <u>RCW 66.24.206</u> <u>RCW 66.24.240</u> <u>RCW 66.24.244</u> <u>RCW 66.24.250</u> <u>RCW 66.24.261</u> <u>RCW 66.24.395</u> <u>RCW 66.28.010</u> <u>RCW 66.44.140</u> <u>RCW 66.44.150</u> <u>RCW 66.44.160</u> <u>RCW 66.44.170</u> <u>WAC 314-20-015</u> <u>WAC 314-20-017</u> <u>WAC 314-20-055</u> <u>WAC 314-20-095</u> <u>WAC 314-20-120</u> <u>WAC 314-20-160</u> <u>WAC 314-20-170</u> <u>WAC 314-24-070</u></p>	<p>3 day suspension or \$500 monetary option</p>	<p>5 day suspension or \$2,500 monetary option</p>	<p>10 day suspension or \$5,000 monetary option</p>	<p>20 day suspension or \$10,000 monetary option</p>

Violation type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
<p><u>WAC 314-24-115</u> <u>WAC 314-24-120</u> <u>WAC 314-24-140</u> <u>WAC 314-24-160</u> <u>WAC 312-24-161</u> <u>WAC 314-24-220</u> <u>WAC 314-25-020</u> <u>WAC 314-25-030</u> <u>WAC 314-25-040</u> <u>WAC 314-28-050</u></p>				
<p>Sampling/tasting violations. <u>RCW 66.20.010</u> <u>RCW 66.24.145</u> <u>RCW 66.24.170</u> <u>RCW 66.28.040</u> <u>RCW 66.28.150</u> <u>WAC 314-20-015</u> <u>WAC 314-24-160</u> <u>WAC 314-45-010</u> Chapter 314-64 WAC</p>	<p>3 day suspension or \$500 monetary option</p>	<p>5 day suspension or \$2,500 monetary option</p>	<p>10 day suspension or \$5,000 monetary option</p>	<p>20 day suspension or \$10,000 monetary option</p>
<p>Entertainment/instruction/meeting/trade show violations. <u>RCW 66.20.010</u> <u>RCW 66.28.010</u> <u>RCW 66.28.042</u> <u>RCW 66.28.043</u> <u>RCW 66.28.150</u> <u>RCW 66.28.155</u> <u>WAC 314-45-010</u></p>	<p>3 day suspension or \$500 monetary option</p>	<p>5 day suspension or \$2,500 monetary option</p>	<p>10 day suspension or \$5,000 monetary option</p>	<p>20 day suspension or \$10,000 monetary option</p>
<p>((Providing money or money's worth less than \$100.</p>	<p>3 day suspension or \$250 monetary option</p>	<p>5 day suspension or \$500 monetary option</p>	<p>10 day suspension or \$1,000 monetary option</p>	<p>20 day suspension or \$2,000 monetary option</p>
<p>Providing/accepting money or money's worth: Goods or services worth ((\$100 to \$1,000)) up to \$1,500. <u>RCW 66.28.010</u> <u>WAC 314-12-140</u> <u>WAC 314-44-005</u></p>	<p>3 day suspension or \$500 monetary option</p>	<p>5 day suspension or \$2,500 monetary option</p>	<p>10 day suspension or \$5,000 monetary option</p>	<p>20 day suspension or \$10,000 monetary option</p>
<p>Providing/accepting money or money's worth: Goods or services worth over ((\$1,000)) \$1,500. <u>RCW 66.28.010</u> <u>WAC 314-12-140</u> <u>WAC 314-44-005</u></p>	<p>Cost of item or service provided plus: 3 day suspension or \$1,000 monetary option</p>	<p>Cost of item or service provided plus: 5 day suspension or \$2,500 monetary option</p>	<p>Cost of item or service provided plus: 10 day suspension or \$5,000 monetary option</p>	<p>Cost of item or service provided plus: 20 day suspension or \$10,000 monetary option</p>

Violation type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Providing/accepting exclusive or contingency agreements. <u>RCW 66.28.010</u> <u>RCW 66.24.570</u> <u>WAC 314-12-140</u> <u>WAC 314-05-030</u>	3 day suspension or \$1,000 monetary option	10 day suspension or \$6,000 monetary option	20 day suspension or \$12,000 monetary option	30 day suspension or \$20,000 monetary option
Unauthorized interest or ownership in retail license. <u>RCW 66.28.010</u> <u>WAC 314-12-030</u>	3 day suspension or \$1,000 monetary option	30 day suspension or \$20,000 monetary option	Cancellation of license	
Failure to obtain surety bond/savings account, if required by the board. <u>RCW 66.24.210</u> <u>RCW 66.24.290</u> <u>WAC 314-19-020</u>	Immediate suspension of license until surety bond has been obtained and all missing reports are filed and late taxes are paid.			
Failure to file tax/shipment report. <u>RCW 66.24.210</u> <u>RCW 66.24.290</u> <u>WAC 314-19-005</u> <u>WAC 314-19-010</u> <u>WAC 314-19-020</u>	3 day suspension or \$250 monetary option	5 day suspension or \$500 monetary option	10 day suspension or \$1,000 monetary option	20 day suspension or \$2,000 monetary option
<u>Certificate of approval (COA) and/or authorized representative violations.</u> <u>RCW 66.24.206</u> <u>WAC 314-19-005</u> <u>WAC 314-19-010</u> <u>WAC 314-19-020</u>	<u>15 day suspension or \$100 monetary option</u>	<u>30 day suspension or \$500 monetary option</u>	<u>180 day suspension or \$1,000 monetary option</u>	<u>Cancellation of license</u>

WSR 09-21-056
PERMANENT RULES
SOUTHWEST CLEAN
AIR AGENCY

[Filed October 15, 2009, 9:12 a.m., effective November 15, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: SWCAA 400-030 Definitions. This [is] an existing section containing the definitions of words and phrases used throughout SWCAA 400. The proposed rule changes revise existing definitions, add new definitions, and make administrative edits. The changes are necessary to maintain consistency with state and federal programs.

SWCAA 400-040 General Standards for Maximum Emissions. This is an existing section that establishes a minimum set of air emission standards for all sources. The proposed rule changes are necessary [to] maintain consistency between agency rules and forthcoming agency policy.

SWCAA 400-045 Permit Application for Nonroad Engines. This is an existing section identifying requirements for permit applications for nonroad engine projects. The proposed rule changes are intended to match similar features in the agency's stationary source application requirements.

SWCAA 400-046 Application Review Process for Nonroad Engines. This is an existing section identifying requirements for the processing and approval of permit applications for nonroad engine projects. The proposed rule changes are being proposed as general improvements to the permitting regulation.

SWCAA 400-050 Emission Standards for Combustion and Incineration Units. This is an existing section that establishes a minimum set of air emission standards for all combustion and incineration units. The proposed rule change is being proposed to improve the standard requirements for reporting emissions from the affected source categories.

