

**WSR 10-01-138**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Health and Recovery Services Administration)

[Filed December 21, 2009, 12:02 p.m., effective January 21, 2010]

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

Purpose: **Major change:** The department is no longer covering orally-administered enteral nutrition for clients twenty-one years of age and older.

**Other changes/updates to the enteral nutrition chapter 388-554 WAC include:**

- Reorganized the chapter to mirror other recently reorganized medical program chapters.
- Changed references from "MAA" to the "department."
- Clarified when the department will pay for enteral nutrition products.
- Updated the definition for "women, infants, and children (WIC) program" to match the department of health's current definition.
- Added children's healthcare programs as defined in WAC 388-505-0210 to the list of eligible clients.
- Clarified that "emergency medical only programs" are eligible only when the services are necessary to treat the client's emergency medical condition.
- Removed language that the department would pay separately for oral enteral nutrition for a client who resides in a nursing facility when the client's need for enteral nutrition meets one hundred percent of the client's nutritional needs. Adult family homes, assisted living facilities, boarding homes, or any other residence where the provision of food is part of the per diem rate are required to provide food for their clients.
- Added the "client's caregiver" as a sufficient person for providers to confirm with whether the client's next months delivery of authorized orally administered enteral nutrition products is necessary. Current language states that the provider must confirm with the client.
- Clarified that when a client has indicated that he or she is not using the enteral nutrition product as prescribed, in addition to notifying the client's physician, the provider must also document the notification in the client's file.
- Clarified what the department means by a "valid" prescription.
- Clarified that providers must request prior authorization for covered orally-administered enteral nutrition products and tube-delivered enteral equipment and related supplies as required in the chapter or when the clinical criteria is not met. Requests for prior authorization must be submitted to the department on DSHS 13-743 form (Oral Enteral Nutrition Worksheet Prior Authorization Request).
- Codified expedited prior authorization (EPA) criteria for oral enteral nutrition for clients twenty years of age and younger.
- Created a new noncovered section (WAC 388-554-800) to include orally-administered enteral nutrition for clients twenty-one years of age and older and nonmedical

equipment, supplies, and related services, including but not limited to, backpacks, pouches, bags, baskets, or other carrying containers. The department does not pay for these items but needed to codify this.

Citation of Existing Rules Affected by this Order: Amending WAC 388-554-100, 388-554-200, 388-554-300, 388-554-400, 388-554-500, 388-554-600, 388-554-700, and 388-554-800.

Statutory Authority for Adoption: Section 1109, chapter 564, Laws of 2009 (ESHB 1244); RCW 74.04.050, 74.08.-090.

Adopted under notice filed as WSR 09-18-093 on September 1, 2009.

A final cost-benefit analysis is available by contacting Maureen Guzman, DSHS/HRSA, P.O. Box 45506, Olympia, WA 98504-5506, phone (360) 725-2033, fax (360) 586-9727, e-mail guzmam@dshs.wa.gov.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 8, 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 8, Repealed 0.

Date Adopted: December 11, 2009.

Susan N. Dreyfus  
Secretary

AMENDATORY SECTION (Amending WSR 05-04-059, filed 1/28/05, effective 3/1/05)

**WAC 388-554-100 Enteral nutrition ((~~program~~))—General.** ~~((The medical assistance administration's (MAA's) enteral nutrition program covers the products, equipment, and supplies to provide medically necessary enteral nutrition to eligible medical assistance clients))~~ (1) The department covers the enteral nutrition products, equipment, and related supplies listed in this chapter, according to department rules and subject to the limitations and requirements in this chapter.

(2) The department pays for enteral nutrition products, equipment and related supplies when they are:

(a) Covered;

(b) Within the scope of the eligible client's medical care program;

(c) Medically necessary as defined under WAC 388-500-0005;

(d) Authorized, as required within this chapter, chapters 388-501 and 388-502 WAC, and the department's published billing instructions and numbered memoranda; and

(e) Billed according to this chapter, chapters 388-501 and 388-502, and the department's published billing instructions and numbered memoranda.

(3) The department requires prior authorization for covered enteral nutrition products, equipment and related supplies when the clinical criteria set forth in this chapter are not met, including the criteria associated with the expedited prior authorization process. The department evaluates requests requiring prior authorization on a case-by-case basis to determine whether they are medically necessary, according to the process found in WAC 388-501-0165.

(4) The department evaluates a request for a service that is in a covered category, but has been determined to be experimental or investigational per WAC 388-531-0550, under the provisions of WAC 388-501-0165.

(5) The department terminates a provider's participation with the department according to chapter 388-502 WAC.

AMENDATORY SECTION (Amending WSR 05-04-059, filed 1/28/05, effective 3/1/05)

**WAC 388-554-200 Enteral nutrition ((program))—**  
**Definitions.** The following terms and definitions and those found in WAC 388-500-0005 apply to ~~((the enteral nutrition program))~~ this chapter:

**"BMI"** see **"body mass index."**

**"Body mass index (BMI)"** ~~((is))~~ - A number that shows body weight ((adjusted by)) relative to height, and is calculated using inches and pounds or meters and kilograms.

**"Department"** - The department of social and health services (DSHS).

**"Enteral nutrition"** ~~((means))~~ - The use of medically necessary nutritional products alone, or in combination with traditional food, when a client is unable to consume enough traditional food to meet nutritional requirements. Enteral nutritional solutions can be given orally or via feeding tubes.

**"Enteral nutrition equipment"** ~~((means))~~ - Durable medical feeding pumps and intravenous (IV) poles used in conjunction with nutrition supplies to dispense formula to a client.

**"Enteral nutrition product"** ~~((means))~~ - Enteral nutrition formulas and/or products.

**"Enteral nutrition supplies"** ~~((means))~~ - The supplies, such as nasogastric, gastrostomy and jejunostomy tubes, necessary to allow nutritional support via the alimentary canal or any route connected to the gastrointestinal system.

**"Growth chart"** ~~((is))~~ - A series of percentile curves that illustrate the distribution of select body measurements (i.e., height, weight, and age) in children published by the Centers for Disease Control and Prevention, National Center for Health Statistics. CDC growth charts: United States. <http://www.cdc.gov/growthcharts/>

**"Nonfunctioning digestive tract"** ~~((is))~~ - Caused by a condition that affects the body's alimentary organs and their ability to break down ~~((and))~~ digest, and absorb nutrients.

**"Orally administered enteral nutrition products"** ~~((means))~~ - Enteral nutrition solutions and products that a client consumes orally for nutritional support.

**"Tube-delivery"** ~~((means))~~ - The provision of nutritional requirements through a tube into the stomach or small intestine.

~~((**"WIC program"** (Women, infants and children (WIC) program) is a special supplemental nutrition program managed by the department of health (DOH) that serves to safeguard the health of children up to age five, and low-income pregnant and breastfeeding women who are at nutritional risk by providing them with healthy, nutritious foods to supplement diets, information on healthy eating, and referral to health care.))~~

**"Women, infants and children (WIC) program((:))"** ~~((See **"WIC program."**))~~ (Also known as WIC program) - A special supplemental nutrition program managed by the department of health (DOH) that serves to safeguard the health of children up to age five and low-income pregnant and breastfeeding women who are at nutritional risk, by providing them with healthy, nutritious foods to supplement diets, information on healthy eating, and referral to health care.

AMENDATORY SECTION (Amending WSR 05-04-059, filed 1/28/05, effective 3/1/05)

**WAC 388-554-300 Enteral nutrition ((program))—**  
**Client eligibility.** (1) ~~((Clients in the following medical assistance programs are eligible))~~ To receive oral or tube-delivered enteral nutrition products ~~((and tube-delivered enteral nutrition products and necessary))~~ equipment, and related supplies, ~~((subject to the limitations in this chapter and other applicable WAC))~~ clients must be eligible for one of the following medical assistance programs:

(a) Categorically needy program (CN or CNP);

(b) Categorically needy program - state children's health insurance program (CNP-SCHIP) ~~((same scope of coverage as CNP))~~;

(c) ~~((General assistance - Unemployable (GA-U)))~~ Children's healthcare programs as defined in WAC 388-505-0210;

(d) Limited casualty program - Medically needy program (LCP-MNP);

(e) ~~((Alien emergency medical program - CNP))~~ General assistance (GAU/ADATSA); and

(f) ~~((Alien emergency medical program - LCP-MNP))~~ Emergency medical only programs when the services are necessary to treat the client's emergency medical condition.

(2) ~~((All clients younger than age twenty-one must be evaluated by a certified dietician with a current provider number within thirty days of initiation of enteral nutrition products, and periodically (at the discretion of the certified dietician) while receiving enteral nutrition products. See WAC 388-554-400 (2)(h) for provider requirements.~~

(3) Clients enrolled in an MAA-managed care plan are eligible for oral enteral nutrition products and tube-delivered enteral nutrition products and necessary equipment and supplies through that plan. If a client becomes enrolled in a managed care plan before MAA completes the purchase (or rental, if applicable) of prescribed enteral products, necessary equipment and supplies:

(a) MAA rescinds the purchase until the managed care primary care provider (PCP) evaluates the client; and

(b) The managed care plan's applicable reimbursement policies apply to the purchase of the products, equipment, or supplies, or rental of the equipment, as applicable.

(4) To receive orally administered enteral nutrition products, a client must:

(a) Have a valid written physician order from a physician, advanced registered nurse practitioner (ARNP), or physician assistant certified (PA-C) for all enteral nutrition products;

(b) When required, have the provider obtain prior authorization as described in WAC 388-554-700;

(c) Meet the conditions in this section and other applicable WAC;

(d) Be able to manage their feedings in one of the following ways:

(i) Independently; or

(ii) With a caregiver who can manage the feedings; and

(e) Have at least one of the following medical conditions, subject to the criteria listed:

(i) Malnutrition/malabsorption as a result of a stated primary diagnosed disease. The client must have:

(A) A weight-for-length less than or equal to the fifth percentile if the client is younger than age three; or

(B) A body mass index (BMI) of:

(I) Less than or equal to the fifth percentile if the client is older than age three and younger than age eighteen; or

(II) Less than or equal to 18.5 if the client is age eighteen or older.

(ii) Acquired immune deficiency syndrome (AIDS). The client must be in a wasting state and have:

(A) A weight-for-length less than or equal to the fifth percentile if the client is younger than age three; or

(B) A BMI of:

(I) Less than or equal to the fifth percentile if the client is older than age three and younger than age eighteen; or

(II) Less than or equal to 18.5 if the client is age eighteen or older.

(iii) Amino acid, fatty acid, and carbohydrate metabolic disorders;

(iv) Dysphagia. The client must:

(A) Need to transition from tube feedings to oral feedings or require thickeners to aid swallowing; and

(B) Be evaluated by:

(I) A speech therapist; or

(II) An occupational therapist who specializes in dysphagia.

(v) Chronic renal failure. The client:

(A) Must be receiving dialysis; and

(B) Have a fluid restrictive diet in order to use nutrition bars.

(vi) Malignant cancer(s). The client must be receiving chemotherapy.

(vii) Decubitus pressure ulcers. The client must have:

(A) Stage three or greater decubitus pressure ulcers; and

(B) An albumin level of 3.2 or below.

(viii) Failure to thrive. The client must have a disease or medical condition that is only organic in nature and not due to

cognitive, emotional, or psychological impairment. In addition, the client must have:

(A) A weight-for-length less than or equal to the fifth percentile if the client is younger than age three;

(B) A BMI of less than or equal to the fifth percentile if the client is at least age three but younger than age eighteen; and

(C) A BMI of less than or equal to 18.5, an albumin level of 3.5 or below, and a cholesterol level of one hundred sixty or below if the client is age eighteen or older.

(5) A client is eligible to receive delivery of orally administered enteral nutrition products in quantities sufficient to meet the client's medically authorized needs, not to exceed a one-month supply. To receive the next month's delivery of authorized products, the client's record must show documentation of the need to refill the products. See WAC 388-554-400 for provider requirements.

(6) To receive tube-delivered enteral nutrition products, necessary equipment and supplies, a client must:

(a) Have a valid written physician order from a physician, ARNP, or PA-C;

(b) Meet the conditions in this section and other applicable WAC; and

(c) Be able to manage their tube feedings in one of the following ways:

(i) Independently; or

(ii) With a caregiver who can manage the feedings; and

(d) Have at least one of the following medical conditions, subject to the criteria listed:

(i) A nonfunction or disease of the structures that normally permit food to reach the small bowel; or

(ii) A disease or condition of the small bowel that impairs digestion and absorption of an oral diet, either of which requires tube feedings to provide sufficient nutrients to maintain weight and strength that is properly proportioned to the client's overall health status)) Clients who are enrolled in a department-contracted managed care organization (MCO) must arrange for enteral nutrition products, equipment, and related supplies directly through his or her department-contracted MCO.

(3) For clients who reside in a nursing facility, adult family home, assisted living facility, boarding home, or any other residence where the provision of food is included in the daily rate, oral enteral nutrition products are the responsibility of the facility to provide in accordance with chapters 388-76, 388-97 and 388-78A WAC.

(4) For clients who reside in a state-owned facility (i.e. state school, developmental disabilities (DD) facility, mental health facility, Western State Hospital, and Eastern State Hospital) enteral nutrition products, equipment, and related supplies are the responsibility of the state-owned facility to provide.

(5) Clients who have elected and are eligible to receive the department's hospice benefit must arrange for enteral nutrition products, equipment and related supplies directly through the hospice benefit.

(6) Children who qualify for supplemental nutrition from the women, infants, and children (WIC) program must receive supplemental nutrition directly from that program

unless the client meets the limited circumstances in WAC 388-554-500 (1)(d).

AMENDATORY SECTION (Amending WSR 05-04-059, filed 1/28/05, effective 3/1/05)

**WAC 388-554-400 Enteral nutrition ((~~program~~))— Provider requirements.** (1) ~~((A provider of all oral enteral nutrition products and tube-delivered enteral nutrition products and necessary equipment and supplies must))~~ The following providers are eligible to enroll/contract with the department to provide orally-administered enteral nutrition products and tube-delivered enteral nutrition products, equipment, and related supplies:

(a) ~~((Have a current core provider agreement with the medical assistance administration (MAA); and~~  
 (b) ~~Be one of the following provider types:~~  
 (i) ~~Pharmacy provider; or~~  
 (ii) ~~Durable medical equipment (DME) provider.~~  
 (2) ~~To ((be paid for oral enteral nutrition products and tube-delivered enteral nutrition products and necessary equipment and supplies, an eligible))~~ receive payment for orally-administered enteral nutrition products and tube-delivered enteral nutrition products, equipment and related supplies, a provider must:

(a) ~~Meet the requirements in ((WAC 388-502-0020 and other applicable))~~ chapters 388-501 and 388-502 WAC;

(b) ~~((Obtain prior authorization (PA), if required, before delivery to the client and before billing MAA. See WAC 388-554-700 for PA requirements))~~ Provide only those services that are within the scope of the provider's license;

(c) ~~((Deliver orally administered enteral nutrition products in quantities sufficient to meet a client's medically authorized needs, not to exceed a one-month supply))~~ Obtain prior authorization from the department, if required, before delivery to the client and before billing the department;

(d) ~~((Bill MAA for the authorized products and submit a claim for payment to MAA with a date of service being the same as the shipping date))~~ Deliver enteral nutritional products in quantities sufficient to meet the client's authorized needs, not to exceed a one-month supply;

(e) ~~Confirm with the client ((and document in the client's record))~~ or the client's caregiver that the next month's delivery of authorized orally administered enteral nutrition products is necessary ((see WAC 388-554-300(5))) and document the confirmation in the client's file. ((MAA will not reimburse)) The department does not pay for automatic periodic delivery of products;

(f) ~~((Notify and inform the client's physician if the client has indicated the product is not being used as prescribed))~~ Furnish clients with new or used equipment that includes full manufacturer and dealer warranties for at least one year; and

(g) ~~((Keep legible, accurate, and complete charts in the client's record to justify the medical necessity of the items provided and include:~~

(i) ~~For each item billed, a copy of the prescription. The prescription must:~~

(A) ~~Be signed and dated by the prescribing physician;~~

(B) ~~List the client's medical condition and exact daily caloric amount of needed enteral product; and~~

(C) ~~State the reason why the client is unable to consume enough traditional food to meet nutritional requirements.~~

(ii) ~~The medical reason the specific enteral product, equipment, and/or supply is prescribed; and~~

(iii) ~~For a client who meets the women, infants and children (WIC) program's target population as defined in WAC 388-554-200, verification from the WIC program that the client:~~

(A) ~~Is not eligible for WIC program services;~~

(B) ~~Is eligible for WIC program services, but nutritional needs exceed the WIC program's maximum per calendar month allotment; or~~

(C) ~~The WIC program cannot provide the prescribed product.~~

(h) ~~For a client younger than age twenty-one, retain a copy of each required certified dietitian evaluation, as described in WAC 388-554-300(2).~~

(3) ~~MAA may recoup any payment made to a provider for authorized enteral nutrition products if the requirements in subsection (2) of this section and other applicable WAC are not met)~~ Notify the client's physician if the client has indicated the enteral nutrition product is not being used as prescribed and document the notification in the client's file.