SWCAA 400-052 Stack Sampling of Large Combustion Sources. This is an existing section establishing minimum requirements for sampling emissions from major combustion sources. SWCAA proposed to delete this rule section in its entirety because the provisions of this rule section have been determined to be obsolete.

SWCAA 400-070 Emission Standards for Certain Source Categories. This is an existing section that establishes minimum air emission standards and work practices for selected general source categories. The proposed rule changes are intended to provide better control of air emissions and provide a sunset date for new perchloroethylene dry cleaner installations.

SWCAA 400-072 Emission Standards for Selected Small Source Categories. This is a new section that establishes air emission standards, work practices, and monitoring/reporting requirements to be used in lieu of new source review for selected small source categories. The proposed rule changes are intended to provide a quicker and less expensive mechanism for approving affected emission units in lieu of the new source review process outlined in SWCAA 400-110.

SWCAA 400-074 Gasoline Transport Tankers. This is an existing section containing registration and compliance requirements for gasoline transport tankers. The proposed rule changes revise the applicability of subsection 400-074(1) to be consistent with the remainder of rule section, and update an outdated rule citation.

SWCAA 400-075 Emission Standards for Stationary Sources Emitting Hazardous Air Pollutants. This is an existing section that adopts by reference the federal standards relating to hazardous air pollutant standards contained in 40 C.F.R. Parts 61, 63, and 65. The proposed rule changes are necessary to support the agency's implementation of the affected federal standards.

SWCAA 400-100 Registration Requirements. This is an existing section identifying requirements for registration and inspection of air contaminant sources. The proposed rule changes are intended to incorporate current agency policy and improve clarity.

SWCAA 400-101 Emission Units Exempt from Registration Requirements. This is an existing section identifying those sources that are exempt from the registration requirements of SWCAA 400-100. The proposed rule changes are intended to make exemption criteria easier to understand and apply.

SWCAA 400-105 Records, Monitoring and Reporting. This is an existing section identifying requirements for emission monitoring, emission sampling and reporting, and submission of emission inventories. The proposed rule changes are intended to improve consistency in the various monitoring and reporting requirements that are applicable to registered sources.

SWCAA 400-106 Emission Testing and Monitoring at Air Contaminant Sources. This is an existing section that establishes a minimum set of standards for emission testing and monitoring at air contaminant sources. The proposed rule changes are necessary to ensure that test/monitoring reports submitted to SWCAA contain all of the information required to determine compliance.

SWCAA 400-107 Excess Emissions. This is an existing section identifying requirements for the reporting of excess emissions, and providing penalty relief for unavoidable excess emissions. The proposed rule changes are necessary to make the affected reporting timeline consistent with similar reporting timelines in other air pollution programs.

SWCAA 400-109 Air Discharge Permit Applications. This is an existing section that identifies requirements for the submission and content of air discharge permit applications. The proposed rule changes are necessary to formally incorporate current agency practice into the applicable rules.

SWCAA 400-110 Application Review Process for Stationary Sources (New Source Review). This is an existing section identifying requirements for the processing and approval of air discharge permit applications. The proposed rule changes are necessary to ensure consistency with overlapping state/federal regulations and to formally incorporate agency permitting policy.

SWCAA 400-115 Standards of Performance for New Sources. This is an existing section that adopts by reference the federal new source performance standards contained in 40 C.F.R. Part 60. The proposed rule changes are necessary for proper implementation and enforcement of the affected federal standards.

SWCAA 400-130 Use of Emission Reduction Credits. This is an existing section identifying requirements, and procedures of use, for emission reduction credits. The proposed rule changes make minor administrative edits.

SWCAA 400-131 Deposit of Emission Reduction Credits Into Bank. This is an existing section identifying requirements and procedures for depositing emission reduction credits into SWCAA's emission credit bank. The proposed rule changes are being proposed in order to make the agency's credit program consistent with applicable federal requirements.

SWCAA 400-136 Maintenance of Emission Reduction Credits in Bank. This is an existing section identifying requirements for maintenance of SWCAA's emission credit bank, issuance of emission reduction credits, and management of expired credits. The proposed rule changes are intended to make terminology in the rule section more consistent with terminology used in the remainder of SWCAA 400.

SWCAA 400-171 Public Involvement. This is an existing section identifying requirements for public notice of agency actions, and the process by which public involvement is to be administered. This section also identifies those documents that are subject to a formal public notice and those that are not subject to a formal public notice. The proposed rule changes are intended to clarify the public notice/involvement process.

SWCAA 400-200 Vertical Dispersion Requirement, Creditable Stack Height and Dispersion Techniques. This is an existing section identifying presumptive requirements for new exhaust stack installations, and describes the procedure by which the maximum allowable stack height is to be determined. The proposed rule change is intended to improve implementation of the affected requirement.

SWCAA 400 Appendix C Federal Standards Adopted by Reference. This is a new section containing informational

lists of all federal regulations adopted by reference via SWCAA 400-075 and 400-115.

Citation of Existing Rules Affected by this Order: Repealing SWCAA 400-052; and amending SWCAA 400-030, 400-040, 400-045, 400-046, 400-050, 400-070, 400-074, 400-075, 400-100, 400-101, 400-105, 400-106, 400-107, 400-109, 400-110, 400-115, 400-130, 400-131, 400-136, 400-171, 400-200, and SWCAA 400 - Appendix C.

Statutory Authority for Adoption: RCW 70.94.141.

Adopted under notice filed as WSR 09-14-058 on June 29, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 20, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 20, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 1, 2009.

Robert D. Elliott
Executive Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 09-23 issue of the Register.

WSR 09-21-071
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed October 16, 2009, 11:08 a.m., effective November 16, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of these amendments is to make rules regarding Basic Food and cash benefits electronic benefit transfer (EBT) transaction adjustments consistent with regulations under 7 C.F.R. 274.12 and Quest operating rules related to Basic Food and cash EBT benefits. The department is adopting rules to reflect the adjustment of Basic Food and cash benefit client debit transactions. Creating rules to support the FNS process will inform households of when the department will make adjustments for Basic Food and cash benefits.

Citation of Existing Rules Affected by this Order: Amending WAC 388-412-0025.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.04.005, 74.08.090, and 74.08A.020.

Other Authority: 7 C.F.R. 274.12 and Quest operating rules.

Adopted under notice filed as WSR 09-17-098 on August 18, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: October 15, 2009.

Stephanie E. Vaughn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-04-029, filed 1/29/07, effective 3/1/07)

WAC 388-412-0025 How do I get my benefits? (1)

We send your cash benefits to you by either:

(a) Electronic benefit transfer (EBT), which is a direct deposit into a DSHS account that you access with a debit card called the Washington EBT Quest card;

(b) Electronic funds transfer (EFT), which is a direct deposit into your own bank account;

(c) A warrant (check) to a payee who is not approved for direct deposit; or

(d) A warrant (check) to you if you get:

(i) Diversion cash assistance (DCA) that cannot be paid directly to a vendor;

(ii) Additional requirements for emergent needs (AREN) that cannot be paid directly to a vendor;

(iii) Ongoing additional requirements (OAR) that cannot be paid directly to a vendor;

(iv) Clothing and personal incidentals (CPI) payments; or

(v) State supplemental payment (SSP) and you do not receive your benefit through EFT.