AMENDATORY SECTION (Amending WSR 06-24-036, filed 11/30/06, effective 1/1/07)

**WAC 388-554-500 ((~~Orally administered~~)) Covered enteral nutrition products, equipment and related supplies—((~~Coverage, limitations, and reimbursement~~))~~Orally-administered—Clients twenty years of age and younger only.~~ (1) ~~((The enteral nutrition program covers and reimburses medically necessary orally administered enteral nutrition products, subject to:~~**

(a) ~~Prior authorization requirements under WAC 388-554-700;~~

(b) ~~Duration periods determined by the department;~~

(c) ~~Delivery requirements under WAC 388-554-400(2); and~~

(d) ~~The provisions in other applicable WAC.~~

(2) ~~Except as provided in subsection (3) of this section, the department does not pay separately for orally administered enteral nutrition products:~~

(a) ~~When a client resides in a state-owned facility (i.e., state school, developmental disabilities (DD) facility, mental health facility, Western State Hospital, and Eastern State Hospital).~~

(b) ~~When a client has elected and is eligible to receive the department's hospice benefit, unless both of the following apply:~~

(i) ~~The client has a preexisting medical condition that requires enteral nutritional support; and~~

(ii) ~~The preexisting medical condition is not related to the diagnosis that qualifies the client for hospice.~~

(3) ~~The department pays separately for a client's orally administered enteral nutrition products when the client:~~

(a) ~~Resides in a nursing facility;~~

(b) ~~Meets the criteria in WAC 388-554-300; and~~

(c) ~~Needs enteral nutrition products to meet one hundred percent of the client's nutritional needs.~~

~~(4) The department does not cover or pay for orally administered enteral nutrition products when the client's nutritional need can be met using traditional foods, baby foods, and other regular grocery products that can be pulverized or blenderized and used to meet the client's caloric and nutritional needs.~~

~~(5) The department:~~

~~(a) Determines reimbursement for oral enteral nutrition products according to a set fee schedule;~~

~~(b) Considers medicare's current fee schedule when determining maximum allowable fees;~~

~~(c) Considers vendor rate increases or decreases as directed by the Legislature; and~~

~~(d) Evaluates and updates the maximum allowable fees for oral enteral nutrition products at least once per year.~~

~~(6) The department evaluates a request for orally administered enteral nutrition products that are in excess of the enteral nutrition program's limitations or restrictions, according to the provisions of WAC 388-501-0165 and 388-501-0169.~~

~~(7) The department evaluates a request for orally administered enteral nutrition products that are listed as nonecovered in this chapter according to the provisions of WAC 388-501-0160)) The department covers orally-administered enteral nutrition products for clients twenty years of age and younger only, as follows:~~

~~(a) The client's nutritional needs cannot be met using traditional foods, baby foods, and other regular grocery products that can be pulverized or blenderized and used to meet the client's caloric and nutritional needs;~~

~~(b) The client is able to manage their feedings in one of the following ways:~~

~~(i) Independently; or~~

~~(ii) With a caregiver who can manage the feedings; and~~

~~(c) The client meets one of the following clinical criteria:~~

~~(i) Acquired immune deficiency syndrome (AIDS). Providers must obtain prior authorization to receive payment. The client must:~~

~~(A) Be in a wasting state;~~

~~(B) Have a weight-for-length less than or equal to the fifth percentile if the client is three years of age or younger; or~~

~~(C) Have a body mass index (BMI) of:~~

~~(I) Less than or equal to the fifth percentile if the client is four through seventeen years of age; or~~

~~(II) Less than or equal to 18.5 if the client is eighteen through twenty years of age; or~~

~~(D) Have a BMI of:~~

~~(I) Less than or equal to twenty-five; and~~

~~(II) An unintentional or unexplained weight loss of five percent in one month, seven and a half percent in three months, or ten percent in six months.~~

~~(ii) Amino acid, fatty acid, and carbohydrate metabolic disorders.~~

~~(A) The client must require a specialized nutrition product; and~~

~~(B) Providers must follow the department's expedited prior authorization process to receive payment.~~

~~(iii) Cancer(s).~~

~~(A) The client must be receiving chemotherapy and/or radiation therapy or post-therapy treatment;~~

(B) The department pays for orally-administered nutritional products for up to three months following the completion of chemotherapy or radiation therapy; and

(C) Providers must follow the department's expedited prior authorization process to receive payment.

(iv) Chronic renal failure.

(A) The client must be receiving dialysis and have a fluid restrictive diet in order to use nutrition bars; and

(B) Providers must follow the department's expedited prior authorization process to receive payment.

(v) Decubitus pressure ulcers.

(A) The client must have stage three or greater decubitus pressure ulcers and an albumin level of 3.2 or below; and

(B) Providers must follow the department's expedited prior authorization process to receive a maximum of three month's payment.

(vi) Failure to thrive or malnutrition/malabsorption as a result of a stated primary diagnosed disease.

(A) The provider must obtain prior authorization to receive payment; and

(B) The client must have:

(I) A disease or medical condition that is only organic in nature and not due to cognitive, emotional, or psychological impairment; and

(II) A weight-for-length less than or equal to the fifth percentile if the client is two years of age or younger; or

(III) A BMI of:

(aa) Less than or equal to the fifth percentile if the client is three through seventeen years of age; or

(bb) Less than or equal to 18.5, an albumin level of 3.5 or below, and a cholesterol level of one hundred sixty or below if the client is age eighteen through twenty years of age; or

(IV) Have a BMI of:

(aa) Less than or equal to twenty five; and

(bb) An unintentional or unexplained weight loss of five percent in one month, seven and a half percent in three months, or ten percent in six months.

(vii) Medical conditions (e.g., dysphagia) requiring a thickener.

(A) The client must:

(I) Require a thickener to aid in swallowing or currently be transitioning from tube feedings to oral feedings; and

(II) Be evaluated by a speech therapist or an occupational therapist who specializes in dysphagia. The report recommending a thickener must be in the client's chart in the prescriber's office.

(B) Providers must follow the department's expedited prior authorization process to receive payment.

(d) If four years of age or younger.

(i) The client must:

(A) Have a certified registered dietitian (RD) evaluation with recommendations which support the prescriber's order for oral enteral nutrition products or formulas; and

(B) Have a signed and dated written notification from WIC indicating one of the following:

(I) Client is not eligible for the women, infants, and children (WIC) program; or

(II) Client is eligible for WIC program, but the need for the oral enteral nutrition product or formula exceeds WIC's allowed amount; or

(III) The requested oral enteral nutrition product or formula is not available through the WIC program. Specific, detailed documentation of the tried and failed efforts of similar WIC products, or the medical need for alternative products must be in the prescriber's chart for the client; and

(C) Meet one of the following clinical criteria:

(I) Low birth weight (less than 2500 grams);

(II) A decrease across two or more percentile lines on the CDC growth chart, once a stable growth pattern has been established;

(III) Failure to gain weight on two successive measurements, despite dietary interventions; or

(IV) Documented specific, clinical factors that place the child at risk for a compromised nutrition and/or health status.

(ii) Providers must follow the department's expedited prior authorization process to receive payment.

(e) If five years of age through twenty years of age.

(i) The client must:

(A) Have a certified RD evaluation, for eligible clients, with recommendations which support the prescriber's order for oral enteral nutrition products; and

(B) Meet one of the following clinical criteria:

(I) A decrease across two or more percentile lines on the CDC growth chart, once a stable growth pattern has been established;

(II) Failure to gain weight on two successive measurements, despite dietary interventions; or

(III) Documented specific, clinical factors that place the child at risk for a compromised nutrition and/or health status.

(ii) Providers must follow the department's expedited prior authorization process to receive payment.

(2) Requests to the department for prior authorization for orally-administered enteral nutrition products must include a completed Oral Enteral Nutrition Worksheet Prior Authorization Request (DSHS 13-743), available for download at: <http://www1.dshs.wa.gov/msa/forms/eforms.html>. The DSHS 13-743 form must be:

(a) Completed by the prescribing physician, advanced registered nurse practitioner (ARNP), or physician assistant-certified (PA-C), verifying all of the following:

(i) The client meets the requirements listed in this section;

(ii) The client's physical limitations and expected outcome;

(iii) The client's current clinical nutritional status, including the relationship between the client's diagnosis and nutritional need;

(iv) For a client eighteen through twenty years of age, the client's recent weight loss history and a comparison of the client's actual weight to ideal body weight and current body mass index (BMI);

(v) For a client younger than eighteen years of age, the client's growth history and a comparison to expected weight gain, and;

(A) An evaluation of the weight-for-length percentile if the client is three years of age or younger; or

(B) An evaluation of the BMI if the client is four through seventeen years of age.

(vi) The client's medical condition and the exact daily caloric amount of needed enteral nutrition product;

(vii) The reason why the client is unable to consume enough traditional food to meet nutritional requirements;

(viii) The medical reason the specific enteral nutrition product, equipment, and/or supply is prescribed;

(ix) Documentation explaining why less costly, equally effective products or traditional foods are not appropriate;

(x) The number of days or months the enteral nutrition products, equipment, and/or necessary supplies are required; and

(xi) The client's likely expected outcome if enteral nutritional support is not provided.

(b) Written, signed (including the prescriber's credentials), and dated by the prescriber on the same day and before delivery of the enteral nutrition product, equipment, or related supply. This form must not be back-dated; and

(c) Be submitted within three months from the date the prescriber signs the prescription.

(3) Clients twenty years of age and younger must be evaluated by a certified RD within thirty days of initiation of enteral nutrition products and periodically (at the discretion of the certified RD) while receiving enteral nutrition products. The certified RD must be a current provider with the department.

AMENDATORY SECTION (Amending WSR 06-24-036, filed 11/30/06, effective 1/1/07)

**WAC 388-554-600 (~~(Tube-delivered)~~) Covered enteral nutrition products, equipment and related (~~(equipment and)~~) supplies—(Coverage, limitations, and reimbursement) ~~Tube-delivered.~~ (1) (~~The enteral nutrition program covers and reimburses the following, subject to the limitations listed in this section and the provisions in other applicable WAC:~~**

~~(a) Tube-delivered enteral nutrition products;~~

~~(b) Tube-delivery supplies;~~

~~(c) Enteral nutrition pump rental and purchase;~~

~~(d) Nondisposable intravenous (IV) poles required for enteral nutrition product delivery; and~~

~~(e) Repairs to equipment.~~

~~(2) The department covers up to twelve months of rental payments for enteral nutrition equipment. After twelve months of rental, the department considers the equipment purchased and it becomes the client's property.~~

~~(3) The department requires a provider to furnish clients new or used equipment that includes full manufacturer and dealer warranties for one year.~~

~~(4) The department covers only one:~~

~~(a) Purchased pump per client in a five year period; and~~

~~(b) Purchased nondisposable IV pole per client for that client's lifetime.~~

~~(5) The department's reimbursement for covered enteral nutrition equipment and necessary supplies includes all of the following:~~

~~(a) Any adjustments or modifications to the equipment that are required within three months of the date of delivery. This does not apply to adjustments required because of changes in the client's medical condition;~~

~~(b) Fitting and set-up; and~~

(e) Instruction to the client or the client's caregiver in the appropriate use of the equipment and necessary supplies.

(6) A provider is responsible for any costs incurred to have another provider repair equipment if all of the following apply:

- (a) Any equipment that the department considers purchased requires repair during the applicable warranty period;
- (b) The provider is unable to fulfill the warranty; and
- (c) The client still needs the equipment.

(7) If a rental equipment the department considers to have been purchased must be replaced during the warranty period, the department recoups fifty percent of the total amount previously paid toward rental and eventual purchase of the equipment delivered to the client. All of the following must apply:

- (a) The provider is unable to fulfill the warranty; and
- (b) The client still needs the equipment.

(8) The department rescinds any authorization for prescribed equipment if the equipment was not delivered to the client before the client:

- (a) Loses medical eligibility;
- (b) Becomes covered by a hospice agency and the equipment is used in the treatment of the terminal diagnosis or related condition(s);
- (c) Becomes eligible for a department contracted managed care plan; or
- (d) Dies.

(9) Except as provided in subsection (10) of this section, the department does not pay separately for tube-delivered enteral nutrition products or necessary equipment or supplies when a client:

(a) Resides in a state-owned facility (i.e., state school, developmental disabilities (DD) facility, mental health facility, Western State Hospital, and Eastern State Hospital).

(b) Has elected and is eligible to receive the department's hospice benefit, unless both of the following apply:

- (i) The client has a preexisting medical condition that requires enteral nutritional support; and
- (ii) The preexisting medical condition is not related to the diagnosis that qualifies the client for hospice.

(10) The department pays separately for a client's tube-delivered enteral nutrition products and necessary equipment and supplies when:

- (a) The client resides in a nursing facility;
- (b) The client meets the eligibility criteria in WAC 388-554-300; and
- (c) Use of enteral nutrition products meets one hundred percent of the client's nutritional needs.

(11) The department determines reimbursement for tube-delivered enteral nutrition products and necessary equipment and supplies using the same criteria described in WAC 388-554-500(5).

(12) The department evaluates a request for tube-delivered enteral nutrition products and necessary equipment and supplies that are in excess of the enteral nutrition program's limitations or restrictions, according to the provisions of WAC 388-501-0165 and 388-501-0169.

(13) The department evaluates a request for tube-delivered enteral nutrition products and necessary equipment and supplies, that are listed as nonecovered in this chapter, under

the provision of WAC 388-501-0160)) The department covers tube-delivered enteral nutrition products, equipment, and related supplies, without prior authorization, for eligible clients regardless of age, as follows:

(a) When the client meets the following clinical criteria:

(i) The client has a valid prescription;

(A) To be valid, a prescription must:

(I) Be written by a physician, advanced registered nurse practitioner (ARNP), or physician's assistant certified (PA-C);

(II) Be written, signed (including the prescriber's credentials), and dated by the prescriber on the same day and before delivery of the supply, equipment, or device. Prescriptions must not be back-dated;

(III) Be submitted within three months from the date the prescriber signs the prescription; and

(IV) State the specific product requested, diagnosis, estimated length of need (months), and quantity.

(ii) The client is able to manage his or her tube feedings in one of the following ways:

(A) Independently; or

(B) With a caregiver who can manage the feedings; and

(iii) The client has at least one of the following medical conditions:

(A) A nonfunction or disease or clinical condition that impairs the client's ability to ingest sufficient calories and nutrients from products orally or does not permit sufficient calories and nutrients from food to reach the gastrointestinal tract; or

(B) A disease or condition of the small bowel that impairs digestion and absorption of an oral diet, either of which requires tube feedings to provide sufficient nutrients to maintain weight and strength that is properly proportioned to the client's overall health status.

(b) With the following limitations:

(i) One purchased pump, per client, in a five-year period; and

(ii) One purchased nondisposable intravenous pole required for enteral nutrition product delivery, per client, per lifetime.

(c) Providers must follow the department's expedited prior authorization process to receive payment.

(2) The department pays for up to twelve months of rental payments for tube-delivered enteral nutrition equipment. After twelve months of rental, the department considers the equipment purchased and it becomes the client's property.

(3) The department pays for replacement parts for tube-delivered enteral nutrition equipment, with prior authorization, when:

(a) Owned by the client;

(b) Less than five years old; and

(c) No longer under warranty.

AMENDATORY SECTION (Amending WSR 05-04-059, filed 1/28/05, effective 3/1/05)

**WAC 388-554-700 Enteral nutrition products, equipment and related supplies—((Prior)) Authorization ((requirements)).** (1) ((All requests for oral enteral nutrition

products, repairs to equipment, and replacement of necessary supplies for tube-delivery of enteral nutrition products require prior authorization as described in this section. See also WAC 388-501-0165.

(2) When MAA receives an initial request for prior authorization, the prescription(s) for those items cannot be older than three months from the date MAA receives the request.

(3) MAA may authorize orally administered enteral nutrition products that are listed in MAA's published issuances, including billing instructions and numbered memoranda, only if medical necessity is established and the provider furnishes all of the following information to MAA:

(a) A copy of the signed and dated physician order completed by the prescribing physician, advanced registered nurse practitioner (ARNP), or physician assistant certified (PA-C), which includes client's medical condition and exact daily calorie amount of prescribed enteral nutrition product;

(b) Documentation from the client's physician, ARNP, or PA-C that verifies all of the following:

(i) The client has one of the medical conditions listed in WAC 388-554-300(4)(e);

(ii) The client's physical limitations and expected outcome;

(iii) The client's current clinical nutritional status, including the relationship between the client's diagnosis and nutritional need;

(iv) For a client age eighteen or older, the client's recent weight loss history and a comparison of the client's actual weight to ideal body weight and current body mass index (BMI);

(v) For a client younger than age eighteen, the client's growth history and a comparison to expected weight gain, and:

(A) An evaluation of the weight-for-length percentile if the client is younger than age three; or

(B) An evaluation of the BMI if the client is older than age three and younger than age eighteen.

(v) Documentation explaining why less costly, equally effective products or traditional foods are not appropriate (see WAC 388-554-500(4));

(vi) The client's likely expected outcome if enteral nutritional support is not provided; and

(vii) Number of days or months the enteral nutrition products, equipment, and/or necessary supplies are required.

(4) A provider may resubmit a request for prior authorization for oral enteral nutrition products or replacement of necessary supplies for tube-delivery of enteral nutrition products that MAA has denied. MAA requires the provider to include new documentation that is relevant to the request)) The department requires providers to obtain authorization for covered orally-administered enteral nutrition products, and tube-delivered enteral equipment and related supplies as required in this chapter and in published department billing instructions and/or numbered memoranda or when the clinical criteria required in this chapter are not met.

(a) For prior authorization (PA), a provider must submit a written request to the department as specified in WAC 388-554-500(2).

(b) For expedited prior authorization (EPA), a provider must establish that the client's condition meets the clinically appropriate EPA criteria outlined in this chapter and in the department's published enteral nutrition billing instructions. The appropriate EPA number must be used when the provider bills the department.

(c) Upon request, a provider must provide documentation to the department showing how the client's condition met the criteria for PA or EPA.

(2) Authorization requirements in this chapter are not a denial of service for the client.

(3) When an oral enteral nutrition product or tube-delivered enteral nutrition equipment or related-supply requires authorization, the provider must properly request authorization in accordance with the department's rules, billing instructions, and numbered memoranda.

(4) When authorization is not properly requested, the department rejects and returns the request to the provider for further action. The department does not consider the rejection of the request to be a denial of service.

(5) The department's authorization does not necessarily guarantee payment.

(6) The department evaluates requests for authorization for covered enteral nutrition products, equipment, and related-supplies that exceed limitations in this chapter on a case-by-case basis in accordance with WAC 388-501-0169.

(7) The department may recoup any payment made to a provider if the department later determines that the service was not properly authorized or did not meet the EPA criteria. Refer to WAC 388-502-0100(1)(c).

(8) If a fee-for-service client enrolls in a department-contracted MCO before the department completes the purchase or rental of prescribed enteral nutrition products, necessary equipment and supplies:

(a) The department rescinds the authorization of the purchase or rental;

(b) The department stops paying for any equipment on the last day of the month preceding the month in which the client becomes enrolled in the managed care plan; and

(c) The department-contracted MCO determines the client's continuing need for the equipment and is then responsible for the client.