(2) We send your **Basic Food** benefits to you by EBT.

(3) We set up an EBT account for the head of household of each AU that receives benefits by EBT.

(4) You use a Quest debit card to access your benefits in your EBT account. You select a personal identification number (PIN) that you must enter when using this card.

(5) You must use your cash and Basic Food benefits from your EBT account. We do not convert cash or Basic Food benefits to checks.

(6) We deposit your Basic Food benefits into your EBT account by the tenth day of the month based on your Basic Food assistance unit number as described in WAC 388-412-0020.

(7) **Unused EBT benefits:** If you do not use your EBT account for three hundred sixty-five days, we cancel the cash and Basic Food benefits on your account.

(a) **Replacing Basic Food benefits:**

(i) We **can replace** cancelled benefits we deposited **less than three hundred sixty-five days** from the date you ask for us to replace your benefits.

(ii) We **cannot replace** cancelled benefits deposited **three hundred sixty-five or more days** from the date you ask us to replace your benefits.

(b) **Replacing cash benefits:** We **can replace** cancelled cash benefits for you or another member of your assistance unit. Cash benefits are not transferable to someone outside of your assistance unit.

(8) **Replacing cash warrants:** If we issued you cash benefits as a warrant we can replace these benefits for you or a member of your assistance unit. Cash benefits are not transferable to someone outside of your assistance unit.

(a) If we issued the benefits as a warrant one hundred sixty or fewer days ago, your local office can replace the warrant.

(b) If we issued the benefits as a warrant more than one hundred sixty days ago, the Office of Accounting Services can replace the warrant.

(9) Correcting your EBT balance: When you make a purchase with your EBT card a system error can occur where the purchase amount is not deducted from your EBT account. When the error is discovered the following will happen:

(a) You will be notified in writing of the system error before the money is removed from your account; and

(b) You will have ninety days to request an administrative hearing. If you ask for an administrative hearing within ten calendar days, the money will not be removed from your EBT account unless:

(i) You withdraw your administrative hearing request in writing;

(ii) You do not follow through with the administrative hearing process; or

(iii) The administrative law judge tells us in writing to remove the money.

WSR 09-21-075

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed October 16, 2009, 1:00 p.m., effective November 16, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Recently enacted 2SHB 1935 increased the application processing and yearly license fees for adult family home applicants and providers. The new fees had to be implemented by July 26, 2009. The impact of the proposed rule is to make the rule clearer, easier to read, understand, and apply.

Citation of Existing Rules Affected by this Order: Amending WAC 388-76-10025 and 388-76-10070.

Statutory Authority for Adoption: RCW 70.128.040.

Adopted under notice filed as WSR 09-18-118 on September 2, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 2, Repealed 0.

Date Adopted: October 12, 2009.

Stephanie E. Vaughn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10025 License annual fee. (1) The adult family home must pay an annual license fee ((is fifty dollars per adult family home per year)) as required in chapter 70.128 RCW.

(2) The home must send the annual license fee to the department upon receipt of notice of fee due.

~~((3) If the department does not renew the license, the annual license fee is refundable.))~~

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10070 Application—Fees required. (1) The applicant must ~~((send a one hundred dollar fee with the application form:~~

~~(a) Fifty dollars of this fee is the application processing fee; and~~

~~(b) Fifty dollars is the annual license fee)) pay all processing and license fees established by chapter 70.128 RCW.~~

(2) The applicant must submit the required fees with the application form.

(3) The processing fee will be returned as required by chapter 70.128 RCW.

(4) The ((fifty dollar annual)) license fee will be returned to the applicant ((by the department)) if the application is withdrawn, voided or the license is denied.

NEW SECTION

WAC 388-76-10073 Application—Processing fees required. The processing fee, required in chapter 70.128 RCW, applies to any application submitted to the department, including but not limited to an application for licensure, change of ownership, or a change of location.

WSR 09-21-092
PERMANENT RULES
DEPARTMENT OF LICENSING

[Filed October 20, 2009, 9:53 a.m., effective January 1, 2010]

Effective Date of Rule: January 1, 2010.

Purpose: Amending a section within chapter 308-108 WAC to update driver training school program rules to make administrative enhancements.

Citation of Existing Rules Affected by this Order: Amending WAC 308-108-150.

Statutory Authority for Adoption: RCW 46.82.290.

Adopted under notice filed as WSR 09-15-193 on July 22, 2009.

Changes Other than Editing from Proposed to Adopted Version:

- WAC 308-108-150 (8)(e), revised to provide that the parent night must be no less than one hour, which may be a part of the thirty hours required for student learning. Also revised to permit the student's guardian or employer to substitute for a parent, to allow for the fact that a guardian or employer may supervise driving experience necessary to apply for an intermediate driver's license under RCW 46.20.075, and authorize the issuance of a license to a driver under age eighteen under RCW 46.20.100.
- WAC 308-108-150(9), this subsection has been deleted.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 8, 2009.

Walt Fahrer
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-01-069, filed 12/18/06)

WAC 308-108-150 Curriculum schedule. A driver training school may offer classroom and behind the wheel instruction to students throughout the year. In order to be approved by the director, a curriculum schedule must satisfy or include the following requirements:

(1) Classroom and behind the wheel instruction that is complementary. This means that classroom instruction is integrated in a timely manner with behind the wheel instruction;

(2) Having students under age eighteen complete no more than two hours of classroom instruction during any single day, except for make-up classes which shall be no more than two additional hours of class not to exceed three total make-up classes during the traffic safety education course, and no more than one hour of behind the wheel instruction during any single day;

(3) For students under the age of eighteen to meet the traffic safety education requirement of RCW 46.20.100, instruction that:

(a) Includes not less than thirty hours of classroom instruction; ~~((and))~~

(b) Meets the behind the wheel instruction and observation requirements of WAC 308-108-160;

(c) Consists of at least one hour minimum and no more than two hours maximum of class session during a single day, except when adding a make-up class as provided in subsection (2) of this section, in which case classroom instruction must not exceed four hours in a single day;

(d) With the exception of make-up lessons, ensures that all students in a classroom session must be on the same lesson. Open enrollment or self-paced instruction is not permitted; and

(e) Ensures that each traffic safety education classroom course is at least fifty-percent instructor-led verbal instruction consisting of:

(i) In-person training;

(ii) Teacher and student interaction; and

(iii) Questions and answers;

(4) Classroom and behind the wheel instruction in a course that is scheduled for not less than thirty days ~~((and not more than twenty-six))~~ in which lessons must be in contiguous weeks ~~((in length));~~