(9) The department rescinds any authorization for prescribed equipment if the equipment was not delivered to the client before the client:

(a) Loses medical eligibility;

(b) Becomes covered by a hospice agency and the equipment is used in the treatment of the terminal diagnosis or related condition(s);

(c) Becomes eligible for a department-contracted managed care plan; or

(d) Dies.

AMENDATORY SECTION (Amending WSR 05-04-059, filed 1/28/05, effective 3/1/05)

WAC 388-554-800 ~~Noncovered—~~Enteral nutrition ((~~program requirements for WIC program-eligible clients~~)) **products, equipment, and related-supplies.** ((Clients who qualify for supplemental nutrition from the women;



~~infants, and children (WIC) program must receive supplemental nutrition through that program. The medical assistance administration (MAA) may cover the enteral nutrition products and supplies for WIC program eligible clients only when all of the following are met:~~

~~(1) The provider requests prior authorization for the enteral nutrition product or supply;~~

~~(2) Documentation from the WIC program is attached to the request form that verifies:~~

~~(a) The client's enteral nutrition need is in excess of WIC program allocations; or~~

~~(b) The WIC program cannot supply the prescribed product; and~~

~~(3) The client meets the enteral nutrition program requirements in this chapter)) (1) The department does not cover the following:~~

~~(a) Nonmedical equipment, supplies, and related services, including but not limited to, back-packs, pouches, bags, baskets, or other carrying containers; and~~

~~(b) Orally administered enteral nutrition products for clients twenty-one years of age and older.~~

~~(2) An exception to rule (ETR), as described in WAC 388-501-0160, may be requested for a noncovered service.~~

~~(3) When EPSDT applies, the department evaluates a noncovered service, equipment, or supply according to the process in WAC 388-501-0165 to determine if it is medically necessary, safe, effective, and not experimental (see WAC 388-534-0100 for EPSDT rules).~~

#### NEW SECTION

**WAC 388-554-900 Reimbursement—Enteral nutrition products, equipment, and related-supplies.** (1) The department:

(a) Determines reimbursement for enteral nutrition products, equipment, and related-supplies according to a set fee schedule;

(b) Considers medicare's current fee schedule when determining maximum allowable fees;

(c) Considers vendor rate increases or decreases as directed by the legislature; and

(d) Evaluates and updates the maximum allowable fees for enteral nutrition products, equipment, and related-supplies at least once per year.

(2) The department's payment for covered enteral nutrition products, equipment and related supplies includes all of the following:

(a) Any adjustments or modifications to the equipment required within three months of the date of delivery. This does not apply to adjustments required because of changes in the client's medical condition;

(b) Instructions to the client and/or caregiver on the safe and proper use of equipment provided;

(c) Full service warranty;

(d) Delivery and pick-up; and

(e) Fitting and adjustments.

(3) If changes in circumstance occur during the rental period, such as death or ineligibility, the department discontinues payment effective on the date of the change in circumstance.

(4) The department does not pay for simultaneous rental and a purchase of any item.

(5) The department does not reimburse providers for equipment that is supplied to them at no cost through suppliers/manufacturers.

(6) The provider who furnishes enteral nutrition equipment to a client is responsible for any costs incurred to have another provider repair equipment if all of the following apply:

(a) Any equipment that the department considers purchased requires repair during the applicable warranty period;

(b) The provider refuses or is unable to fulfill the warranty; and

(c) The client still needs the equipment.

(7) If the rental equipment must be replaced during the warranty period, the department recoups fifty percent of the total amount previously paid toward rental and eventual purchase of the equipment delivered to the client if:

(a) The provider is unwilling or unable to fulfill the warranty; and

(b) The client still needs the equipment.

#### **WSR 10-02-002**

#### **PERMANENT RULES**

#### **DEPARTMENT OF**

#### **FISH AND WILDLIFE**

[Order 09-262—Filed December 23, 2009, 1:49 p.m., effective January 23, 2010]

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

Purpose: Federal groundfish and salmon regulations allow trollers to have incidental allowances of Pacific halibut and groundfish that are expressed as a ratio of individual groundfish or halibut possessed or landed to the number of chinook salmon retained. To enforce this incidental allowance, the department must therefore require that Pacific halibut and groundfish be reported in individual numbers on the troll fish receiving ticket. Current regulations only require halibut and groundfish to be reported in original total or original dressed weight. This rule proposal will help the department better track incidental allowances and thus enforce federal groundfish and salmon regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-20-010, 220-69-230, and 220-69-250.

Statutory Authority for Adoption: RCW 77.04.020 and 77.12.047.

Other Authority: 50 C.F.R. § 660.370 (lingcod) and 50 C.F.R. § 300.63 (halibut).

Adopted under notice filed as WSR 09-21-088 on October 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 3, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: December 23, 2009.

Philip Anderson  
Director

AMENDATORY SECTION (Amending Order 07-266, filed 10/23/07, effective 11/23/07)

**WAC 220-20-010 General provisions—Lawful and unlawful acts—Salmon, other fish and shellfish.** (1) It shall be unlawful to take, fish for, possess or transport for any purpose fish, shellfish or parts thereof, in or from any of the waters or land over which the state of Washington has jurisdiction, or from the waters of the Pacific Ocean, except at the times, places and in the manners and for the species, quantities, sizes or sexes provided for in the regulations of the department.

(2) It shall be unlawful for any person to have in possession or under control or custody any food fish or shellfish within the land or water boundaries of the state of Washington, except in those areas which are open to commercial fishing or wherein the possession, control or custody of salmon or other food fish or shellfish for commercial purposes is made lawful under a statute of the state of Washington or the rules and regulations of the commission or director, unless otherwise provided.

(3) A person may fish for, possess, process and otherwise deal in food fish and fish offal or scrap for any purpose, provided that it shall be unlawful to use any of the following listed species for purposes other than human consumption or fishing bait:

- Pacific halibut (*Hippoglossus stenolepis*)
- Pacific herring (*Clupea harengus pallasii*)
- (except as prescribed in WAC 220-49-020)
- Salmon
- Chinook (*Oncorhynchus tshawytscha*)
- Coho (*Oncorhynchus kisutch*)
- Chum (*Oncorhynchus keta*)
- Pink (*Oncorhynchus gorbuscha*)
- Sockeye (*Oncorhynchus nerka*)
- Masu (*Oncorhynchus masu*)
- Pilchard (*Sardinops sagax*)

Except as provided for in WAC 220-88C-040

(4) It shall be unlawful for any person to fish for fish or shellfish while in possession in the field of fish or shellfish that are in violation of the harvest regulations for the area being fished. This regulation does not apply to vessels in transit.

(5) It shall be unlawful for the owner or operator of any commercial food fish or shellfish gear to leave such gear unattended in waters of the state or offshore waters unless said gear is marked.

(a) Shellfish pot, bottom fish pot, set line and set net gear must be marked with a buoy to which shall be affixed, in a visible and legible manner, the department approved and registered buoy brand issued to the license, provided that:

(i) Buoys affixed to unattended gear must be visible on the surface of the water except during strong tidal flow or extreme weather conditions.

(ii) When two or more shellfish pots are attached to a common ground line, the number of pots so attached must be clearly labeled on the required buoy.

(b) It is unlawful to operate any gill net, attended or unattended, unless there is affixed, within five feet of each end of the net, a buoy, float, or some other form of marker, visible on the cork line of the net, on which shall be marked in a visible, legible and permanent manner the name and gill-net license number of the fisher.

(c) It shall be unlawful at any time to leave a gill net unattended in the commercial salmon fishery.

(6) It shall be unlawful to place any commercial food fish or shellfish gear in any waters closed to commercial fishing, provided that this provision shall not apply to reef nets or brush weirs or to gear being tested under supervision of the department. In addition, it shall be unlawful to take, fish for or possess food fish with any type of commercial fishing gear in the waters of Carr Inlet north of north latitude 47°20', from August 15 through November 30, except as provided in chapter 220-47 WAC.

(7) It shall be unlawful for the owner or operator of any fishing gear to refuse to submit such gear to inspection in any manner specified by authorized representatives of the department.

(8) It shall be unlawful for any person taking or possessing fish or shellfish taken from any of the waters or beaches of the Columbia River, the state of Washington, or the Pacific Ocean, for any purpose, to fail to submit such fish or shellfish for inspection by authorized representatives of the department.

(9) It shall be unlawful for any person licensed by the department to fail to make or return any report required by the department relative to the taking, selling, possessing, transporting, processing, freezing and storing of fish or shellfish, whether taken within the jurisdiction of the state of Washington or beyond, or on Indian reservations or usual and accustomed Indian fishing grounds.

(10) It shall be unlawful to take, fish for, possess, injure, kill, or molest fish in any fishway, fish ladder, fish screen, holding pond, rearing pond, or other fish protective device, or to interfere in any manner with the proper operation of such fish protective devices.

(11) It shall be unlawful to club, gaff, snag, snare, dip net, harass, spear, stone, or otherwise molest, injure, kill, destroy, or shoot with a firearm, crossbow, bow and arrow, or compressed air gun, any fish or shellfish or parts thereof, or for any person to attempt to commit such acts, or to have any fish, shellfish or parts thereof so taken in possession, except as provided for in this subsection:

(a) A person may use a dip net or club in the landing of fish taken by personal-use angling, unless otherwise provided; and a person may use a gaff in the landing of tuna, halibut and dogfish, and a harpoon in the landing of halibut, in all catch record card areas.

(b)(i) A person may use a dip net, gaff, or club in the landing of food fish or shellfish taken for commercial purposes, except that it is unlawful to use a fish pew, pitchfork, or any other instrument that will penetrate the body of the fish or shellfish that are not going to be retained or are unlawful to possess.

(ii) It is unlawful under any circumstance to use a device that penetrates the body of a sturgeon whether legal to retain or not.

(c) A person may use a spear in underwater spear fishing, as provided for in WAC 220-56-160.

(d) A person may use a bow and arrow or spear to take carp, as provided for in WAC 220-56-280.

(e) A person may snag herring, smelt, anchovies, pilchard, sand lance, and squid when using forage fish jigger gear or squid jigs.

(f) A person may shoot halibut when landing them with a dip net, harpoon or gaff.

(12) It shall be unlawful to take or possess, for any purpose, any fish or shellfish smaller or larger than the lawful minimum or maximum size limits prescribed by department rule. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish.

(13) It shall be unlawful to allow salmon or sturgeon or fish unlawful to retain that are entangled in commercial nets to pass through a power block or onto a power reel or drum.

(14) Notwithstanding the exceptions listed in subsection (15) of this section, it shall be unlawful to possess, aboard any vessel engaged in commercial fishing or having commercially caught fish aboard, any food fish or shellfish in such condition that its species, length, weight or sex cannot be determined if a species, species group or category, length, weight, or sex limit is prescribed for said species. ((In addition,))

(15) It is unlawful to possess food fish or shellfish mutilated in any manner such that the natural length or weight cannot be determined if a length or weight limit is prescribed for said species, except as follows:

(a) The food fish or shellfish have been legally taken for commercial purposes, are landed, and are properly accounted for on a completed fish receiving ticket.

(b) A person may possess, transport through the waters of the state, or land dressed sablefish as defined in WAC 220-16-330.

(c) A person may possess, transport through the waters of the Pacific Ocean, or land dressed salmon caught during a legal commercial salmon troll fishery, provided that frozen Chinook salmon, dressed with the heads off, shall be 21 1/2 inches minimum; and frozen coho salmon, dressed with the heads off, shall be 12 inches minimum, measured from the midpoint of the clavicle arch to the fork of the tail.

(d) A person may possess, transport through the waters of the Pacific Ocean, or land dressed halibut if allowed by International Pacific Halibut Commission (IPHC) rules and

such fish meet any IPHC size requirements. All halibut must be landed with the heads on.

(e) A person may possess, transport through the waters of the Pacific Ocean, or land dressed lingcod as defined by WAC 220-16-330 when taken during a lawful commercial fishery.

~~((15))~~ (16) It shall be unlawful to possess for any purpose any fish or shellfish in excess of catch or possession limits prescribed by department rule. Any such fish either snagged, hooked, netted or gilled must be immediately returned to the water with the least possible injury to the fish or shellfish.

~~((16) A person may possess, transport through the waters of the state, or land, dressed sablefish as defined by WAC 220-16-330.~~

(17) A person may possess, transport through the waters of the Pacific Ocean, or land, dressed salmon caught during a lawful commercial salmon troll fishery, provided that frozen Chinook salmon, dressed, heads off, shall be 21 1/2 inches minimum, and frozen coho salmon dressed, heads off, shall be 12 inches minimum, measured from the midpoint of the clavicle arch to the fork of the tail.

~~(18) A person may possess, transport through the waters of the Pacific Ocean, or land, dressed halibut if allowed by International Pacific Halibut Commission (IPHC) rules and such fish meet any IPHC size requirements.~~

~~((19))~~ (17) It shall be unlawful in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area, except as otherwise provided for in the rules and regulations of the department.

~~((20))~~ (18) It shall be unlawful for any permit holder to fail to comply with all provisions of any special permit or letter of approval issued to him under the authority of the director, or to perform any act not specifically authorized in said document or in the regulations of the commission or director.

~~((21))~~ (19) It shall be unlawful to use, place or cause to be placed in the waters or on the beaches or tidelands of the state any substance or chemical used for control of predators or pests affecting fish or shellfish or other aquatic marine organisms, without first having obtained a special permit to do so from the director.

~~((22))~~ (20) It shall be unlawful to test commercial fishing gear, except as follows:

(a) Bellingham Bay - inside and northerly of a line from Governor's Point to the south tip of Eliza Island to Point Frances, in waters 10 fathoms and deeper.

(b) Boundary Bay - north of a line from Birch Point to Point Roberts, and south of the international boundary, in waters 10 fathoms and deeper during times not under control of the Pacific Salmon Commission.

(c) San Juan Channel - within a 1-mile radius of Point Caution during times not under control of the Pacific Salmon Commission.

(d) Port Angeles - inside and westerly of a line projected from the east tip of Ediz Hook through buoy C "1" to the mainland.

(e) Port Gardner - within a 2-mile radius of the entrance to Everett breakwater, in waters 10 fathoms and deeper.

(f) Central Puget Sound - between lines from Meadow Point to Point Monroe, and Skiff Point to West Point, in waters 50 fathoms and deeper.

(g) East Pass - between lines from Point Robinson true east to the mainland, and from Dash Point to Point Piner, in waters 50 fathoms and deeper.

(h) Port Townsend - westerly of a line from the Coast Guard station in Port Townsend to Walan Point to Kala Point, in waters 10 fathoms and deeper.

(i) All tows or sets are limited to 20 minutes, exclusive of setting and retrieving time.

(j) All testing is to be accomplished between 8:00 a.m. and 4:00 p.m.

(k) Cod ends of trawl nets must be left open, all hooks of set line gear must be unbaited, and no lures or baited hooks shall be used with jig or troll gear.

(l) Any and all incidentally caught fish and shellfish must be returned to the waters immediately, and no fish or shellfish are to be retained aboard the vessel at any time during a gear test operation.

(m) It shall be unlawful for any person conducting such gear testing operations to fail to notify the fish and wildlife enforcement office in Olympia prior to testing.

~~((23))~~ (21) It is unlawful for any person or corporation either licensed by the department or bringing fish or shellfish into the state to fail to comply with the directions of authorized department personnel related to the collection of sampling data or material from fish or shellfish. It is also unlawful for any such person or corporation to fail to relinquish to the department, upon request, any part of a salmon or other fish containing coded-wire tags, including but not limited to, the snouts of those salmon that are marked by having clipped adipose fins.

~~((24))~~ (22) It is unlawful for any person to possess live bottom fish taken under a commercial fishery license.

~~((25))~~ (23) It is unlawful for any person to use chemical irritants to harvest fish, shellfish or unclassified marine invertebrates except as authorized by permit issued by the department.

~~((26))~~ (24) The lower Columbia River, Grays Harbor and Willapa Bay are closed to commercial sturgeon fishing, except as provided by emergency rule of the director. Sturgeon taken incidentally during an open commercial salmon fishing period may be retained for commercial purposes as described by department rule.

AMENDATORY SECTION (Amending Order 07-279, filed 11/7/07, effective 12/8/07)

**WAC 220-69-230 Description of Washington state nontreaty fish receiving tickets.** (1) There is hereby created the following nontreaty fish receiving ticket forms to be prepared, printed, and distributed upon request, by the department: Puget Sound salmon, troll, marine, utility, and shellfish. These forms shall contain space for the following information:

- (a) Fisherman: Name of licensed deliverer.
- (b) Address: Address of licensed deliverer.
- (c) Boat name: Name or Coast Guard number of landing vessel.

(d) WDFW boat registration: Washington department of fish and wildlife boat registration number.

(e) Gear: Code number or name of specific type of gear used.

(f) Fisherman's signature: Signature of licensed deliverer.

(g) Date: Date of landing.

(h) Dealer: Name of dealer, and department number assigned to dealer.

(i) Buyer: Name of buyer, and department number assigned to buyer.

(j) Receiver's signature: Signature of original receiver.

(k) Number of days fished: Days spent catching fish.

(l) Fish or shellfish caught inside or outside 3-mile limit: Check one box.

(m) Catch area: Salmon catch area code if salmon are caught. Marine fish/shellfish catch area code if marine fish are caught or shellfish are caught or harvested.

(n) Tally space for dealer's use: Used at dealer's discretion.

(o) Species code: Department assigned species code.

(p) Individual number of salmon(♣) and sturgeon(♣).

(q) Individual numbers of other fish species, if such fish are landed as part of an incidental catch allowance or catch ratio restriction that is expressed in numbers of fish rather than in pounds.

(r) Number of ghost shrimp in dozens, number of oysters in dozens or gallons, and species description for all fish and shellfish(♣).

(s) The original total weight in round pounds of all shellfish or fish, except that pounds of legally dressed fish and shellfish may be recorded in original dressed weight. Dressed fish and shellfish must be designated as dressed on the fish receiving ticket. Value of fish and shellfish sold or purchased: Summary information for species, or species groups landed.

(t) All species or categories of bottomfish having a vessel trip limit must be listed separately (see WAC 220-44-050).