~~((Student enrollment in and attendance of classes no later than the third class session after the start date of the course. Once enrollment is closed, no new students may be enrolled in that traffic safety education course or participate in the classroom instruction or behind the wheel instruction and observation for that course))~~ Students may not enroll in a traffic safety education course after the third class session of any given course;

~~((Arrangements for any missed classroom sessions to be made up within the maximum twenty-six week length of the course.))~~ All make-up assignments and instruction must be equivalent to the instruction given during the missed sessions;

(7) Distributing to students instructional material developed by the department and the federally designated organ procurement organization for Washington state relating to organ and tissue donation awareness education; and

(8) Review and approval of the local school curriculum by the department as part of the initial application for a school license. To help ensure that minimum standards of instruction are met, the local school curriculum must include but is not limited to the following:

(a) Comprehensive elements of classroom and behind the wheel instruction as defined by the department;

(b) Comprehensive written and behind the wheel examinations, to include:

(i) Written examinations as submitted to and approved by the department; and

(ii) Behind the wheel examination criteria as approved by the department;

(c) A flow chart that indicates how the classroom and behind the wheel instruction are integrated; ~~(and)~~

(d) Information on the state of Washington's intermediate license requirements, restrictions, violations, and sanctions for violation of these requirements; and

(e) A designated time for a parent, guardian, or employer night that is no less than one hour, which may be a part of the thirty hours required for student training, and must include:

(i) Instruction on the parent, guardian, or employer responsibilities and the importance of parent, guardian, or employer involvement with the teen driver;

(ii) Information on intermediate license laws, restrictions, and sanctions;

(iii) An introduction to the parent guide to teen driving;
and

(iv) A questions and answers period.

WSR 09-21-093

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed October 20, 2009, 9:54 a.m., effective November 20, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending sections within chapter 308-108 WAC and creating a new section to update driver training school program rules to account for recent legislation, update fees, and make administrative enhancements.

Citation of Existing Rules Affected by this Order: Amending WAC 308-108-020, 308-108-025, 308-108-070, 308-108-080, 308-108-090, 308-108-110, 308-108-120, 308-108-140, and 308-108-170.

Statutory Authority for Adoption: RCW 46.82.290.

Adopted under notice filed as WSR 09-15-193 on July 22, 2009.

Changes Other than Editing from Proposed to Adopted Version:

- WAC 308-108-110 [(1)](a), reinstated language permitting the inclusion of an emergency strobe light in place of a reflective triangle or traffic cones in the list of equipment necessary to be carried in traffic safety education vehicles.
- WAC 308-108-160, withdrawn.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 9, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 8, 2009.

Walt Fahrner

Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-01-069, filed 12/18/06)

WAC 308-108-020 Definitions. The definitions of this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Behind the wheel instruction" means that portion of a traffic safety education course that consists of on-street, dual-controlled vehicle operation or similar instruction given under simulated conditions that has ~~((had prior approval of))~~ been approved by the director.

(2) "Branch office" or "branch classroom" means a facility within a thirty-five mile radius of a driver training school's established place of business, except where the thirty-five mile radius requirement has been waived or extended by the department as provided by RCW 46.82.360 (6)(c), that has been approved by the department for use by the driver training school.

(3) "Engage in a course of instruction" means to enroll in, schedule, collect a fee for, or sign an application for an instruction permit in order to attend or take part in a driver training education course.

(4) "Inactive Instructor" means an instructor with a valid Washington instructor's license who is no longer employed by or otherwise associated with a licensed driver training school.

(5) "Instructor-trainer" means a currently licensed instructor who is training ~~((driving))~~ traffic safety education instructors and who has not less than:

(a) One thousand hours of experience in providing traffic safety education in the past year;

(b) Five years of previous experience in providing traffic safety education; or

(c) One thousand hours or five years experience in the field of traffic safety and proof of training acceptable to the director in how to teach and train others, and not less than three hundred hours of previous experience in training others.

(6) "Records" means all documents, papers and reports required to own a driver training school, including but not limited to:

(a) Vehicle registration, title, insurance policy, and maintenance information;

(b) Business financial documents, such as franchise agreements, corporate documents, bank records, partnership agreements, lease agreements, and purchase and sale agreements; and

(c) Student classroom and behind-the-wheel instruction reports.

(7) "Student" means any person ~~((attending a))~~ enrolled in an approved driver training education course who is at least fifteen years of age.

AMENDATORY SECTION (Amending WSR 07-01-069, filed 12/18/06)

WAC 308-108-025 Fees. The following fees shall be charged by the driver services division, department of licensing:

Title of Fee	Fee
Driver training school license original application	\$500.00
Driver training school license renewal application	250.00
Driver training school license transfer	500.00
Branch office or branch classroom original application	250.00
Branch office or branch classroom renewal application	125.00
Instructor's license original application	((75.00)) 125.00
Instructor's license renewal application	((50.00)) 100.00
Duplicate license	10.00
Knowledge and/or skill examination	25.00

AMENDATORY SECTION (Amending WSR 07-01-069, filed 12/18/06)

WAC 308-108-070 Background check and fingerprint check. An instructor, owner, or other person affiliated with a school who has contact with students must complete a background check through the Washington state patrol criminal identification system and through the federal bureau of investigation, including a fingerprint check, as required by RCW 46.82.325(1).

(1) An applicant for an instructor's license must complete the check at the time of initial application or, for a currently licensed instructor who has not completed such check within the past five years, at the time of the next application for a license renewal.

(2) An owner must complete the check at the time of initial application for a driver training school license or, for an owner of a currently licensed school who has not completed such check within the past five years, at the time of the next application for a license renewal.

(3) A person affiliated with a school who has contact with students must complete the check at the time of initial affiliation with the school or, for a person who is currently affiliated with a school who has not completed such check within the past five years, within the sixty-days prior to the next application for a license renewal for the school. A person who must complete the check under this subsection at the time of initial affiliation with a school may begin duties following the department's notice that it has received an acceptable local criminal background check through the Washington state patrol criminal identification system, pending the outcome of the fingerprint check using the fingerprint card.

(4) For the purpose of chapter 46.82 RCW, a person affiliated with a school is considered to be a person directly

or indirectly interested in the driver training school's business.

AMENDATORY SECTION (Amending WSR 07-01-069, filed 12/18/06)

WAC 308-108-080 Instructor's license—Application. (1) To ensure that an applicant or instructor meets the conditions set out in RCW 46.82.330 (2)(a), the department shall review the complete abstract of driving record for all instructor's license applicants and licensed instructors. For this purpose:

(a) A moving traffic violation is an offense listed as a moving violation in WAC 308-104-160. The department will determine the number of moving traffic violations received by an applicant within a given time period based on the date(s) that the violation(s) occurred.