~~((♣))~~ (u) Work area for dealer's use: Used at dealer's discretion, with the following exceptions:

(i) Federal sablefish endorsed limited entry permit numbers must be recorded in this area for each delivery of sablefish landed under the authority of this permit. Separate fish tickets are required for each permit number being used.

(ii) At the time of landing of coastal bottomfish into a Washington port, the fish buyer receiving the fish is required to clearly mark on the fish receiving ticket in the space reserved for dealer's use all legally defined trawl gear aboard the vessel at the time of delivery. The three trawl gear types are: Midwater trawl, roller trawl and small foot rope trawl (foot rope less than eight inches in diameter). The notation of the gear type(s) aboard the vessel is required prior to the signing of the fish receiving ticket by the vessel representative.

~~((♣))~~ (v) Total amount: Total value of landing.

~~((♣))~~ (w) Take-home fish: Species, number, and pounds of fish or shellfish retained for personal use.

~~((♣))~~ (x) Crew: Name and signature of crew members who take home fish.

(2) The Puget Sound salmon fish receiving ticket shall be used for:

(a) Deliveries of nontreaty salmon caught in inland waters.

(b) Any other delivery of nontreaty salmon where the catch may be easily recorded.

(c) Any imports of fresh salmon into the state of Washington.

(3) The troll fish receiving ticket shall be used for:

(a) Deliveries of nontreaty coastal salmon and incidental catch.

(b) Any other nontreaty deliveries where the species delivered may be easily recorded.

(c) Any imports of fresh salmon into the state of Washington.

(d) Any bottomfish or halibut that are subject to a catch allowance or ratio restriction, when those species are taken incidental to salmon fishing.

(4) The marine fish receiving ticket shall be used for:

(a) Nontreaty deliveries of marine fish or bottomfish that do not include salmon.

(b) Any imports of fresh marine fish or bottomfish.

(5) The utility fish receiving ticket shall be used for:

(a) Any nontreaty deliveries that do not include salmon, where other fish receiving tickets are not appropriate.

(b) Any imports of fresh fish or shellfish that do not include salmon.

(6) The shellfish receiving ticket shall be used for:

(a) Any nontreaty deliveries of shellfish.

(b) Any imports of fresh shellfish.

(c) Any incidental catch of bottomfish made while fishing for shellfish. The species name, total pounds, and price per pounds must be entered for each species of bottomfish caught.

AMENDATORY SECTION (Amending Order 07-279, filed 11/7/07, effective 12/8/07)

**WAC 220-69-250 Required information on nontreaty fish receiving tickets.** (1) It is unlawful for a person required to complete a nontreaty fish receiving ticket to fail to enter the mandatory information referenced in WAC 220-69-230 (1)(a) through (m)(~~(s)~~) and (p)(~~(, (q), (s), and (t))~~) through (x) on each nontreaty fish receiving ticket.

(2) A valid license card or duplicate license card issued by the department shall be used in conjunction with an approved mechanical imprinter in lieu of WAC 220-69-230 (1)(a) through (e) except as provided in WAC 220-69-273.

(3) A valid dealer or buyer card issued by the department shall be used in conjunction with an approved mechanical imprinter in lieu of WAC 220-69-230 (1)(h) and (i).

(4) During the period December 1 through December 30, the crab inspection certificate number is a required entry on all shellfish receiving tickets documenting landings and sale of Dungeness crab from Pacific Ocean, Coastal Washington, Grays Harbor, Willapa Harbor, and Columbia River waters. The crab inspection certificate number must be entered legibly on the left hand side of the ticket in the space indicated for dealer's use.

(5) Violation of this section is a gross misdemeanor, punishable under RCW 77.15.640.

**WSR 10-02-003**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 09-167—Filed December 23, 2009, 1:58 p.m., effective January 23, 2010]

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

Purpose: The legislature created a new license limitation program in ESHB 1326 for the harvest and delivery of Pacific sardines into the state. The current emerging commercial fishery rules for sardine/pilchard no longer applied after this new law became effective on July 26, 2009. This proposal will extend the current harvest, bycatch, landing, and reporting requirements to the new licenses and incorporate federal coastal pelagic species regulations by reference.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-88C-010, 220-88C-020, 220-88C-030, 220-88C-040, and 220-88C-050.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

Adopted under notice filed as WSR 09-14-100 on June 30, 2009.

Changes Other than Editing from Proposed to Adopted Version: None to WAC 220-44-095. However, with this CR-103, we are adding a repealer for the WAC sections this new rule replaces.

Number of Sections Adopted in Order to Comply with Federal Statute: New 1, Amended 0, Repealed 5; Federal Rules or Standards: New 1, Amended 0, Repealed 5; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 5.

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 5.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 5.

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: December 23, 2009.

Philip Anderson  
 Director

NEW SECTION

**WAC 220-44-095 Coastal sardine purse seine fishery—Harvest, landing, and reporting requirements—Gear.** (1)(a) It is unlawful to possess, transport through the waters of the state, or deliver into any Washington port, Pacific sardine (*Sardinops sagax*) or other coastal pelagic species taken in violation of gear requirements and other rules published in Title 50, Part 660, Subpart I of the Code of Federal Regulations (CFR). These federal regulations govern commercial fishing for coastal pelagic species in the Exclusive Economic Zone off the coasts of Washington, Oregon, and California. Where the federal regulations refer to the fishery management area, that area is interpreted to

include Washington state waters coterminous with the Exclusive Economic Zone. Updates to the federal regulations are published in the Federal Register. Discrepancies or errors between the CFR and Federal Register will be resolved in favor of the Federal Register. This chapter incorporates the CFR by reference and is based, in part, on the CFR. A copy of the federal rules may be obtained by contacting Lori Preuss at 360-902-2930, or going to the U.S. Government Printing Office's GPO Access web site ([www.gpoaccess.gov](http://www.gpoaccess.gov)). State regulations that are more restrictive than the federal regulations will prevail.

(b) The coastal sardine fishery season is open to purse seine fishing each year only from April 1st through December 31st. It is unlawful to take Pacific sardine in state waters except for the incidental take authorized by the coastal bait-fish regulations.

(c) It is unlawful to retain any species that is taken incidental to sardine, except for anchovy, mackerel, and market squid (*Logligo opalescens*). Any salmon encircled in the purse seine must be released prior to completion of the set, and no salmon may be landed on the fishing vessel.

(d) It is unlawful to transfer sardine catch from one fishing vessel to another.

(e) It is unlawful to fail to have legal purse seine gear aboard the vessel making a sardine landing.

(f) It is unlawful to fail to deliver sardine landings to a shore-side processing facility.

(g) Once a delivery has commenced at a processing plant, all fish on board the vessel must be offloaded at that plant.

(h) It is unlawful to deliver more than fifteen percent cumulative weight of sardines for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products, or by-products, for purposes other than human consumption or fishing bait used during the sardine fishery season.

(2) License owners must designate a vessel upon issuance or renewal of the license and must be identified as either the vessel owner or primary license operator.

(3) Persons fishing under a Washington sardine purse seine fishery license or temporary annual fishery permit must:

(a) Carry an observer on board for any sardine fishing trip if requested by the department;

(b) Surrender up to five hundred sardines per vessel per trip if requested by department samplers for biological information; and

(c) Complete a department-issued logbook each month in which fishing activity occurs, and submit it to the department by the 15th day of the following month.

(4) Violation of reporting requirements under this section is punishable pursuant to RCW 77.15.280.

(5) Violation of gear, harvest, or landing requirements under this section is punishable pursuant to RCW 77.15.520.

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 220-88C-010	Emerging commercial fishery—Coastal pilchard fishery.
WAC 220-88C-020	Designation of the coastal pilchard fishery as an emerging commercial fishery.
WAC 220-88C-030	Eligibility to participate in the coastal pilchard fishery.
WAC 220-88C-040	Coastal pilchard fishery—Seasons and lawful catch.
WAC 220-88C-050	Coastal pilchard fishery—Observer and sampler coverage, logbook requirements.

#### **WSR 10-02-009 PERMANENT RULES DEPARTMENT OF REVENUE**

[Filed December 24, 2009, 11:34 a.m., effective January 24, 2010]

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

Purpose: The statutory definitions of "selling price" (RCW 82.08.010) and "value of article used" (RCW 82.12.-010) exclude "separately stated trade-in property of like kind" for purposes of the retail sales and use taxes. WAC 458-20-247 (Rule 247) explains how and when this exclusion applies, and the record-keeping requirements needed to document the transactions.

The department amended Rule 247 to:

- Update language in the rule to more closely follow the current statutory definitions of "selling price" and "value of article used"; and
- Update citations to other statutes and rules.

Editing changes were also made for clarity.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-247 Trade-ins, selling price, sellers' tax measures.

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

Other Authority: RCW 82.08.020 and 82.12.010, to the extent they apply to transactions where the buyer delivers property to the seller as consideration.

Adopted under notice filed as WSR 09-21-054 on October 14, 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 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: December 24, 2009.

Alan R. Lynn  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-08-003, filed 3/21/01, effective 4/21/01)

**WAC 458-20-247 Trade-ins, selling price, sellers' tax measures.** (1) **Introduction.** This section explains the measure of tax when a trade-in is included in the sale of tangible personal property. It explains how and when the retail sales or use tax exclusions apply and the recordkeeping requirements needed to document the transactions.

The value of "trade-in property of like kind" is excluded from the definitions of "selling price" in RCW 82.08.010 and the definition of "value of the article used" in RCW 82.12.010. ~~((This rule explains how and when the retail sales or use tax exclusions apply and the recordkeeping requirements needed to document the transactions. The retail sales and use tax exemptions provided for core deposits and credits by RCW 82.08.036 and 82.12.038 are discussed in WAC 458-20-250.))~~

Unless otherwise stated, "tax," "taxable," and "nontaxable," as used in this ~~((rule))~~ section, refer to retail sales or use tax only. The terms "trade-in," "traded in," and "property traded in" have their ordinary and common meaning. The terms refer to property applied, in whole or in part, toward the selling price of property of like kind. Readers are advised that the fact that sales and purchase transactions might be characterized as a "like kind" under Section 1031 of the Internal Revenue Code does not control for the purpose of the trade-in exclusion in RCW 82.08.010 and 82.12.010.

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

(b) References to related sections. The department of revenue (department) has adopted other sections that readers may want to refer to.

(i) WAC 458-20-106 Casual or isolated sales—Business reorganizations;

(ii) WAC 458-20-178 Use tax;

(iii) WAC 458-20-208 Exemptions for wholesale sales of new motor vehicles between new car dealers and for accommodation sales;

(iv) WAC 458-20-211 Leases or rentals of tangible personal property, bailments; and

(v) WAC 458-20-272 Tire fee—Core deposits or credits.

(2) **General nature of the trade-in exclusion.** RCW 82.08.010 and 82.12.010 define the terms "selling price" and "value of the article used," in pertinent part, to mean the total amount of consideration, ((whether money)) except sepa-

rately stated trade-in property of like kind, including cash, credit((s)), ((rights,)) or ((either)) tangible personal property ((except trade-in property of like kind)), expressed in terms of money paid or delivered by a buyer to a seller. As a result, the buyer of tangible personal property is entitled to reduce the measure of retail sales or use tax if ((#)):

• The buyer delivers the trade-in property to the seller((-#));

• The trade-in property is delivered as consideration for the purchase((-);) and ((#))

• The property traded in is "property of a like kind."

(a) The trade-in exclusion applies to all trade-in property of like kind delivered by a buyer to a seller as consideration for a purchase. Thus, if a buyer trades in two motor vehicles when purchasing one motor vehicle, the buyer is entitled to a reduction in the measure of retail sales tax based on the value of both trade-in vehicles.

(b) The trade-in exclusion is limited to retail sales and use taxes. There is no comparable exclusion for business and occupation (B&O) tax. (See definition of "gross proceeds of sales" in RCW 82.04.070 and of "value proceeding or accruing" in RCW 82.04.090.) Sales tax need not have been paid on the item being traded in to be eligible for the trade-in exclusion.

(3) **Buyer to deliver trade-in property to seller.** The buyer must deliver trade-in property to the "seller."

(a) RCW 82.08.010 defines "seller" as "every person ... making sales at retail or retail sales to a buyer, purchaser, or consumer, whether as agent, broker, or principal." There is no requirement that the seller be the owner of the property being sold to the buyer. RCW 82.08.010 anticipates and includes situations where a "seller" is selling property that he or she does not actually own, such as in consignment sales transactions.

For example, Broker enters into a consignment sale contract with Susan Smith to sell her Boat A. John Doe contacts Broker expressing interest in purchasing Boat A, provided his Boat B is accepted as a trade-in on the purchase. John Doe executes a purchase agreement with Broker which specifically identifies both Boat A being purchased and the trade-in. Broker accepts delivery and ownership of Boat B and places Boat B into Broker's own inventory. In turn Broker arranges delivery of the craft purchased to John. The buyer (John) has delivered the trade-in property (Boat B) to the seller (Broker). There is no requirement that Broker purchase Boat A from Susan (thereby becoming the owner) prior to selling Boat A to John and accepting Boat B as trade-in property because, as a broker, Broker is a seller under RCW 82.08.010.

(b) The trade-in exclusion does not apply to transactions where a seller transfers tangible personal property in or out of its own inventory in exchange for other property it also owns.

(4) **Trade-in as consideration.** Property traded in must be consideration delivered by the buyer to the seller. The sales documents must identify the tangible personal property being purchased and the trade-in property being delivered to the seller. This does not require simultaneous transfers of the property being traded in and the property being purchased, but it does require that the delivery of the trade-in and the purchase be components of a single transaction. Sales documents, executed not later than the date the trade-in property is

delivered to the seller, must identify the property purchased and the trade-in property as more fully explained in subsection ~~((7))~~ below.

~~The following examples identify a number of facts and then state conclusions with respect to the trade-in exclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances))~~ (8) of this section.

**Examples:**

(a) Jane Doe offers to purchase Sailboat A from Dealer, if Dealer accepts her Sailboat B as a trade-in on the purchase. Dealer declines to accept ownership of Jane's Sailboat B, but instead offers to sell Sailboat B on a consignment basis with the net proceeds to be applied toward the purchase if Sailboat B is sold within three months. Jane accepts and Sailboat B is sold within the three-month period, and the net proceeds are applied to Jane's purchase of Sailboat A.

Jane is not entitled to the trade-in exclusion. An agreement to sell property on consignment does not constitute consideration "paid or delivered by a buyer to a seller," even if the subsequent proceeds are applied to the purchase price.

(b) Sally Jones decides to upgrade from her existing motor home to a new, larger motor home. The salesperson at a local RV dealership explains that while the dealership does not currently have on hand a motor home meeting Sally's needs, it can order one for her from the manufacturer. The salesperson also explains that if Sally trades in her motor home at the time she enters into the purchase contract, the dealership will accept the motor home as a down payment toward the purchase of the new motor home. Sally signs the purchase contract, the dealership orders the new motor home, and Sally delivers her motor home to the RV ~~((dealers))~~ dealership (who accepts ownership ~~((thereof))~~ of the motor home). Sally's new motor home is delivered to her eight months later.

Sally is entitled to the trade-in exclusion because the motor home was delivered to the RV dealership as consideration paid toward her purchase of the new motor home.

(c) Mr. B and Coastal Brokers enter into a consignment sales agreement. Under the terms of this agreement, Coastal Brokers will sell Mr. B's sailboat on a consignment basis and at the time of sale place the proceeds due Mr. B into a trust account for use toward a possible purchase of a yacht by Mr. B. Mr. B's sailboat is sold and the proceeds due to Mr. B placed in the trust account. Mr. B subsequently purchases a yacht from Coastal Brokers, and the trust account proceeds are applied to the purchase price of the yacht.

Mr. B is not entitled to the trade-in exclusion. The delivery of Mr. B's sailboat to Coastal Brokers and Mr. B's purchase of the yacht are not components of a single transaction. In addition, Mr. B's delivery of his sailboat for consignment sale by Coastal Brokers does not constitute consideration "paid or delivered by a buyer to a seller," even if proceeds from the sale are applied to the purchase of the yacht.

(d) John Smith agrees to purchase Travel Trailer A from Dealer if Dealer accepts John's Travel Trailer B as a trade-in on the purchase. Dealer accepts ownership of Travel Trailer B at an agreed-upon value, on the condition that John pay Dealer a monthly fee to reimburse Dealer for financing costs associated with Travel Trailer B. This fee is to be paid for a

period of four months or until Dealer sells Travel Trailer B, whichever is shorter. John has no further responsibility with respect to Travel Trailer B after this period.

John is entitled to the trade-in exclusion because he delivered Travel Trailer B to Dealer as consideration paid toward Travel Trailer A. The fees John paid to reimburse Dealer for financing costs associated with the trade-in property do not change the nature of the transaction, though for the purposes of the trade-in exclusion they do reduce the originally agreed-upon value of the trade-in property.

(5) **Property of like kind.** The term "property of like kind" means articles of tangible personal property of the same generic classification. It refers to the class and kind of property, not to its grade or quality. The term includes all property within a general classification rather than within a specific category in the classification. Thus, as examples, it means furniture for furniture, motor vehicles for motor vehicles, licensed recreational land vehicles for licensed recreational land vehicles, appliances for appliances, auto parts for auto parts, and audio/video equipment for audio/video equipment. These general classifications are determined by the nature of the property and its function or use. It may be that some kinds of property fit within more than one general classification. For example, a motor home is both a motor vehicle and a licensed recreational land vehicle. Thus, for purposes of the trade-in exclusion, a motor home may be taken as a trade-in on a travel trailer, truck, camper, or a truck with camper attached, and vice versa. Similarly, a travel trailer may be taken as trade-in on a motor home even though a travel trailer is not a motor vehicle; both are licensed recreational land vehicles. Conversely, a utility trailer may not be taken as trade-in on a travel trailer because a utility trailer is neither a motor vehicle nor a licensed recreational land vehicle. Likewise a car may not be taken as trade-in on a camper and vice versa.

It is not required that a car be traded in exclusively on another car in order to get the trade-in reduction of the tax measure. It could, as well, be traded in as part payment for a truck, motorcycle, motor home, or any other qualifying motor vehicle. Similarly, a sofa for a recliner chair, a pistol for a rifle, a sailboat for a motorboat, or a gold chain for a wrist watch are the kinds of generic trade-in transfers which would qualify. The exclusion of the value of property traded in, however, does not include such things as a motorcycle for a boat, a diamond ring for a television set, a battery for lumber, computer hardware for computer software, or farm machinery (including tractors and self-propelled combines) for a car.