(b) ~~((A))~~ A drug or alcohol-related traffic violation will be deemed to have occurred if ~~((within the seven-year period immediately preceding the time of application an alcohol-related traffic incident occurred that))~~ it resulted in:

(i) A conviction or finding that a traffic infraction was committed for violation of RCW 46.61.502, 46.61.503, 46.61.504, 46.61.519, 46.61.5195, 46.61.520 (1)(a), 46.61.522 (1)(b), or 46.61.5249, or a substantially similar law, administrative regulation, local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state;

(ii) An administrative action imposed under RCW 46.20.3101;

(iii) An administrative action imposed under RCW 46.25.090 (1)(a), (b), or (e); or

(iv) Entry into a deferred prosecution agreement for an alcohol-dependency based case.

~~((c) A driver's license suspension, cancellation, revocation, or denial will be deemed to exist within the preceding five years if any such suspension, cancellation, revocation, or denial has been in effect at any time within the five-year period immediately preceding the time of application.))~~

(2) The instructor's license applicant must submit satisfactory evidence of completion of a course of instruction as approved by the director in the training of drivers at time of initial application.

(3) For instructor's licenses that expire on or after July 1, 2007, each application for renewal of an instructor's license must be accompanied by proof of no less than eight hours of continuing professional development as approved by the director.

(4) Application for initial or renewal of an instructor's license is not complete until the applicant passes any examination requirement for licensure under RCW 46.82.320(1) or 46.82.330 (2)(e).

AMENDATORY SECTION (Amending WSR 07-01-070, filed 12/18/06)

WAC 308-108-090 Instructing instructors in the training of drivers. (1) The course of instruction approved by the director in the training of drivers required under RCW 46.82.330 (2)(d) shall include instruction in driver education classroom methods and principles that prepare an instructor

to provide traffic safety education as described in these rules and in state law.

(2) To ensure the quality of the training given, the instruction course must:

(a) Be provided by, and under the direct supervision of:

(i) An institution of higher learning accredited by the Northwest Association of Schools and Colleges or by an accrediting association recognized by the higher education board;

(ii) A licensed private vocational school as that term is defined by RCW 28C.10.020(7); or

(iii) An instructor-trainer.

(b) Be not less than one hundred hours in total length and consist of:

(i) Not less than ~~((fifty))~~ forty hours of instruction in behind the wheel teaching methods;

(ii) Not less than ~~((ten))~~ twenty hours of supervised practice in behind the wheel teaching of driving techniques;

(iii) Not less than forty hours total of instruction that includes all of the following areas:

(A) Education and special education;

(B) Driver education teacher, instructor, or trainer skills training;

(C) Classroom teaching techniques;

(D) Communication skills;

(E) Teaching the concepts of driving and traffic safety to others;

(F) Educational methods, theories and concepts in teaching a driver education course, and knowledge of all aspects of the driving task;

(G) Developing instructional materials and activities that aid student learning and performance;

(H) Defining and describing the nature of the driving task on public highways;

(I) Establishing and maintaining classroom organization;

(J) Managing enrollment, student scheduling, student records, and required reports; and

(K) Planning a course of student instruction with outlines, lesson plans, and student performance evaluation tools.

(3) The department must approve an instructor training course curriculum before use by an instructor-trainer.

(4) Any revision to an approved instructor training course curriculum used by an instructor-trainer must be submitted for review and approval by the department no less than thirty days prior to its use.

(5) The department may consider other instructional methods, instruction providers, or academic instruction in lieu of those listed in subsection (2) of this section.

~~(6) ((Before an instructor training course is given, the instructor-trainer or owner must submit a list of the dates, times, and locations for the training, the names of the persons to be trained, and the name of the instructor-trainer who will be providing training.~~

~~(7))~~ The department may monitor instructor education courses at any time to ensure that the instructor training requirements of this section are being satisfied.

AMENDATORY SECTION (Amending WSR 07-01-069, filed 12/18/06)

WAC 308-108-110 Traffic safety education vehicles.

(1) All vehicles used for student instruction by a commercial driver training school shall:

(a) Carry a minimum twenty-piece ~~((Occupational Safety and Health Act (OSHA)))~~ approved first aid kit, fire extinguisher safely secured in the vehicle and fully charged, and an emergency strobe light, ~~((or))~~ reflective ~~((triangles))~~ triangle, or two eighteen-inch traffic cones;

(b) ~~((Pass))~~ Maintain an annual vehicle inspection form meeting minimum equipment and safety criteria established by the department that has been conducted by or for the school owner; and

(c) Be used exclusively for driver training purposes at all times when student instruction is being given.

(2) Records of all traffic safety education vehicles used by a commercial driver training school shall:

(a) Be maintained at the school's primary place of business; and

(b) Include the original insurance policy or policies covering the vehicles and copies of the current vehicle registrations and annual vehicle safety inspection report.

AMENDATORY SECTION (Amending WSR 07-01-069, filed 12/18/06)

WAC 308-108-120 Administration. (1) The driver training school's license and all instructor certificates shall be posted in a conspicuous place at the location where instruction takes place. The school license must be posted before engaging students in a course of instruction.

(2) Each driver training school shall adopt and provide for its customers a written policy that includes, but is not limited to:

(a) Enrollment criteria;

(b) Student fees and student fee refunds;

(c) Course failures and course repeats;

(d) The minimum and maximum course duration;

(e) Refusing to allow a student to attend a driver training education course before the age of fifteen years;

(f) Refusing to enroll new students in a driver education course after the first three classes have been completed; and

(g) Information about Washington's intermediate licensing requirements, restrictions, and penalties and a place for parents to initial indicating that they have received the information.

(3) Driver training school owners and instructors shall maintain individual student records on forms provided by the department or on substantially similar forms that have been approved by the department. Student records shall document for each student:

(a) Course attendance, starting, and ending dates;

(b) The dates and times for each session of classroom and behind the wheel instruction;

(c) Classroom and behind the wheel progress and time involvement or flowchart;

(d) Classroom and behind the wheel performance evaluation results;

(e) The name and signature of the instructor who provided each session of classroom and behind the wheel instruction; and

(f) That both the student and parent received intermediate license requirements, restriction, and penalty information.

(4) Student records must be maintained by a driver training school for ~~((the past five))~~ three years from the date instruction has ended.

(5) Driver training school records that must be maintained by a driver training school for ~~((the past five))~~ three years, include but are not limited to:

- (a) The school's written curriculum guide;
- (b) Insurance policies;
- (c) Collision or injury reports;
- (d) Traffic safety education vehicle registration records;

and

(e) Records of any traffic violations committed by an instructor employed by the school.

(6) Upon the sale or other transfer of a school by its owner, the school and student records shall be transferred to the new owner and become the property and responsibility of the new owner.

(7) The driving school owner must notify the department within thirty days of closing the school and submit all unused traffic safety certificates and student course completion reports to the department.

(8) Class size must not exceed city fire code requirements for the classroom.

(9) Traffic safety education classroom hours shall not overlap between two or more classes.

(10) Failure to renew a school license before it expires will put all related branch office or branch classroom licenses into an inactive status.

(11) Student records are subject to department audit and inspection anytime after ninety days of the school's initial licensing, or as soon as practicable for the department.

(12) Branch office or classroom locations must display an official license issued by the department in a conspicuous place.

AMENDATORY SECTION (Amending WSR 07-01-069, filed 12/18/06)

WAC 308-108-140 Reporting requirements. All driver training school owners shall:

(1) Report to the department within ten days any driving or traffic-related incidents involving an instructor employed by the school, including but not limited to:

- (a) Conviction for a traffic violation;
- (b) Finding that a traffic infraction has been committed;
- (c) Entry into a deferred prosecution agreement; or
- (d) Suspension, revocation, cancellation, or denial of driving privileges.

(2) Report to the department within twenty-four hours following any traffic safety education vehicle involved in a traffic collision for which an accident report must be or has been made under the provisions of RCW 46.52.030. Prior to the return to service of any traffic safety education vehicle that has been involved in a collision, the school owner must forward a vehicle inspection report to the department.

(3) Forward to the department by the seventh day of each month, a report of student enrollment in traffic safety education courses provided by the school, including but not limited to:

(a) The start date and end date of any courses provided by the school that are initiated during the reporting period, including the total number of students enrolled in each course;

(b) The names and certificate numbers of all instructors providing classroom and/or behind the wheel instruction for each course;

(c) The names and instruction permit or driver's license numbers or dates of birth of all students enrolled in each course, along with the identifying number of the traffic safety education certificate reserved for each student for issuance upon successful completion of the course.

(4) Not less than annually, ~~((forward to the department))~~ have completed and have on file at the main school location a vehicle inspection report as required under WAC 308-108-110 (1)(b) for all traffic safety education vehicles in use by the school.

(5) Report to the department within ten days any new vehicles used by the school for instructional purposes or any vehicles taken out of service.

AMENDATORY SECTION (Amending WSR 07-01-069, filed 12/18/06)

WAC 308-108-170 Ensuring student accomplishment. (1) Each driver training school must have a written curriculum guide available to each instructor and such guide shall be used for student instruction.

(2) In order to receive a traffic safety education certificate, all students under the age of eighteen must satisfactorily complete all portions of the course of instruction included in the student curriculum as approved by the driver instructors' advisory committee.

(3) In order to satisfactorily complete a school's driver training course, all students under the age of eighteen must pass a comprehensive driving knowledge and skills test or tests ~~((meeting))~~ that deals with all or many of the relevant details of the course curriculum that meets the standards established by the department.

(4) Each driver training school must assess the needs and progress of students and give appropriate direction for additional driving experience and/or parent guided practice.

NEW SECTION

WAC 308-108-165 Prohibition on wireless communication devices during instruction. (1) Driving school instructors must not use wireless communication devices, hands-free or otherwise, that distract from or interfere with the behind the wheel or classroom instruction task. This includes the use of any communications devices that result in verbal or written text responses while conducting instruction. While supervising the operation of a vehicle, instructors are additionally prohibited from sending or receiving messages with these devices. Ring volumes for these devices, or any phone in proximity, are to be silenced so as not to interfere in

any way with the student learning or interacting with the instructor.

(2) This section does not apply to voice activated GPS devices or classroom devices that are being used as part of an approved curriculum. This section also does not preclude the use of devices to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property, as permitted under RCW 46.61.667.

(3) An unreasonable risk associated with a failure to obey this section is a violation of RCW 18.235.130(4).

WSR 09-21-100
PERMANENT RULES
HOME CARE
QUALITY AUTHORITY

[Filed October 20, 2009, 4:24 p.m., effective November 20, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: An amendment is necessary to maintain consistency with other WAC, statute and policies. This amendment will further clarify reasons for removing or denying an individual provider or a prospective provider from the referral registry.

Citation of Existing Rules Affected by this Order: Amending WAC 257-10-130.

Statutory Authority for Adoption: RCW 74.39A.280(3) Authority duties.

Adopted under notice filed as WSR 09-17-145 on August 19, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 20, 2009.

R. A. Hall
Executive Director

AMENDATORY SECTION (Amending WSR 09-10-005, filed 4/22/09, effective 5/23/09)

WAC 257-10-130 What information may be considered cause for denying an individual provider or prospective individual provider placement on the referral registry? An individual provider may be denied placement on the referral registry for the following reasons:

(1) A background check that results in disqualifying crimes based on ~~((criteria as specified in chapter 43.43 RCW))~~ appropriate department of social and health services list of crimes and negative actions.

(2) Lack of disclosure on background authorization form.

(3) Inclusion on any state abuse and neglect directory.

(4) Information that a current and valid protective order exists and was issued in the state of Washington barring contact with children, vulnerable adults or persons with disabilities.

(5) A reasonable, good faith belief that an individual provider or prospective individual provider is unable to meet the care needs of consumers.

(6) The background check reveals an offense or pattern of offenses that the executive director determines may put consumers at risk.

(7) Department of social and health services IP contract is denied.

WSR 09-21-106
PERMANENT RULES
SENTENCING GUIDELINES COMMISSION

[Filed October 21, 2009, 11:10 a.m., effective November 21, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To repeal chapter 437-10 WAC from the administrative code. The purpose is to make changes to the bylaws more expedient by removing them from the rule-making process. The sentencing guidelines commission (SGC) will continue to operate under bylaws, but by removing them from the administrative code, the body will be able to respond to changing circumstances immediately. For example, the current bylaws according to WAC 437-10-080 allow the commission to change the bylaws by a simple majority. However, this change may not take effect for at least four months under the rule-making process. The anticipated effects are to allow the commission to respond more quickly to emerging issues. There are no anticipated effects for the public since the bylaws already allow changes to be made by the members' vote, notice of meetings are given on the SGC web site, and time for public comment is given at meetings. The bylaws will also be published on the SGC web site.

Citation of Existing Rules Affected by this Order: Repealing chapter 437-10 WAC.

Statutory Authority for Adoption: RCW 9.94A.850, commission's rule-making authority under chapter 34.05 RCW.

Adopted under notice filed as WSR 09-17-084 on August 17, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 8.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 9, 2009.

Jean Soliz-Conklin
Executive Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 437-10-010 Officers of the sentencing guidelines commission.
- WAC 437-10-020 Meetings of the sentencing guidelines commission.
- WAC 437-10-030 Absences of members from meetings.
- WAC 437-10-040 Quorum.
- WAC 437-10-050 Participation and discussion during sentencing guidelines commission meetings, rules of order, and forms of action.
- WAC 437-10-060 Voting procedures.
- WAC 437-10-070 Minutes.
- WAC 437-10-080 Change in bylaws.

WSR 09-21-107

PERMANENT RULES

SENTENCING GUIDELINES COMMISSION

[Filed October 21, 2009, 11:10 a.m., effective November 21, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Simplifying the agency's public records rules and make them more reader-friendly. Changes include organizing the layout of the chapter and the rules within the chapter. The change is also intended to update references to the Public Records Act (instead of the Disclosure Act) and to refer to the current and correct title, chapter and sections within.