(6) **Value of property traded in.** The seller and buyer establish the value of property traded in. The parties may not overstate the value of the trade-in property in order to artificially lower the amount of retail sales or use tax due. Absent proof of a higher value, the property traded in must be determined by the fair market value of similar property of like quality, quantity, and age, sold or traded under comparable conditions.

(7) **Trade-in value exceeds selling price.** If the trade-in value exceeds the selling price of the item sold, the selling price of the item being purchased should be used as the trade-in value. For example, a Washington resident purchases a car with a value of ~~(((\$5,000))~~ \$15,000 and trades in a car with a



fair market value of ~~(\$7,000)~~ \$17,000. The net due to the purchaser is \$2,000. When the seller completes the excise tax return, he or she should report a trade-in value of ~~(\$5,000)~~ \$15,000 and not ~~(\$7,000)~~ \$17,000 because the trade-in value is capped at selling price of the item being purchased.

(8) **Recordkeeping.** RCW 82.32.070 requires every person liable for any tax to keep and preserve records from which tax liability can be determined. To substantiate a claim for the trade-in exclusion, the sales agreement and/or invoice must identify both the property being purchased and the trade-in property. Such identification includes the model number, serial number, year of manufacture, and other information as appropriate. The sales agreement and/or invoice must also specify the selling price and the value of the trade-in property.

A copy of the sales agreement or invoice must be retained as a part of the seller's sales records. The following is an example of an invoice providing the necessary information regarding a sales transaction with trade-in:

Sold: <del>(2000)</del> <u>2009</u> Mountain Home 8.5 ft. Camper	
Model MH-20DT, Serial No. 200010	<del>\$(9,075)</del> <u>19,075</u>
Less "trade-in" - 1983 Meadowlark 8 ft. Camper	
Model No. ML883, Serial No. 0001	\$2,000
<u>Subtotal</u>	<u>\$17,075</u>
<u>Retail Sales Tax</u>	
<u>Total</u>	

(9) **Encumbered property traded in.** A buyer is entitled to full value for trade-in property, which is otherwise encumbered by a security interest or the subject of a conditional sale, or retail installment sales contract.

(10) **Casual or isolated sales.** The retail sales tax applies to all casual or isolated retail sales made by any person who is required to be registered and reporting tax to the state. The trade-in exclusion applies in the case of a casual or isolated sale, provided the statutory requirements are satisfied. The recordkeeping requirements explained in subsection ~~((7))~~ (8) of this section apply to casual or isolated sales.

Persons who are not engaged in business activity, e.g., private persons, are not required to be registered and are not required to collect sales tax on their casual or isolated sales. See RCW 82.08.0251 and WAC 458-20-106 ~~((Casual or isolated sales—Business reorganizations))~~. The use of property acquired through casual sales is subject to use tax. See RCW ~~((82.12.0251))~~ 82.12.020 and WAC 458-20-178.

(11) **Trade-ins as sales.** RCW 82.04.040 defines the term "sale" in pertinent part to mean "any transfer of the ownership of, title to, or possession of property for a valuable consideration." When property is traded in, ownership in that property is transferred. As a result, under the law a buyer delivering trade-in property to a seller is making a sale of the trade-in property.

(a) If the buyer is not in the business of selling the type of property being traded in the buyer incurs no B&O tax li-

bility. ~~((See WAC 458-20-106 ((on casual or isolated sales)).((7))~~

(b) On occasions where the buyer is in the business of selling the type of property being traded in, the buyer incurs a B&O tax liability.

For example, Don's Leasing purchases a new car from Tom the Dealer. This car will be part of ~~((Leasing's))~~ Don's inventory of cars that it rents to customers. ~~((Leasing))~~ Don delivers a used car out of its inventory to Tom the Dealer as a part of the consideration paid for the new car. The trade-in of the used car by ~~((Leasing))~~ Don is considered a wholesale sale to ~~((Dealer))~~ Tom. This is not a casual or isolated sale because ~~((Leasing))~~ Don is in the business of selling cars in the form of rentals.

(c) In most cases, a buyer delivers trade-in property to a seller who is in the business of reselling trade-in property (e.g., a buyer trading in an automobile to a new car dealer). The buyer in these cases has no responsibility to collect retail sales tax.

(12) **Retail services.** The exclusion of the value of property traded in from the selling price tax measure applies only to sales involving tangible personal property traded in for tangible personal property sold. It does not apply to any transactions involving services that have been statutorily included as "sales at retail." ~~((See RCW 82.04.050((7)).~~ For example, a construction contractor may not accept part payment in tangible personal property to thereby reduce the sales tax measure of the construction contract selling price. Similarly, a seller of tangible personal property may not accept retail services as part payment to thereby reduce the selling price tax measure. Such transfers neither qualify as trade-in transfers of tangible property nor "in-kind" transfers.

(13) **Trade-in for rental property.** Under RCW 82.04.-050, rentals or leases of tangible personal property are "retail sales." The "selling price" is also the measure of tax for such rentals and leases. Where tangible personal property is traded in as part payment for the rental or lease of property of like kind (e.g., a used computer against the rental of a new one), the sales tax will apply to all payments after the value of the property traded in has been depleted or consumed and the lessor of the property actually begins making charges for the lease or rental of tangible personal property. Refer to WAC 458-20-211 ~~((Leases or rentals of tangible personal property, bailments))~~ for more information regarding the tax-reporting responsibilities with respect to lease or rental transactions.

A lessee must first purchase leased property before trading it in toward the purchase/lease of other property to be entitled to the trade-in exclusion. A buyer cannot satisfy the statutory requirement that the trade-in property be delivered to the seller as a part of the consideration for the purchased property if the buyer does not have ownership of and the right to sell the property being traded in. For example, Jane Doe leases Auto A from Leasing Company. Jane decides to lease a newer Auto B from Leasing Company. Jane exercises her option to purchase Auto A, and then delivers Auto A as a trade-in towards the lease of Auto B. Jane is entitled to the trade-in exclusion. By delivering her ownership of Auto A to Leasing Company, Jane has satisfied the statutory require-

ment that she as the buyer deliver trade-in property to the seller as a part of the consideration paid for Auto B.

(14) **Real property transfers.** Because the trade-in exclusion is limited to tangible personal property, the trade-in exclusion does not apply to sales of real property or transactions where real property is traded in for tangible personal property.

(15) **Use tax.** RCW 82.12.010 defines the measure of the use tax as the "value of the article used." As explained in subsection (2) of this ~~((rule))~~ section, the statutory definition excludes "trade-in property of ~~((like-kind))~~ like kind." Therefore, the measure of the use tax for tangible personal property upon which no retail sales tax has been paid (e.g., if it were purchased in another state) is the same as the measure of the retail sales tax. In such cases the value of the property traded in should be excluded from the use tax measure.

The consumer-user, or any seller who has a duty to collect this state's use tax, must retain the sales records reflecting property "traded in," as explained in subsection ~~((7))~~ (8) of this ~~((rule))~~ section.

### WSR 10-02-010

#### PERMANENT RULES

#### DEPARTMENT OF REVENUE

[Filed December 24, 2009, 1:09 p.m., effective January 24, 2010]

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

Purpose: WAC 458-16-260 Nonprofit day care centers, libraries, orphanages, homes for sick or infirm, hospitals, outpatient dialysis facilities, explains the property tax exemption for nonprofit hospitals and other nonprofit facilities, authorized in RCW 84.36.040.

The department has amended this rule to clarify what property owned or used by a nonprofit hospital qualifies for property tax exemption. The amended rule provides a clear basis for determining when nonprofit hospital property is exempt. Rather than focusing solely on whether the property is used for in-patient care, the amended rule focuses on whether the property is fully integrated into a licensed hospital unit.

Citation of Existing Rules Affected by this Order: Amending WAC 458-16-260 Nonprofit day care centers, libraries, orphanages, homes for sick or infirm, hospitals, outpatient dialysis facilities.

Statutory Authority for Adoption: RCW 84.36.865, 84.36.040.

Adopted under notice filed as WSR 09-22-081 on November 3, 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: December 24, 2009.

Alan R. Lynn  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-24-037, filed 11/28/01, effective 12/29/01)

**WAC 458-16-260 Nonprofit day care centers, libraries, orphanages, homes for sick or infirm, hospitals, outpatient dialysis facilities.** (1) **Introduction.** This ~~((rule))~~ section explains the property tax exemption available under the provisions of RCW 84.36.040 to property used by nonprofit day care centers, libraries, orphanages, homes for the sick or infirm, hospitals, outpatient dialysis facilities~~((and))~~. This section also explains the property tax exemption available to property leased to and used by a hospital that is owned and operated by a public hospital district for hospital purposes.

(2) **Definitions.** For purposes of this ~~((rule))~~ section, the following definitions apply:

(a) "Convalescent" ~~((and))~~ or "chronic care" means any or all procedures commonly employed in caring for the sick including, but not limited to, administering medicines, preparing special diets, providing bedside nursing care, applying dressings and bandages, and carrying out any treatment prescribed by a duly licensed practitioner of the healing arts.

(b) "Day care center" means a facility that regularly provides care for a group of children for periods of less than twenty-four consecutive hours.

(c) "Home for the sick or infirm" means any home, place, or institution that operates or maintains facilities to provide convalescent or chronic care, or both, for three or more persons not related by blood or marriage to the operator, who by reason of illness or infirmity, are unable to properly care for themselves.

(i) The services must be provided to persons over a continuous period of twenty-four hours or more.

(ii) A boarding home, guest home, hotel, or similar institution that is held forth to the public as providing and supplying only room, board, or laundry services to persons who do not need medical or nursing treatment or supervision is not considered a "home for the sick or infirm" for purposes of this ~~((rule))~~ section.

(d) "Hospital" means a nonprofit organization, association, or corporation ~~((or public hospital established in accordance with chapter 70.44 RCW))~~ engaged in providing medical, surgical, nursing, or related health care services for the prevention, diagnosis, or treatment of human ~~((disease))~~ illness, pain, injury, disability, deformity, or abnormality, including mental illness, ~~((or retardation, as well as the equipment and facilities used by a nonprofit organization, association, or corporation or hospital established in accordance with chapter 70.44 RCW to deliver such services to~~

inpatients. These services must be provided over a continuous period of twenty-four hours or more.

(i) "Hospital" also means any portion of a hospital building, or other buildings used in connection therewith, and the equipment therein operated as a part of a hospital unit or used as a residence for persons engaged or employed in the operation of a hospital including, but not limited to, a nurse's home or a residence for hospital employees.

(ii) "Hospital" does not mean:

(A) Hotels or similar places that furnish only food and lodging or simple domiciliary care;

(B) Clinics or physician's offices where patients are not regularly kept as bed patients for twenty-four hours or more;

(C) Nursing homes as defined in chapter 18.51 RCW; and

(D) Maternity homes as defined in chapter 18.46 RCW.

(e) "Hospital unit" means all buildings or properties that are part of an integrated, interrelated, homogeneous unit exclusively used for exempt hospital purposes. The term includes residential units exclusively used to temporarily house families of inpatients in an integrated program of hospital therapy.

(f) "Property" means real or personal property used by a nonprofit organization, association, or corporation or leased to and used by a hospital that is owned and operated by a public hospital district established under chapter 70.44 RCW: treatment of mentally incompetent persons, or treatment of chemically dependent persons. The term also means all buildings or portions of buildings that are currently licensed as part of a hospital pursuant to chapters 70.41 or 71.12 RCW, and are part of an integrated, interrelated, homogeneous unit exclusively used for hospital purposes. The licensed hospital must be able to provide health care services to inpatients over a continuous period of twenty-four hours or more. The term also includes:

(i) Administrative and support facilities integral and necessary to the functioning of the licensed hospital;

(ii) Buildings used as a residence for persons engaged or employed on a regular basis in the operation of a licensed hospital. Such buildings include, but are not limited to, a nurse's home or a residence for hospital employees; and

(iii) Residential units administered by a licensed hospital that are exclusively used to temporarily house families of inpatients in an integrated program of therapy.

"Hospital" does not mean:

(A) Hotels or similar places that furnish only food and lodging or simple domiciliary care;

(B) Clinics or physician's offices not licensed as part of a hospital, where patients are not regularly kept as bed patients for twenty-four hours or more;

(C) Nursing homes as defined in chapter 18.51 RCW; and

(D) Maternity homes as defined in chapter 18.46 RCW.

(3) **Exemption for exclusively used property.** All real and personal property exclusively used by a nonprofit organization, association, or corporation for the following institutions is exempt from taxation:

(a) Day care centers;

(b) ~~(Pre)schools;~~

(e)) Free public libraries;

~~((d))~~ (c) Orphanages ~~(and orphan asylums);~~

~~((e))~~ (d) Homes for the sick or infirm;

~~((f))~~ (e) Hospitals for the sick; and

~~((g))~~ (f) Outpatient dialysis facilities.

(4) **Exemption for loaned, leased, or rented property.**

Property loaned, leased, or rented to an institution listed in subsections (3)(a) through ~~((g))~~ (f) of this ~~((rule))~~ section is also exempt from taxation if:

(a) The property is exclusively used by the nonprofit organization, association, or corporation;

(b) The benefit of the exemption inures to the user; and

(c) The property was specifically identified as loaned, leased, or rented when the application for exemption was made.

(5) **Property leased or rented to and used by a hospital that is owned and operated by a public hospital district.** All real and personal property leased or rented to and used by a hospital owned and operated by a public hospital district established under chapter 70.44 RCW for hospital purposes is exempt from taxation. The benefit of the exemption must inure to the entity using the exempt property.

(6) **Exclusive use required.** Any portion of property exempt under subsections (3) through (5) of this ~~((rule))~~ section that is not exclusively used in a manner furthering the exempt purposes of the nonprofit organization, association, or corporation ~~((or the hospital purposes of public hospital district))~~ must be segregated and taxed. For example, hospital property used by, and under the administrative control of, a physician to conduct his private practice must be segregated and taxed.

(7) ~~((Actual use and irrevocable dedication required.~~ To be exempt from taxation under this rule, all property owned by a nonprofit organization, association, or corporation or owned and operated by a public hospital district established under chapter 70.44 RCW must be:

(a) ~~In use;~~ and

(b) ~~Irrevocably dedicated to the exempt purpose of the nonprofit organization, association, or corporation.~~

(8)) **Additional requirements.** Any organization or association that applies for a property tax exemption under this ~~((rule))~~ section must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 sets forth additional conditions and requirements that must be complied with to obtain a property tax exemption under RCW 84.36.040.

## WSR 10-02-021

### PERMANENT RULES

### DEPARTMENT OF

### SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed December 29, 2009, 12:56 p.m., effective January 29, 2010]

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

Purpose: The purpose of amending these rules is to consider making editorial and clarifying changes, and to make it consistent with current laws and standards. Remove incorrect statutory authority reference 42 C.F.R. 489.52 in the footnote in all sections of chapter 388-97 WAC. The anti-

pated effects are to make the rule clearer, easier to read, understand and apply.

The department is proposing new sections WAC 388-97-0725 Notice to others of preliminary findings, 388-97-4166 Liability insurance required, 388-97-4167 Liability insurance required—Commercial general liability insurance or businesses liability insurance coverage, 388-97-4168 Liability insurance required—Professional liability insurance coverage, 388-97-4425 Notice—Service complete, and 388-97-4430 Notice—Proof of service.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-97-1420 and 388-97-3820; and amending WAC 388-97-0001, 388-97-0100, 388-97-0280, 388-97-0580, 388-97-0720, 388-97-1400, 388-97-1440, 388-97-1460, 388-97-1480, 388-97-1500, 388-97-1520, 388-97-1540, 388-97-1560, 388-97-1580, 388-97-1600, 388-97-1800, 388-97-1820, 388-97-1900, 388-97-2060, 388-97-2280, 388-97-4200, 388-97-4220, 388-97-4320, 388-97-4340, and 388-97-4440.

Statutory Authority for Adoption: Chapters 18.51 and 74.42 RCW.

Adopted under notice filed as WSR 09-20-062 on October 2, 2009.

Changes Other than Editing from Proposed to Adopted Version: See Reviser's note below.

A final cost-benefit analysis is available by contacting Lisa N.H. Yanagida, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2589, fax (360) 438-7903, e-mail yanagln2@dshs.wa.gov. See Reviser's note below.

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 6, Amended 25, 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 6, Amended 25, Repealed 2.

Date Adopted: December 29, 2009.

Susan N. Dreyfus  
Secretary

**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 10-04 issue of the Register.

**WSR 10-02-022**  
**PERMANENT RULES**  
**OLYMPIC COLLEGE**

[Filed December 29, 2009, 1:43 p.m., effective January 29, 2010]

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

Purpose: The purpose of the parking policy is to clarify and publicize parking rules for Olympic College campuses.

Statutory Authority for Adoption: Chapter 28B.50 RCW.

Adopted under notice filed as WSR 09-21-084 on October 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 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, 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: December 29, 2009.

Thomas Oliver  
Rules Coordinator

**NEW SECTION**

**WAC 132C-10-100 Authority.** Per RCW 28B.50.140 (10), the board of trustees of Olympic College has authority to adopt rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the college. Parking fees may be adopted by the board of trustees, specifying the charge per quarter and per year. The college reserves the right to refuse the issuance of a parking permit.

**NEW SECTION**

**WAC 132C-10-110 Enforcement.** The Olympic College safety and security department is responsible for all matters regarding pedestrian and vehicular traffic and parking regulation and enforcement of parking including, but not limited to:

- (1) Assignment of parking spaces, parking permits;
- (2) Assessment of fines for violations;
- (3) Assessment of security enhancement fees;
- (4) Designation of lot and space numbers;
- (5) Issuance of traffic or parking citations; and
- (6) Permit revocation.

**NEW SECTION**

**WAC 132C-10-120 Fines.** (1) A full schedule of traffic and parking infractions shall be published by the college and made available for review in the public safety office.

(2) All fines are to be paid through the Olympic College cashier's office, either in person or by mail during normal business hours and within fifteen days of the infraction. Failure to pay fines may result in any of the following actions, but is not necessarily limited to:

- (a) Denial of registration.

(b) Withholding transcripts, degrees, refunds, credits and grades.

(c) Denial of future parking privileges.

(d) Violators will be given fifteen calendar days to appeal or pay a citation. If payment or appeal is not made in this period, a warning notice will be sent indicating that payment is due within five business days with notice of penalty or action taken if not paid.

(i) If payment is not made by the final due date any parking privileges will be revoked.

(ii) If payment is not made by the final due date and the individual does not have parking privileges, future violations may result in impounding, immobilization (boot) with storage charged to the owner or operator of the vehicle. A payment plan (or payment in full for all citations) must be established through the accounting department prior to removal of the boot.

(3) During the first week of each quarter, a warning card may, at the discretion of safety and security, be placed on the vehicle in lieu of a citation. The college reserves the right to issue citations at all times.

#### NEW SECTION

**WAC 132C-10-130 Impoundment.** Vehicles will be impounded if found to be blocking another vehicle or access, posing any potential threat to property or personal safety, multiple parking or traffic infractions restricting access to emergency vehicles, and other reasons seen as creating a safety hazard in the opinion of a safety and security supervisor. All costs of impoundment will be the responsibility of the vehicle owner. The college shall not be liable for loss or damage of any kind resulting from such impounding, immobilization or storage. Impoundment does not remove the obligation for any fines associated with the violation(s).

#### NEW SECTION

**WAC 132C-10-140 Appeal process.** All appeals by anyone who has received a citation for a violation of these parking and traffic rules must be made in writing using the Olympic College Parking Appeal form (available from safety and security).

(1) **Level one:** Appeals must be submitted to safety and security within five working days of initial citation with an appeal form and a copy of the citation. The safety and security supervisor will make a determination and notify the appellant within five working days of receipt of the appeal.

(2) **Level two:** If a level one appeal is denied, the appellant may petition the parking advisory committee within five working days. The decision of the parking advisory committee is final. The appeal to the parking advisory committee must include the following:

(a) A copy of the level one appeal;

(b) A written statement indicating reasons the denial should be overturned; and

(c) A receipt showing that the citation has been paid.

The committee will make a determination and notify the appellant within five working days of receipt of a level two appeal. The appellant will be refunded any citation fee paid if the committee overturns the citation(s).

#### NEW SECTION

**WAC 132C-10-150 Parking advisory committee.** The parking advisory committee is coordinated by the safety and security department. It is composed of one faculty, one staff, and one student. The committee will meet as needed.

#### **WSR 10-02-025**

##### **PERMANENT RULES**

#### **DEPARTMENT OF REVENUE**

[Filed December 29, 2009, 1:54 p.m., effective January 1, 2010]

Effective Date of Rule: January 1, 2010.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The department is adopting this rule with an effective date of January 1 so that county officials may properly value classified farm and agricultural land during assessment year 2010.

Purpose: WAC 458-30-262 provides county assessors with the rate of interest and property tax component used in valuing farm and agricultural land classified under chapter 84.34 RCW (the open space program). Each county has its own property tax component. The rule is being amended to update the interest rate and property tax component that local taxing officials will use when valuing classified farm and agriculture land during assessment year 2010.

Citation of Existing Rules Affected by this Order: Amending WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component.

Statutory Authority for Adoption: RCW 84.34.065 and 84.34.141.

Adopted under notice filed as WSR 09-21-030 on October 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 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: December 29, 2009.

Alan R. Lynn  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-24-093, filed 12/2/08, effective 1/2/09)

**WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component.** For assessment year 2009, the interest rate and the property tax component

that are to be used to value classified farm and agricultural lands are as follows:

- (1) The interest rate is ~~((7.69))~~ 7.53 percent; and
- (2) The property tax component for each county is:

COUNTY	PERCENT	COUNTY	PERCENT
Adams	<del>((1.29))</del> <u>1.22</u>	Lewis	<del>((0.96))</del> <u>0.90</u>
Asotin	1.25	Lincoln	<del>((1.18))</del> <u>1.15</u>
Benton	<del>((1.20))</del> <u>1.15</u>	Mason	<del>((0.99))</del> <u>0.90</u>
Chelan	<del>((1.10))</del> <u>0.95</u>	Okanogan	<del>((1.04))</del> <u>0.94</u>
Clallam	<del>((0.82))</del> <u>0.83</u>	Pacific	<del>((1.20))</del> <u>1.14</u>
Clark	<del>((0.98))</del> <u>1.01</u>	Pend Oreille	<del>((1.01))</del> <u>0.86</u>
Columbia	<del>((1.13))</del> <u>1.09</u>	Pierce	<del>((1.08))</del> <u>1.09</u>
Cowlitz	<del>((1.09))</del> <u>1.03</u>	San Juan	<del>((0.55))</del> <u>0.50</u>
Douglas	<del>((1.13))</del> <u>0.95</u>	Skagit	0.90
Ferry	<del>((0.90))</del> <u>0.89</u>	Skamania	<del>((0.84))</del> <u>0.79</u>
Franklin	<del>((1.38))</del> <u>1.34</u>	Snohomish	<del>((0.89))</del> <u>0.91</u>
Garfield	<del>((1.10))</del> <u>1.12</u>	Spokane	1.13
Grant	<del>((1.31))</del> <u>1.22</u>	Stevens	<del>((0.99))</del> <u>0.94</u>
Grays Harbor	<del>((1.14))</del> <u>1.08</u>	Thurston	<del>((0.98))</del> <u>0.99</u>
Island	<del>((0.68))</del> <u>0.69</u>	Wahkiakum	<del>((0.85))</del> <u>0.79</u>
Jefferson	<del>((0.82))</del> <u>0.79</u>	Walla Walla	<del>((1.26))</del> <u>1.14</u>
King	<del>((0.94))</del> <u>0.88</u>	Whatcom	<del>((0.99))</del> <u>0.94</u>
Kitsap	<del>((0.88))</del> <u>0.90</u>	Whitman	<del>((1.36))</del> <u>1.27</u>
Kittitas	<del>((0.84))</del> <u>0.73</u>	Yakima	<del>((1.15))</del> <u>1.12</u>
Klickitat	<del>((1.00))</del> <u>0.84</u>		

**WSR 10-02-027  
PERMANENT RULES  
DEPARTMENT OF REVENUE**

[Filed December 29, 2009, 2:11 p.m., effective January 1, 2010]

Effective Date of Rule: January 1, 2010.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The department is adopting this rule with an effective date of January 1 so that county officials may properly calculate interest on deferred special benefit assessments for farm and agricultural or timber land removed or withdrawn from classification on or after January 1, 2010. For the first time since at least 1976, the rate of inflation is a negative rate.

Purpose: Special benefit assessments for certain local improvements to farm and agricultural or timber land classified under chapter 84.34 RCW (open space program) may be deferred by the land owner. If a land owner chose to defer these assessments, and the land is subsequently removed or withdrawn from classification, the deferred special benefit assessments become due and payable with interest. WAC 458-30-590 provides the rate of inflation used in calculating the interest that is added to the deferred amount of special benefit assessments.

This rule is being amended to provide the rate of inflation to be used for calculating interest on land removed or withdrawn during the 2010 calendar year.

Citation of Existing Rules Affected by this Order: Amending WAC 458-30-590 Rate of inflation—Publication—Interest rate—Calculation.

Statutory Authority for Adoption: RCW 84.34.360.

Adopted under notice filed as WSR 09-21-029 on October 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 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: December 29, 2009.

Alan R. Lynn  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-24-115, filed 12/3/08, effective 1/3/09)

**WAC 458-30-590 Rate of inflation—Publication—Interest rate—Calculation.** (1) **Introduction.** This section sets forth the rates of inflation discussed in WAC 458-30-550. It also explains the department of revenue's obligation to annually publish a rate of inflation and the manner in which this rate is determined.

(2) **General duty of department—Basis for inflation rate.** Each year the department determines and publishes a rule establishing an annual rate of inflation. This rate of inflation is used in computing the interest that is assessed when farm and agricultural or timber land, which are exempt from special benefit assessments, is withdrawn or removed from current use classification.

(a) The rate of inflation is based upon the implicit price deflator for personal consumption expenditures calculated by the United States Department of Commerce. This rate is used to calculate the rate of interest collected on exempt special benefit assessments.

(b) The rate is published by December 31st of each year and applies to all withdrawals or removals from farm and agricultural or timber land classification that occur the following year.

(3) **Assessment of rate of interest.** An owner of classified farm and agricultural or timber land is liable for interest on the exempt special benefit assessment. Interest accrues from the date the local improvement district is created until the land is withdrawn or removed from classification. Interest accrues and is assessed in accordance with WAC 458-30-550.

(a) Interest is assessed only for the time (years and months) the land remains classified under RCW 84.34.020 (2) or (3).

(b) If the classified land is exempt from the special benefit assessment for more than one year, the annual inflation rates are used to calculate an average rate of interest. This

average is determined by adding the inflation rate for each year the classified land was exempt from the special benefit assessment after the local improvement district was created. The sum of the inflation rates is then divided by the number of years involved to determine the applicable rate of interest.

(c) Example. A local improvement district for a domestic water supply system was created in January 1990 and the owner used the statutory exemption provided in RCW 84.34.320. On July 1, 1997, the land was removed from the farm and agricultural classification. An average interest rate was calculated using the inflation rates for 1990 through 1997. The owner was then notified of the amount of previously exempt special benefit assessment, plus the average interest rate.

(4) **Rates of inflation.** The rates of inflation used to calculate the interest as required by WAC 458-30-550 are as follows:

YEAR	PERCENT	YEAR	PERCENT
1976	5.6	1977	6.5
1978	7.6	1979	11.3
1980	13.5	1981	10.3
1982	6.2	1983	3.2
1984	4.3	1985	3.5
1986	1.9	1987	3.7
1988	4.1	1989	4.8
1990	5.4	1991	4.2
1992	3.3	1993	2.7
1994	2.2	1995	2.3
1996	2.2	1997	2.1
1998	0.85	1999	1.42
2000	2.61	2001	1.89
2002	1.16	2003	1.84
2004	2.39	2005	2.54
2006	3.42	2007	2.08
2008	4.527	<u>2009</u>	<u>-0.85 (negative)</u>

**WSR 10-02-031**

**PERMANENT RULES**

**DEPARTMENT OF REVENUE**

[Filed December 29, 2009, 4:13 p.m., effective January 1, 2010]

Effective Date of Rule: January 1, 2010.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The forest land value rule is required by statute (RCW 84.33.140) to be effective on January 1, 2010.

Purpose: WAC 458-40-540 contains the forest land values, which must be adjusted annually by a statutory formula contained in RCW 84.33.140(3). This rule has been amended to provide county assessors with forest land values for the 2010 assessment year.

Citation of Existing Rules Affected by this Order: Amending WAC 458-40-540 Forestland values—2010.

Statutory Authority for Adoption: RCW 82.01.060(2), 82.32.300, and 84.33.096.

Other Authority: RCW 84.33.091.

Adopted under notice filed as WSR 09-23-097 on November 17, 2009.

Changes Other than Editing from Proposed to Adopted Version: The following changes were made:

Land Grade:	Operability Class:	Proposed Value:	Value in Adopted Rule:
1	1	\$210	\$209
1	2	\$208	\$207
1	3	\$195	\$194
2	1	\$176	\$175
2	2	\$171	\$170
2	3	\$164	\$163

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: December 29, 2009.

Alan R. Lynn  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 09-02-044, filed 12/31/08, effective 1/1/09)

**WAC 458-40-540 Forest land values—((2009)) 2010.**

The forest land values, per acre, for each grade of forest land for the ((2009)) 2010 assessment year are determined to be as follows:

LAND GRADE	OPERABILITY CLASS	((2009)) 2010 VALUES ROUNDED
1	1	\$209
	2	207
	3	194
	4	140
2	1	175
	2	170
	3	163
	4	117

LAND GRADE	OPERABILITY CLASS	((2009)) 2010 VALUES ROUNDED
3	1	137
	2	133
	3	132
	4	101
4	1	105
	2	102
	3	101
	4	77
5	1	76
	2	69
	3	68
	4	47
6	1	39
	2	36
	3	36
	4	34
7	1	17
	2	17
	3	16
	4	16
8	1	1

**WSR 10-02-032**

**PERMANENT RULES**

**DEPARTMENT OF REVENUE**

[Filed December 29, 2009, 4:15 p.m., effective January 1, 2010]

Effective Date of Rule: January 1, 2010.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The stumpage value rule is required by statute (RCW 84.33.091) to be effective on January 1, 2010.

Purpose: WAC 458-40-660 contains the stumpage values used by harvesters of timber to calculate the timber excise tax. This rule is being revised to provide the stumpage values to be used during the first half of 2010.

Citation of Existing Rules Affected by this Order: Amending WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.

Statutory Authority for Adoption: RCW 82.01.060(2), 82.32.300, and 84.33.096.

Other Authority: RCW 84.33.091.

Adopted under notice filed as WSR 09-23-097 on November 17, 2009.

A final cost-benefit analysis is available by contacting Mark Bohe, P.O. Box 47453, Olympia, WA 98504-7453, phone (360) 570-6133, fax (360) 586-0127, e-mail mark-bohe@dor.wa.gov.

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

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

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

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

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

Date Adopted: December 29, 2009.

Alan R. Lynn  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 09-14-109, filed 6/30/09, effective 7/1/09)

**WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.** (1) **Introduction.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ((July)) January 1 through ((December 31, 2009)) June 30, 2010:

((TABLE 1—Proposed Stumpage Value Table  
Stumpage Value Area 1  
July 1 through December 31, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$254	\$247	\$240	\$233	\$226
		2	254	247	240	233	226
		3	254	247	240	233	226
		4	254	247	240	233	226
Western Redcedar <sup>(2)</sup>	RC	1	642	635	628	621	614
Western Hemlock <sup>(2)</sup>	WH	1	161	154	147	140	133
		2	161	154	147	140	133
		3	161	154	147	140	133
		4	161	154	147	140	133
Red Alder	RA	1	434	427	420	413	406
		2	388	381	374	367	360
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	149	142	135	128	121
Douglas-Fir Poles & Piles	DPL	1	667	660	653	646	639
Western Redcedar Poles	RCL	1	1468	1461	1454	1447	1440
Chipwood <sup>(4)</sup>	CHW	1	9	8	7	6	5
RC Shake & Shingle-Blocks <sup>(5)</sup>	RCS	1	279	272	265	258	251



~~TABLE 1~~ Proposed Stumpage Value Table  
Stumpage Value Area 1  
July 1 through December 31, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			RC & Other Posts <sup>(6)</sup>	RCP	1	0.45	0.45
DF Christmas Trees <sup>(7)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(7)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

- <sup>(4)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- <sup>(5)</sup> Includes Alaska Cedar.
- <sup>(6)</sup> Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.
- <sup>(7)</sup> Stumpage value per ton.
- <sup>(8)</sup> Stumpage value per cord.
- <sup>(9)</sup> Stumpage value per 8 lineal feet or portion thereof.
- <sup>(10)</sup> Stumpage value per lineal foot.

~~TABLE 2~~ Proposed Stumpage Value Table  
Stumpage Value Area 2  
July 1 through December 31, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas-Fir	DF	1	\$282	\$275
		2	282	275	268	261	254
		3	282	275	268	261	254
		4	225	218	211	204	197
Western Redcedar <sup>(2)</sup>	RC	1	642	635	628	621	614
Western Hemlock <sup>(2)</sup>	WH	1	168	161	154	147	140
		2	168	161	154	147	140
		3	168	161	154	147	140
		4	168	161	154	147	140
Red Alder	RA	1	434	427	420	413	406
		2	388	381	374	367	360
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	149	142	135	128	121
Douglas-Fir Poles & Piles	DFL	1	667	660	653	646	639
Western Redcedar Poles	RCL	1	1468	1461	1454	1447	1440
Chipwood <sup>(4)</sup>	CHW	1	9	8	7	6	5
RC Shake & Shingle Blocks <sup>(5)</sup>	RCS	1	279	272	265	258	251
RC & Other Posts <sup>(6)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(6)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

~~TABLE 2~~ Proposed Stumpage Value Table  
Stumpage Value Area 2  
July 1 through December 31, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			DF Christmas Trees <sup>(7)</sup>	DFX	1	0.25	0.25
Other Christmas Trees <sup>(7)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

- <sup>(4)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- <sup>(5)</sup> Includes Alaska Cedar.
- <sup>(6)</sup> Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.
- <sup>(7)</sup> Stumpage value per ton.
- <sup>(8)</sup> Stumpage value per cord.
- <sup>(9)</sup> Stumpage value per 8 lineal feet or portion thereof.
- <sup>(10)</sup> Stumpage value per lineal foot.