Citation of Existing Rules Affected by this Order: Amending chapter 437-06 WAC.

Statutory Authority for Adoption: RCW 9.94A.850, commission's rule-making authority under chapter 34.05 RCW.

Adopted under notice filed as WSR 09-17-083 on August 17, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 10, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 9, 2009.

Jean Soliz-Conklin
Executive Director

AMENDATORY SECTION (Amending Order 84-01, filed 11/19/84)

WAC 437-06-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Washington state sentencing guidelines commission with the provisions of the Public (~~(Disclosure)~~) Records Act, ((RCW 42.17.250 through 42.17.340)) chapter 42.56 RCW, in conjunction with the Criminal Records Privacy Act, chapter 10.97 RCW, as well as chapter 9.94A RCW.

AMENDATORY SECTION (Amending Order 84-01, filed 11/19/84)

WAC 437-06-020 ((Definitions.)) Times for inspection and copying records. ~~(((1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by the commission regardless of physical form or characteristics.~~

~~(2) "Writing" means handwriting, typewriting, printing, photostating, photographings, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.~~

~~(3) "Commission" means the Washington state sentencing guidelines commission.~~

~~(4) "Disclosure" means inspection and/or copying.~~

~~(5) "Denial of disclosure" denotes any exempting from disclosure of any public record.)~~ All public records are available for inspection and copying at the commission office during normal business hours (8:00 a.m. - 12:00 p.m. and 1:00 p.m. - 5:00 p.m.). However, if these activities would interfere with essential agency functions, the agency reserves the right to require advance notice and to limit the amount of time spent on inspection of documents.

AMENDATORY SECTION (Amending Order 84-01, filed 11/19/84)

WAC 437-06-030 Public records ((available)) officer. ~~(((Requests for any identifiable public record may be initiated~~

at the commission office during normal business hours (8:00 a.m. — 12 and 1:00 p.m. — 5:00 p.m.)) The commission shall ((at all times take the most timely possible action on requests for disclosure, and shall be required to respond in writing within ten working days of receipt of the request for disclosure. The commission's failure to respond shall entitle the person seeking disclosure to petition the public records officer pursuant to WAC 437-06-090.)) designate a public records officer, located in the commission office, who shall be responsible for implementing the commission's rules regarding disclosure of public records, coordinating staff in this regard, and generally ensuring compliance by the staff with public records disclosure requirements.

AMENDATORY SECTION (Amending Order 84-01, filed 11/19/84)

WAC 437-06-040 Request for public records ((officer)). ((The commission shall designate a public record officer, located in the commission office, who shall be responsible for implementing the commission's rules regarding disclosure of public records, coordinating staff in this regard, and generally ensuring compliance by the staff with public records disclosure requirements.)) According to chapter 42.56 RCW, members of the public may inspect, copy, or get copies of public records if they comply with the following procedures:

- (1) Make a request in writing which includes:
 - (a) The name of the person requesting the record;
 - (b) The time of day and calendar date on which the request is made; and
 - (c) The name or description of the records requested.
- (2) A request for disclosure shall be made during the customary business hours or by mail.
- (3) This chapter shall not be construed as giving authority to any agency to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies shall not do so unless specifically authorized or directed by law.
- (4) When a person's identity is relevant to an exemption, that person may be required to provide personal identification, including photographic identification and/or fingerprints.

AMENDATORY SECTION (Amending Order 84-01, filed 11/19/84)

WAC 437-06-050 ((Request for public records.)) Fees—Inspection and copying. ((1) The written request may include:

- (a) The name of the person requesting the record;
 - (b) The time of day and calendar date on which the request is made; and
 - (c) The nature of the request.
- (2) A request for disclosure shall be made during the customary business hours or by mail. Public records shall be made available for inspection and copying during office hours. However, if these activities would interfere with essential agency functions, the agency reserves the right to require advance notice and to limit the amount of time spent on inspection of documents.

(3) This chapter shall not be construed as giving authority to any agency to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies shall not do so unless specifically authorized or directed by law.

(4) If the public record contains material exempt from disclosure pursuant to law, including those laws cited in WAC 437-06-100, the commission must provide the person requesting disclosure with a written explanation for the non-disclosure, pursuant to WAC 437-06-080.

(5) Any person continuing to seek disclosure, after having received a written explanation for nondisclosure, pursuant to WAC 437-06-080, may request a review under the provisions of WAC 437-06-090.

(6) When a person's identity is relevant to an exemption, that person may be required to provide personal identification, including photographic identification and/or fingerprints. (1) No fee shall be charged for the inspection of public records.

(2) The commission shall collect fees, plus postage, to reimburse itself for actual costs incident to providing copies of public records.

(a) Copies produced on copying and duplicating equipment are fifteen cents per page.

(b) Copies of other items such as magnetic tapes and records or other formats will be the cost of the services required to copy them.

(3) Nothing contained in this section shall preclude the commission from agreeing to exchange or provide copies of manuals or other public records with other state or federal agencies. One copy of the implementation manual will be issued to public agencies upon request.

(4) Prepayment of copying costs and postage shall be a prerequisite to copying and/or mailing of public records. However, the public records officer may waive the costs of copying or postage.

AMENDATORY SECTION (Amending Order 84-01, filed 11/19/84)

WAC 437-06-060 ((Fees—Inspection and copying.)) Protection of public records. ((1) No fee shall be charged for the inspection of public records.

(2) The commission shall collect fees, plus postage, to reimburse itself for actual costs incident to providing copies of public records.

(3) Nothing contained in this section shall preclude the commission from agreeing to exchange or provide copies of manuals or other public records with other state or federal agencies. One copy of the implementation manual will be issued to public agencies upon request.

(4) Prepayment of copying costs and postage shall be a prerequisite to copying and/or mailing of public records. However, the public records officer may waive the costs of copying or postage.) Public records shall be disclosed only in the presence of a public records officer or his or her designee, who shall withdraw the records if the person requesting disclosure acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the commission. This section

shall not be construed to prevent the commission from accommodating a client by use of mail in the disclosure process.

AMENDATORY SECTION (Amending Order 84-01, filed 11/19/84)

WAC 437-06-070 ((Protection of public records.))

Disclosure procedure. ~~((Public records shall be disclosed only in the presence of a public records officer or his or her designee, who shall withdraw the records if the person requesting disclosure acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the commission. This section shall not be construed to prevent the commission from accommodating a client by use of mails in the disclosure process.))~~ (1) The public records officer shall acknowledge receipt of request within five business days. The public records officer or designee will do one or more of the following:

(a) Make the records available for inspection or copying;

(b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;

(c) Provide a reasonable estimate of when records will be available; or

(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(2) The public records officer shall review file materials prior to disclosure.

(3) If the file does not contain materials exempt from disclosure, the public records officer shall ensure full disclosure.

(4) If the file does contain materials exempt from disclosure, the public records officer shall deny disclosure of those exempt portions of the file and will provide a written statement explaining the reason for denial. The remaining nonexempt materials shall be fully disclosed pursuant to WAC 437-06-050.

(5) The statement of denial shall include:

(a) The specific exemption that authorizes the commission to withhold the record; and

(b) A brief explanation of how the exemption applies to the record the commission withheld.

(6) Any person continuing to seek disclosure, after having received a written explanation for nondisclosure, may request a review under the provisions of WAC 437-06-080.

AMENDATORY SECTION (Amending Order 84-01, filed 11/19/84)

WAC 437-06-080 Remedy for review of denial of disclosure ((procedure)). ~~((1) The public records officer shall review file materials prior to disclosure.~~

~~(2) If the file does not contain materials exempt from disclosure, the public records officer shall ensure full disclosure.~~

~~(3) If the file does contain materials exempt from disclosure, the public records officer shall deny disclosure of those~~

~~exempt portions of the file, and shall, at the time of the denial, in writing, clearly specify the reasons for the denial of disclosure, including a statement of the specific exemptions or reasons authorizing the withholding of the record and a brief explanation of how the exemption applies. The remaining nonexempt materials shall be fully disclosed pursuant to WAC 437-06-050.))~~ (1) If the person requesting disclosure disagrees with the decision of a public records officer denying disclosure of a public record, this person may within twenty days petition the commission's public records officer for review of the decision denying disclosure. The form used to deny disclosure of a public record shall clearly indicate this right of review.

(2) The public records officer shall review decisions denying disclosure in the most prompt fashion possible, and such review shall be deemed completed at the end of the second business day following receipt by the commission of the petition for review. This shall constitute final agency action for the purposes of judicial review, pursuant to RCW 42.56.520.

AMENDATORY SECTION (Amending Order 84-01, filed 11/19/84)

WAC 437-06-090 ((Remedy for review of denial of))

Exemptions to public records disclosure. ~~((1) If the person requesting disclosure disagrees with the decision of a public records officer denying disclosure of a public record, this person may within twenty days petition the commission's public records officer for review of the decision denying disclosure. The form used to deny disclosure of a public record shall clearly indicate this right of review.~~

~~(2) The public records officer shall review decisions denying disclosure in the most prompt fashion possible, and such review shall be deemed completed at the end of the second business day following receipt by the commission of the petition for review. This shall constitute final agency action for the purposes of judicial review, pursuant to RCW 42.17.320.))~~ The commission reserves the right to determine if a public record requested in accordance with the procedures outlined herein is exempt or nondisclosable under RCW 42.56.040 through 42.56.550. Nondisclosable records include, but are not limited to:

(1) All exemptions as set forth in chapter 42.56 RCW.

(2) Records which are relevant to a controversy to which the commission is a party but which records would not be available to another party under the rules of a pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the commission and the office of the attorney general privileged under RCW 5.60.060(2).

(3) Nonconviction data, as defined in RCW 10.97.030 (2), shall be disclosed to the subject of the record in person in the central office of the commission, but may not be copied except for the purpose of challenge or correction when the person who is the subject of the record asserts the belief in writing that the information regarding such person is inaccurate or incomplete (RCW 10.97.080). Persons who are incarcerated, or their attorneys, shall receive a copy of nonconvic-

tion data upon asserting the belief in writing that the information regarding such person is inaccurate or incomplete.

AMENDATORY SECTION (Amending Order 84-01, filed 11/19/84)

WAC 437-06-100 ((Exemptions to public records)) Interagency disclosure. ((The commission reserves the right to determine if a public record requested in accordance with the procedures outlined herein is exempt or nondisclosable under RCW 42.17.250 through 42.17.340. Nondisclosable records include, but are not limited to:

(1) All exemptions as set forth in RCW 42.17.310(1).
(2) Records which are relevant to a controversy to which the commission is a party but which records would not be available to another party under the rules of a pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the commission and the office of the attorney general privileged under RCW 5.60.060(2).

(3) Nonconviction data, as defined in RCW 10.97.030 (2), shall be disclosed to the subject of the record in person in the central office of the commission, but may not be copied except for the purpose of challenge or correction when the person who is the subject of the record asserts the belief in writing that the information regarding such person is inaccurate or incomplete (RCW 10.97.080). Persons who are incarcerated, or their attorneys, shall receive a copy of nonconviction data upon asserting the belief in writing that the information regarding such person is inaccurate or incomplete.)) (1) Unless prohibited by law, information may be disclosed by the commission to outside agencies, including other state of Washington agencies, or other state agencies.

(2) Outside agencies receiving information pursuant to subsection (1) of this section shall be thereby subject to the same standards of disclosure as are required of the commission.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 437-06-110 Qualifications on nondisclosure.
- WAC 437-06-120 Interagency disclosure.

WSR 09-21-108

PERMANENT RULES

SENTENCING GUIDELINES COMMISSION

[Filed October 21, 2009, 11:10 a.m., effective November 21, 2009]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Updating WAC 437-20-010 to show that this section has been superseded by the passage of ESSB 5288 (chapter 375, Laws of 2009) in which community custody ranges have been changed to a fixed period of time with other conditions.

Citation of Existing Rules Affected by this Order: Amending WAC 437-20-010.

Statutory Authority for Adoption: RCW 9.94A.850, and the commission's rule-making authority under chapter 34.05 RCW.

Adopted under notice filed as WSR 09-17-082 on August 17, 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 9, 2009.

Jean Soliz-Conklin
Executive Director

AMENDATORY SECTION (Amending WSR 00-11-052, filed 5/12/00, effective 7/1/00)

WAC 437-20-010 Community custody ranges.*

COMMUNITY CUSTODY RANGES

Offense Type	Community Custody Range
Sex Offenses (Not sentenced under RCW 9.94A.120(8))	36 to 48 months
Serious Violent Offenses	24 to 48 months
Violent Offenses	18 to 36 months
Crimes Against Persons (As defined in RCW 9.94A.440(2))	9 to 18 months
Offenses under chapter 69.50 or 69.52 RCW (Not sentenced under RCW 9.94A.120(6))	9 to 12 months

The ranges specified in this section are not intended to affect or limit the authority to impose exceptional community custody ranges, either above or below the standard community custody range as authorized by RCW 9.94A.120(2) and pursuant to guidelines specified in RCW 9.94A.390. The community custody range for offenders with multiple convictions must be based on the offense that dictates the longest term of community custody. The community custody range for offenders convicted of an offense that falls into more than one of the five categories of offense types listed in this section must be based on the offense type that dictates the longest term of community custody.

*This section has been superseded by section 5, chapter 235, Laws of 2009. Community custody ranges have been changed to a fixed period of time with other conditions. Please refer to RCW 9.94A.701.