~~TABLE 3~~ Proposed Stumpage Value Table  
Stumpage Value Area 3  
July 1 through December 31, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas-Fir <sup>(2)</sup>	DF	1	\$342	\$335
		2	342	335	328	321	314
		3	342	335	328	321	314
		4	316	309	302	295	288
Western Redcedar <sup>(2)</sup>	RC	1	642	635	628	621	614
Western Hemlock <sup>(4)</sup>	WH	1	179	172	165	158	151
		2	179	172	165	158	151
		3	179	172	165	158	151
		4	179	172	165	158	151
Red Alder	RA	1	434	427	420	413	406
		2	388	381	374	367	360
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	149	142	135	128	121
Douglas-Fir Poles & Piles	DFL	1	667	660	653	646	639
Western Redcedar Poles	RCL	1	1468	1461	1454	1447	1440
Chipwood <sup>(5)</sup>	CHW	1	9	8	7	6	5
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	279	272	265	258	251
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(6)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

**TABLE 3 Proposed Stumpage Value Table  
Stumpage Value Area 3**  
July 1 through December 31, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50

- <sup>(4)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- <sup>(2)</sup> Includes Western Larch.
- <sup>(3)</sup> Includes Alaska Cedar.
- <sup>(4)</sup> Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.
- <sup>(5)</sup> Stumpage value per ton.
- <sup>(6)</sup> Stumpage value per cord.
- <sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.
- <sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 4 Proposed Stumpage Value Table  
Stumpage Value Area 4**  
July 1 through December 31, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas Fir <sup>(2)</sup>	DF	1	\$305	\$298
		2	305	298	291	284	277
		3	305	298	291	284	277
		4	298	291	284	277	270
Lodgepole Pine	LP	1	125	118	111	104	97
Ponderosa Pine	PP	1	109	102	95	88	81
		2	64	57	50	43	36
Western Redcedar <sup>(2)</sup>	RC	1	642	635	628	621	614
Western Hemlock <sup>(4)</sup>	WH	1	176	169	162	155	148
		2	176	169	162	155	148
		3	176	169	162	155	148
		4	176	169	162	155	148
Red Alder	RA	1	434	427	420	413	406
		2	388	381	374	367	360
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	149	142	135	128	121
Douglas Fir Poles & Piles	DFL	1	667	660	653	646	639
Western Redcedar Poles	RCL	1	1468	1461	1454	1447	1440
Chipwood <sup>(5)</sup>	CHW	1	9	8	7	6	5
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	279	272	265	258	251

Permanent

**TABLE 4 Proposed Stumpage Value Table  
Stumpage Value Area 4**  
July 1 through December 31, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

- <sup>(4)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- <sup>(2)</sup> Includes Western Larch.
- <sup>(3)</sup> Includes Alaska Cedar.
- <sup>(4)</sup> Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
- <sup>(5)</sup> Stumpage value per ton.
- <sup>(6)</sup> Stumpage value per cord.
- <sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.
- <sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 5 Proposed Stumpage Value Table  
Stumpage Value Area 5**  
July 1 through December 31, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas Fir <sup>(2)</sup>	DF	1	\$292	\$285
		2	292	285	278	271	264
		3	292	285	278	271	264
		4	282	275	268	261	254
Lodgepole Pine	LP	1	125	118	111	104	97
Ponderosa Pine	PP	1	109	102	95	88	81
		2	64	57	50	43	36
Western Redcedar <sup>(2)</sup>	RC	1	642	635	628	621	614
Western Hemlock <sup>(4)</sup>	WH	1	184	177	170	163	156
		2	184	177	170	163	156
		3	184	177	170	163	156
		4	184	177	170	163	156
Red Alder	RA	1	434	427	420	413	406
		2	388	381	374	367	360
Black Cottonwood	BC	1	69	62	55	48	41
Other Hardwood	OH	1	149	142	135	128	121
Douglas Fir Poles & Piles	DFL	1	667	660	653	646	639
Western Redcedar Poles	RCL	1	1468	1461	1454	1447	1440
Chipwood <sup>(5)</sup>	CHW	1	9	8	7	6	5

**TABLE 5 — Proposed Stumpage Value Table  
Stumpage Value Area 5**  
July 1 through December 31, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	279	272
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

- <sup>(4)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- <sup>(2)</sup> Includes Western Larch.
- <sup>(3)</sup> Includes Alaska Cedar.
- <sup>(4)</sup> Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
- <sup>(5)</sup> Stumpage value per ton.
- <sup>(6)</sup> Stumpage value per cord.
- <sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.
- <sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 6 — Proposed Stumpage Value Table  
Stumpage Value Area 6**  
July 1 through December 31, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas Fir <sup>(2)</sup>	DF	1	\$142	\$135
Lodgepole Pine	LP	1	125	118	111	104	97
Ponderosa Pine	PP	1	109	102	95	88	81
		2	64	57	50	43	36
Western Redcedar <sup>(3)</sup>	RC	1	666	659	652	645	638
True Firs and Spruce <sup>(4)</sup>	WH	1	123	116	109	102	95
Western White Pine	WP	1	177	170	163	156	149
Hardwoods	OH	1	86	79	72	65	58
Western Redcedar Poles	RCL	1	666	659	652	645	638
Small Logs <sup>(5)</sup>	SML	1	23	22	21	20	19
Chipwood <sup>(5)</sup>	CHW	1	10	9	8	7	6
RC Shake & Shingle Blocks <sup>(6)</sup>	RCF	1	76	69	62	55	48
LP & Other Posts <sup>(7)</sup>	LPP	1	0.35	0.35	0.35	0.35	0.35

**TABLE 6 — Proposed Stumpage Value Table  
Stumpage Value Area 6**  
July 1 through December 31, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Pine Christmas Trees <sup>(8)</sup>	PX	1	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

- <sup>(4)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- <sup>(2)</sup> Includes Western Larch.
- <sup>(3)</sup> Includes Alaska Cedar.
- <sup>(4)</sup> Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
- <sup>(5)</sup> Stumpage value per ton.
- <sup>(6)</sup> Stumpage value per cord.
- <sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.
- <sup>(8)</sup> Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- <sup>(9)</sup> Stumpage value per lineal foot.

**TABLE 7 — Proposed Stumpage Value Table  
Stumpage Value Area 7**  
July 1 through December 31, 2009

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(4)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
			Douglas Fir <sup>(2)</sup>	DF	1	\$142	\$135
Lodgepole Pine	LP	1	125	118	111	104	97
Ponderosa Pine	PP	1	109	102	95	88	81
		2	64	57	50	43	36
Western Redcedar <sup>(3)</sup>	RC	1	666	659	652	645	638
True Firs and Spruce <sup>(4)</sup>	WH	1	123	116	109	102	95
Western White Pine	WP	1	177	170	163	156	149
Hardwoods	OH	1	86	79	72	65	58
Western Redcedar Poles	RCL	1	666	659	652	645	638
Small Logs <sup>(5)</sup>	SML	1	23	22	21	20	19
Chipwood <sup>(5)</sup>	CHW	1	10	9	8	7	6
RC Shake & Shingle Blocks <sup>(6)</sup>	RCF	1	76	69	62	55	48
LP & Other Posts <sup>(7)</sup>	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees <sup>(8)</sup>	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska Cedar.
- (4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
- (5) Stumpage value per ton.
- (6) Stumpage value per cord.
- (7) Stumpage value per 8 lineal feet or portion thereof.
- (8) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- (9) Stumpage value per lineal foot.

**TABLE 8—Proposed Stumpage Value Table  
Stumpage Value Area 10  
July 1 through December 31, 2009**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$291	\$284	\$277	\$270	\$263
		2	291	284	277	270	263
		3	291	284	277	270	263
		4	284	277	270	263	256
Lodgepole Pine	LP	1	125	118	111	104	97
Ponderosa Pine	PP	1	109	102	95	88	81
		2	64	57	50	43	36
Western Redcedar <sup>(3)</sup>	RC	1	628	621	614	607	600
Western Hemlock <sup>(4)</sup>	WH	1	162	155	148	141	134
		2	162	155	148	141	134
		3	162	155	148	141	134
		4	162	155	148	141	134
Red Alder	RA	1	420	413	406	399	392
		2	374	367	360	353	346
Black Cottonwood	BC	1	55	48	41	34	27
Other Hardwood	OH	1	135	128	121	114	107
Douglas-Fir Poles & Piles	DFL	1	653	646	639	632	625
Western Redcedar Poles	RCL	1	1454	1447	1440	1433	1426
Chipwood <sup>(5)</sup>	CHW	1	9	8	7	6	5
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	279	272	265	258	251
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska Cedar.
- (4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
- (5) Stumpage value per ton.

- (6) Stumpage value per cord.
- (7) Stumpage value per 8 lineal feet or portion thereof.
- (8) Stumpage value per lineal foot.

**TABLE 1—Proposed Stumpage Value Table  
Stumpage Value Area 1  
January 1 through June 30, 2010**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$241	\$234	\$227	\$220	\$213
		2	241	234	227	220	213
		3	241	234	227	220	213
		4	241	234	227	220	213
Western Redcedar <sup>(2)</sup>	RC	1	539	532	525	518	511
Western Hemlock <sup>(3)</sup>	WH	1	188	181	174	167	160
		2	188	181	174	167	160
		3	188	181	174	167	160
		4	188	181	174	167	160
Red Alder	RA	1	284	277	270	263	256
		2	245	238	231	224	217
Black Cottonwood	BC	1	11	4	1	1	1
Other Hardwood	OH	1	130	123	116	109	102
Douglas-Fir Poles & Piles	DFL	1	517	510	503	496	489
Western Redcedar Poles	RCL	1	1337	1330	1323	1316	1309
Chipwood <sup>(4)</sup>	CHW	1	3	2	1	1	1
RC Shake & Shingle Blocks <sup>(5)</sup>	RCS	1	144	137	130	123	116
RC & Other Posts <sup>(6)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(7)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(7)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Alaska Cedar.
- (3) Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.
- (4) Stumpage value per ton.
- (5) Stumpage value per cord.
- (6) Stumpage value per 8 lineal feet or portion thereof.
- (7) Stumpage value per lineal foot.

**TABLE 2—Proposed Stumpage Value Table**  
**Stumpage Value Area 2**  
 January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$229	\$222	\$215	\$208	\$201
		2	229	222	215	208	201
		3	229	222	215	208	201
		4	229	222	215	208	201
Western Redcedar <sup>(2)</sup>	RC	1	539	532	525	518	511
Western Hemlock <sup>(3)</sup>	WH	1	170	163	156	149	142
		2	170	163	156	149	142
		3	170	163	156	149	142
		4	170	163	156	149	142
Red Alder	RA	1	284	277	270	263	256
		2	245	238	231	224	217
Black Cottonwood	BC	1	11	4	1	1	1
Other Hardwood	OH	1	130	123	116	109	102
Douglas-Fir Poles & Piles	DFL	1	517	510	503	496	489
Western Redcedar Poles	RCL	1	1337	1330	1323	1316	1309
Chipwood <sup>(4)</sup>	CHW	1	3	2	1	1	1
RC Shake & Shingle Blocks <sup>(5)</sup>	RCS	1	144	137	130	123	116
RC & Other Posts <sup>(6)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(7)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(7)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Alaska-Cedar.  
<sup>(3)</sup> Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.  
<sup>(4)</sup> Stumpage value per ton.  
<sup>(5)</sup> Stumpage value per cord.  
<sup>(6)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(7)</sup> Stumpage value per lineal foot.

**TABLE 3—Proposed Stumpage Value Table**  
**Stumpage Value Area 3**  
 January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$226	\$219	\$212	\$205	\$198
		2	271	264	257	250	243

**TABLE 3—Proposed Stumpage Value Table**  
**Stumpage Value Area 3**  
 January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		2	226	219	212	205	198
		3	226	219	212	205	198
		4	226	219	212	205	198
Western Redcedar <sup>(3)</sup>	RC	1	539	532	525	518	511
Western Hemlock <sup>(4)</sup>	WH	1	158	151	144	137	130
		2	158	151	144	137	130
		3	158	151	144	137	130
		4	158	151	144	137	130
Red Alder	RA	1	284	277	270	263	256
		2	245	238	231	224	217
Black Cottonwood	BC	1	11	4	1	1	1
Other Hardwood	OH	1	130	123	116	109	102
Douglas-Fir Poles & Piles	DFL	1	517	510	503	496	489
Western Redcedar Poles	RCL	1	1337	1330	1323	1316	1309
Chipwood <sup>(5)</sup>	CHW	1	3	2	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	144	137	130	123	116
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Western Larch.  
<sup>(3)</sup> Includes Alaska-Cedar.  
<sup>(4)</sup> Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.  
<sup>(5)</sup> Stumpage value per ton.  
<sup>(6)</sup> Stumpage value per cord.  
<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 4—Proposed Stumpage Value Table**  
**Stumpage Value Area 4**  
 January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$271	\$264	\$257	\$250	\$243
		2	271	264	257	250	243

**TABLE 4—Proposed Stumpage Value Table  
Stumpage Value Area 4**  
January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		3	271	264	257	250	243
		4	271	264	257	250	243
Lodgepole Pine	LP	1	90	83	76	69	62
Ponderosa Pine	PP	1	77	70	63	56	49
		2	54	47	40	33	26
Western Redcedar <sup>(3)</sup>	RC	1	539	532	525	518	511
Western Hemlock <sup>(4)</sup>	WH	1	195	188	181	174	167
		2	195	188	181	174	167
		3	195	188	181	174	167
		4	195	188	181	174	167
Red Alder	RA	1	284	277	270	263	256
		2	245	238	231	224	217
Black Cottonwood	BC	1	11	4	1	1	1
Other Hardwood	OH	1	130	123	116	109	102
Douglas-Fir Poles & Piles	DFL	1	517	510	503	496	489
Western Redcedar Poles	RCL	1	1337	1330	1323	1316	1309
Chipwood <sup>(5)</sup>	CHW	1	3	2	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	144	137	130	123	116
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Western Larch.  
<sup>(3)</sup> Includes Alaska-Cedar.  
<sup>(4)</sup> Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.  
<sup>(5)</sup> Stumpage value per ton.  
<sup>(6)</sup> Stumpage value per cord.  
<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 5—Proposed Stumpage Value Table  
Stumpage Value Area 5**  
January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$244	\$237	\$230	\$223	\$216
		2	244	237	230	223	216
		3	244	237	230	223	216
		4	244	237	230	223	216
Lodgepole Pine	LP	1	90	83	76	69	62
Ponderosa Pine	PP	1	77	70	63	56	49
		2	54	47	40	33	26
Western Redcedar <sup>(3)</sup>	RC	1	539	532	525	518	511
Western Hemlock <sup>(4)</sup>	WH	1	189	182	175	168	161
		2	189	182	175	168	161
		3	189	182	175	168	161
		4	189	182	175	168	161
Red Alder	RA	1	284	277	270	263	256
		2	245	238	231	224	217
Black Cottonwood	BC	1	11	4	1	1	1
Other Hardwood	OH	1	130	123	116	109	102
Douglas-Fir Poles & Piles	DFL	1	517	510	503	496	489
Western Redcedar Poles	RCL	1	1337	1330	1323	1316	1309
Chipwood <sup>(5)</sup>	CHW	1	3	2	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	144	137	130	123	116
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Western Larch.  
<sup>(3)</sup> Includes Alaska-Cedar.  
<sup>(4)</sup> Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.  
<sup>(5)</sup> Stumpage value per ton.  
<sup>(6)</sup> Stumpage value per cord.  
<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(8)</sup> Stumpage value per lineal foot.

**TABLE 6—Proposed Stumpage Value Table  
Stumpage Value Area 6**  
January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$99	\$92	\$85	\$78	\$71
Lodgepole Pine	LP	1	90	83	76	69	62
Ponderosa Pine	PP	1	77	70	63	56	49
		2	54	47	40	33	26
Western Redcedar <sup>(3)</sup>	RC	1	412	405	398	391	384
True Firs and Spruce <sup>(4)</sup>	WH	1	87	80	73	66	59
Western White Pine	WP	1	104	97	90	83	76
Hardwoods	OH	1	23	16	9	2	1
Western Redcedar Poles	RCL	1	412	405	398	391	384
Small Logs <sup>(5)</sup>	SML	1	19	18	17	16	15
Chipwood <sup>(5)</sup>	CHW	1	3	2	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	144	137	130	123	116
LP & Other Posts <sup>(7)</sup>	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees <sup>(8)</sup>	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

- <sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- <sup>(2)</sup> Includes Western Larch.
- <sup>(3)</sup> Includes Alaska-Cedar.
- <sup>(4)</sup> Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
- <sup>(5)</sup> Stumpage value per ton.
- <sup>(6)</sup> Stumpage value per cord.
- <sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.
- <sup>(8)</sup> Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- <sup>(9)</sup> Stumpage value per lineal foot.

**TABLE 7—Proposed Stumpage Value Table  
Stumpage Value Area 7**  
January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$99	\$92	\$85	\$78	\$71
Lodgepole Pine	LP	1	90	83	76	69	62

**TABLE 7—Proposed Stumpage Value Table  
Stumpage Value Area 7**  
January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Ponderosa Pine	PP	1	77	70	63	56	49
		2	54	47	40	33	26
Western Redcedar <sup>(3)</sup>	RC	1	412	405	398	391	384
True Firs and Spruce <sup>(4)</sup>	WH	1	87	80	73	66	59
Western White Pine	WP	1	104	97	90	83	76
Hardwoods	OH	1	23	16	9	2	1
Western Redcedar Poles	RCL	1	412	405	398	391	384
Small Logs <sup>(5)</sup>	SML	1	19	18	17	16	15
Chipwood <sup>(5)</sup>	CHW	1	3	2	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	144	137	130	123	116
LP & Other Posts <sup>(7)</sup>	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees <sup>(8)</sup>	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(9)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25

- <sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- <sup>(2)</sup> Includes Western Larch.
- <sup>(3)</sup> Includes Alaska-Cedar.
- <sup>(4)</sup> Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
- <sup>(5)</sup> Stumpage value per ton.
- <sup>(6)</sup> Stumpage value per cord.
- <sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.
- <sup>(8)</sup> Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- <sup>(9)</sup> Stumpage value per lineal foot.

**TABLE 8—Proposed Stumpage Value Table  
Stumpage Value Area 10**  
January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir <sup>(2)</sup>	DF	1	\$257	\$250	\$243	\$236	\$229
		2	257	250	243	236	229
		3	257	250	243	236	229
		4	257	250	243	236	229
Lodgepole Pine	LP	1	90	83	76	69	62

**TABLE 8—Proposed Stumpage Value Table**  
**Stumpage Value Area 10**  
 January 1 through June 30, 2010

Stumpage Values per Thousand Board Feet Net Scribner Log Scale<sup>(1)</sup>

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Ponderosa Pine	PP	1	77	70	63	56	49
		2	54	47	40	33	26
Western Redcedar <sup>(3)</sup>	RC	1	525	518	511	504	497
Western Hemlock <sup>(4)</sup>	WH	1	181	174	167	160	153
		2	181	174	167	160	153
		3	181	174	167	160	153
		4	181	174	167	160	153
Red Alder	RA	1	270	263	256	249	242
		2	231	224	217	210	203
Black Cottonwood	BC	1	1	1	1	1	1
Other Hardwood	OH	1	116	109	102	95	88
Douglas-Fir Poles & Piles	DFL	1	503	496	489	482	475
Western Redcedar Poles	RCL	1	1323	1316	1309	1302	1295
Chipwood <sup>(5)</sup>	CHW	1	3	2	1	1	1
RC Shake & Shingle Blocks <sup>(6)</sup>	RCS	1	144	137	130	123	116
RC & Other Posts <sup>(7)</sup>	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees <sup>(8)</sup>	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees <sup>(8)</sup>	TFX	1	0.50	0.50	0.50	0.50	0.50

<sup>(1)</sup> Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.  
<sup>(2)</sup> Includes Western Larch.  
<sup>(3)</sup> Includes Alaska-Cedar.  
<sup>(4)</sup> Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.  
<sup>(5)</sup> Stumpage value per ton.  
<sup>(6)</sup> Stumpage value per cord.  
<sup>(7)</sup> Stumpage value per 8 lineal feet or portion thereof.  
<sup>(8)</sup> Stumpage value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over

more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber**—Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber**—Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from ((July)) January 1 through ((December 31, 2009)) June 30, 2010:

**TABLE 9—Harvest Adjustment Table**  
**Stumpage Value Areas 1, 2, 3, 4, 5, and 10**  
 ((July)) January 1 through ((December 31, 2009)) June 30, 2010

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	-\$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	-\$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	-\$50.00



Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

**TABLE 10—Harvest Adjustment Table  
Stumpage Value Areas 6 and 7**

((July)) January 1 through ((December 31, 2009)) June 30, 2010

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	-\$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$50.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$75.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00

**TABLE 11—Domestic Market Adjustment**

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1:	SVA's 1 through 6, and 10	\$0.00
Class 2:	SVA 7	\$0.00
Note:	The adjustment will not be allowed on special forest products.	

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal

descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

(5) **Forest-derived biomass**, has a \$0/ton stumpage value.

**WSR 10-02-034**

**PERMANENT RULES**

**DEPARTMENT OF LICENSING**

[Filed December 30, 2009, 8:14 a.m., effective January 30, 2010]

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

Purpose: Rule making is required to comply with the RCW 46.12.440 and 46.16.680 and SB 5719 relating to the title and registration requirements of kit vehicles.

Citation of Existing Rules Affected by this Order: Amending WAC 308-56A-160 Model year—How determined.

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 09-23-008 on November 5, 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 0, Repealed 0.

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

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

Date Adopted: December 30, 2009.

Walt Fahrer  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-12-006, filed 5/22/03, effective 6/22/03)

**WAC 308-56A-160 Model year—How determined.**

(1) **How is a model year assigned to a vehicle?** The model year for a vehicle is the model year assigned by the manufacturer (~~or in the case of homemade vehicles, it is the year the vehicle was built~~). If an original manufacturer has not assigned a model year, or your vehicle is rebuilt, homemade, a street rod, or assembled vehicle, the following criteria will be used to establish the model year:

(a) When possible, the model year will be determined from the vehicle identification number (VIN). When the VIN does not identify the production date, corresponding production records of the original manufacturer must be used.

(b) The model year for a homemade vehicle will be the year of inspection for the purpose of making an application for certificate of ownership.

(c) The model year for assembled vehicles will be determined at the time of inspection based on the date of manufacture of the vehicle that the newly assembled vehicle most closely resembles.

(2) **Are there standards for assigning model years that manufacturers must follow?** Manufacturers must adopt standards for assigning model years based on (~~either~~) the date of manufacture (~~or features of the vehicle~~) as outlined in 46 CFR. (~~The standards must be such that all vehicles assigned a model year that are manufactured in the same year with the same features are assigned the same model year.~~) Manufacturers must designate the model year on the manufacturer's certificate of origin (MCO), manufacturer's statement of origin (MSO) or similar documents.

(3) **How are model years assigned to vehicles that are incomplete(~~, such as certain recreational vehicles~~)?** Manufacturers of chassis or incomplete vehicles sold to (~~motor home or recreational vehicle~~) manufacturers who issue separate MCOs/MSOs need not assign model year to (~~these vehicles~~) the chassis or incomplete vehicle. The final stage manufacturer of these vehicles must assign the model year as provided in subsection (2) of this section. In the event a model year is assigned by both the incomplete vehicle manufacturer and the completing manufacturer, the completing manufacturer assigned model year will be used on the certificates of ownership and registration.

(4) (~~How will a model year be assigned to my vehicle if the manufacturer did not assign one?~~ If an original manufacturer has not assigned a model year, or your vehicle is rebuilt, homemade, a street rod, assembled or a kit vehicle, the Washington state patrol or other person authorized by the

~~director to make vehicle inspections will use the following criteria to establish the model year:~~

(a) ~~The model year for a homemade vehicle will be the year of inspection for the purpose of making an application for certificate of ownership.~~

(b) ~~When possible, the model year will be determined from the vehicle identification number (VIN). When the VIN does not identify the production date, corresponding production records of the original manufacturer must be used.~~

(c) ~~The model year for assembled vehicles will be determined by the Washington state patrol based on the date of manufacture of the vehicle that the vehicle most closely resembles.~~

(d) ~~The model year of a kit vehicle as defined in RCW 46.04.251 will not be the model year of the vehicle the kit replicates.~~

(~~5~~) For purposes of this section the following terms will have the meanings indicated:

(a) "Manufacture" means to produce or assemble vehicles or vehicle equipment in the customs territory of the United States or to import.

(b) "Manufacturer" means ((any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused vehicles or remanufactured vehicles. Manufacture includes the assembling, altering, or converting of a vehicle to the extent the vehicle qualifies for a change in the series and body type appearing on its title, MCO/MSO or similar documents.

(~~b~~);

(i) A person engaged in the business of manufacturing vehicle or vehicle equipment, including predecessor or successor of the person to the extent provided under regulations prescribed by the Secretary of Transportation in 49 CFR; and

(ii) If more than one person is the manufacturer of a vehicle, the person specified under regulations prescribed by the Secretary of Transportation in 49 CFR.

(c) "Incomplete vehicle" means an assemblage consisting of, as a minimum:

- (i) Frame and chassis structure;
- (ii) Power train;
- (iii) Steering system;
- (iv) Suspension system; and
- (v) Braking system.

To the extent that those systems are to be part of the completed vehicle that requires further manufacturing operation; other than the additions of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, to become a completed vehicle.

(~~e~~) (d) "Model" means a name that a manufacturer applies to a family of vehicles of the same type, make, line, series, and body type.

(~~d~~) (e) "Assembled and homemade vehicles" have the meaning provided in WAC 308-56A-455.

**WSR 10-02-037**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed December 30, 2009, 9:09 a.m., effective January 30, 2010]

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

Purpose: The community services division, economic services administration is amending WAC 388-422-0005 What happens to my child, spousal and medical support when I get public assistance?, to clarify the effective date of assignment of child support rights, and related matters. This amendment includes some simple changes to clarify the intent of the policy and support the assignment policy under RCW 74.20.330.

Citation of Existing Rules Affected by this Order: Amending WAC 388-422-0005.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, and 74.20.330.

Adopted under notice filed as WSR 09-21-069 on October 16, 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 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: December 22, 2009.

Don Goldsby, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 02-19-041, filed 9/11/02, effective 10/12/02)

**WAC 388-422-0005 What happens to my child, spousal and medical support when I get public assistance?** (1) The following definitions apply to this chapter:

(a) **"We"** means the department of social and health services.

(b) **"You"** means a person applying for or getting benefits from us.

(c) **"Benefits"** mean family medical and related alien emergency medical (AEM), TANF or SFA cash assistance.

(d) **"Support"** means the money paid to meet a support order whether it is called child support, spousal support, alimony, maintenance, or medical support.

(e) **"Medical support"** means either or both:

(i) The set dollar amount for health care costs in a support order; or

(ii) Health insurance coverage for a dependent child.

(f) **"Assistance unit"** or **"AU"** means the group of people who live together and whose income and resources we count to decide your eligibility for benefits and the amount of those benefits.

(2) When you apply for TANF or SFA cash benefits, you ~~((assign your rights to current support and back support (also called "arrears") under WAC 388-14A-2036. You))~~ permanently assign to the state your current support for the months you get assistance. ~~((Support for months before you begin receiving assistance))~~ If you applied for TANF or SFA cash benefits before October 1, 2008, support for months before you begin receiving assistance (also called "arrears" under WAC 388-14A-2036) is temporarily assigned to the state. For more information about permanently and temporarily assigned support see:

(a) Permanently assigned arrears, WAC 388-14A-2037.

(b) Temporarily assigned arrears, WAC 388-14A-2038.

(3) You assign your rights to medical support under WAC 388-505-0540 when you apply for or get benefits from the following:

(a) Family medical; or

(b) Children's medical.

(4) You assign your rights to support when ~~((you sign the))~~ your application for benefits ~~((, or when you get cash or medical benefits))~~ is approved by the department.

(5) If you have a good reason (WAC 388-422-0020) DCS may not be able to establish or collect child support (WAC 388-14A-2060).

(6) If you receive any support payments before you assign your rights to support, we count this as unearned income to your AU (WAC 388-450-0025).

(7) If you receive any direct support payments ~~((after you assign your rights to support))~~ during the month you apply, you ~~((must send the support payments to the division of child support (DCS) under WAC 388-14A-2040(3)))~~ must report these payments and we may count them as unearned income in determining your eligibility for benefits.

(8) If you keep any support payments you receive after you assign your rights to support, DCS may collect this money from you (WAC 388-14A-5505).

**WSR 10-02-068**  
**PERMANENT RULES**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2008-16—Filed January 4, 2010,  
1:36 p.m., effective February 4, 2010]

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

Purpose: These rules require health carriers to prominently post and display health plan disclosure information on their web sites, and provide disclosure information in other forms of electronic communication and paper copies upon request.

Citation of Existing Rules Affected by this Order: Amending WAC 284-43-820.

Statutory Authority for Adoption: RCW 48.02.060, 48.43.510.

Adopted under notice filed as WSR 09-23-072 on November 16, 2009.

A final cost-benefit analysis is available by contacting Donna Dorris, P.O. Box 40258, Olympia, WA 98504, phone (360) 725-7040, fax (360) 586-3109, e-mail donnad@oic.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: January 4, 2010.

Mike Kreidler  
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2000-02, filed 1/9/01, effective 7/1/01)

**WAC 284-43-820 Health plan disclosure(~~s—Prescription drugs, preventive care, generally~~) requirements.** ((1) A carrier that offers a health plan may not offer to sell a health plan to an enrollee or to any group representative, agent, employer, or enrollee representative without first offering to provide, and providing upon request, the following information using a standardized summary format filed with the commissioner and consistent with WAC 284-43-815 before purchase or selection:

(a) A listing of covered benefits, including prescription drug benefits, if any, and how consumers may be involved in decisions about benefits;

(b) A listing of exclusions, reductions, and limitations to covered benefits, including definitions of terms such as formulary, generic versus brand name, medical necessity or other coverage criteria and policies regarding coverage of drugs, including how drugs are added or removed from the formulary;

(c) A statement of the carrier's policies for protecting the confidentiality of health information;

(d) A statement of the cost of premiums and any enrollee cost sharing requirements;

(e) A summary explanation of the carrier's grievance process;

(f) A statement regarding the availability of a point-of-service option, if any, and how the option operates; and

(g) A convenient means of obtaining a complete and detailed list of covered benefits including a copy of the current formulary, if any is used, a list of participating primary care and specialty care providers, including disclosure of network arrangements that restrict access to providers within

any plan network. The offer to provide the information referenced in this subsection (1) must be clearly and prominently displayed on any information provided to any prospective enrollee or to any prospective group representative, agent, employer, or enrollee representative.

(2) Upon the request of any person, including a current enrollee, prospective enrollee, or the insurance commissioner, a carrier must provide written information regarding any health care plan it offers, that includes the following written information:

(a) Any documents, instruments, or other information referred to in the medical coverage agreement;

(b) A full description of the procedures to be followed by an enrollee for consulting a provider other than the primary care provider and whether the enrollee's primary care provider, the carrier's medical director, or another entity must authorize the referral;

(c) Procedures, if any, that an enrollee must first follow for obtaining prior authorization for health care services;

(d) A written description of any reimbursement or payment arrangements, including, but not limited to, capitation provisions, fee-for-service provisions, and health care delivery efficiency provisions, between a carrier and a provider or network;

(e) Descriptions and justifications for provider compensation programs, including any incentives or penalties that are intended to encourage providers to withhold services or minimize or avoid referrals to specialists;

(f) An annual accounting of all payments made by the carrier which have been counted against any payment limitations, visit limitations, or other overall limitations on a person's coverage under a plan;

(g) A copy of the carrier's grievance process for claim or service denial and for dissatisfaction with care; and

(h) Accreditation status with one or more national managed care accreditation organizations, and whether the carrier tracks its health care effectiveness performance using the health employer data information set (HEDIS), whether it publicly reports its HEDIS data, and how interested persons can access its HEDIS data.

(3) Each carrier shall provide to all enrollees and prospective enrollees a list of available disclosure items.

(4) Nothing in this section requires a carrier or a health care provider to divulge proprietary information to an enrollee, including the specific contractual terms and conditions between a carrier and a particular provider.

(5) No carrier may advertise or market any health plan to the public, including to any employer as a plan that covers services that help prevent illness or promote the health of enrollees unless it:

(a) Provides all clinical preventive health services provided by the basic health plan, authorized by chapter 70.47 RCW;

(b) Monitors and reports annually to enrollees on standardized measures of health care and satisfaction of all enrollees in the health plan. Standardized measures for this purpose, include HEDIS, consumer assessment of health plans (CAHP) or other national standardized measurement systems adopted by national managed care accreditation

organizations or state agencies that purchase managed health care services and approved by the commissioner; and

(e) Makes available upon request to enrollees its integrated plan to identify and manage the most prevalent diseases within its enrolled population, including cancer, heart disease, and stroke. Such plans must include means to identify enrollees with these diseases, implement evidence based screening, education, monitoring and treatment protocols, track patient and provider adherence to these protocols, measure health outcomes, and regularly report results to enrollees.

(6) No carrier may preclude or discourage its providers from informing an enrollee of the care he or she requires, including various treatment options, and whether in the providers' view such care is consistent with the plan's health coverage criteria, or otherwise covered by the enrollee's medical coverage agreement with the carrier. No carrier may prohibit, discourage, or penalize a provider otherwise practicing in compliance with the law from advocating on behalf of an enrollee with a carrier. Nothing in this section shall be construed to authorize a provider to bind a carrier to pay for any service.

(7) No carrier may preclude or discourage enrollees or those paying for their coverage from discussing the comparative merits of different carriers with their providers. This prohibition specifically includes prohibiting or limiting providers participating in those discussions even if critical of a carrier.

(8) Each carrier must communicate enrollee information required in this act by means that ensure that a substantial portion of the enrollee population can make use of the information.) (1) Health plan disclosure information must comply with and include each requirement listed in RCW 48.43.510.

(2) Health plan disclosures must be current and:

(a) Provided by paper copy upon request;

(b) Provided by electronic communication upon request;

(c) Clearly identified as health plan disclosures; and

(d) Prominently displayed and accessible on the carrier's web site.

(3) Each disclosure must be written in a manner that is easily understood by the average plan participant.

(4) Each carrier must provide to all enrollees and prospective enrollees a list of available disclosure items, including instructions on how to access and request copies of health disclosure information in paper and electronic forms, and web site links to the entire health plan disclosure information.

## WSR 10-02-080

### PERMANENT RULES

### DEPARTMENT OF HEALTH

(Board of Pharmacy)

[Filed January 5, 2010, 2:26 p.m., effective February 5, 2010]

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

Purpose: The adopted rule places carisoprodol [carisoprodol] into the controlled substances Schedule IV. Local, state, and national data indicate that the drug is increasingly

being abused. Placing carisoprodol in a controlled substances schedule will increase prescribers knowledge of carisoprodol as a drug of abuse, will reduce the abuse, and will increase patient safety.

Citation of Existing Rules Affected by this Order: Amending WAC 246-887-170.

Statutory Authority for Adoption: RCW 69.50.201.

Other Authority: RCW 18.64.005.

Adopted under notice filed as WSR 09-16-119 on August 4, 2009.

A final cost-benefit analysis is available by contacting Tim S. Fuller, Department of Health, Board of Pharmacy, P.O. Box 47852, Tumwater, WA 98504-7852, phone (360) 236-4827, fax (360) 236-2901, e-mail tim.fuller@doh.wa.gov.

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

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

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

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

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

Date Adopted: September 17, 2009.

Gary G. Harris, Chair  
Board of Pharmacy

AMENDATORY SECTION (Amending WSR98-02-084, filed 1/7/98, effective 1/7/98)

**WAC 246-887-170 Schedule IV.** The board finds that the following substances have a low potential for abuse relative to substances in Schedule III and have currently accepted medical use in treatment in the United States and that the abuse of the substances may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III. The board, therefore, places each of the following substances in Schedule IV.

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule IV.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene (alpha-(+)-e-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Alprazolam;
- (2) Barbitol;
- (3) Bromazepam;
- (4) Camazepam;
- (5) Carisoprodol;
- ~~(6)~~ (7) Chloral betaine;
- ~~((6))~~ (7) Chloral hydrate;
- ~~((7))~~ (8) Chlordiazepoxide;
- ~~((8))~~ (9) Clobazam;
- ~~((9))~~ (10) Clonazepam;
- ~~((10))~~ (11) Clorazepate;
- ~~((11))~~ (12) Clotiazepam;
- ~~((12))~~ (13) Cloxazolam;
- ~~((13))~~ (14) Delorazepam;
- ~~((14))~~ (15) Diazepam;
- ~~((15))~~ (16) Estazolam;
- ~~((16))~~ (17) Ethchlorvynol;
- ~~((17))~~ (18) Ethinamate;
- ~~((18))~~ (19) Ethyl loflazepate;
- ~~((19))~~ (20) Fludiazepam;
- ~~((20))~~ (21) Flunitrazepam;
- ~~((21))~~ (22) Flurazepam;
- ~~((22))~~ (23) Halazepam;
- ~~((23))~~ (24) Haloxazolam;
- ~~((24))~~ (25) Ketazolam;
- ~~((25))~~ (26) Loprazolam;
- ~~((26))~~ (27) Lorazepam;
- ~~((27))~~ (28) Lormetazepam;
- ~~((28))~~ (29) Mebutamate;
- ~~((29))~~ (30) Medazepam;
- ~~((30))~~ (31) Meprobamate;
- ~~((31))~~ (32) Methohexital;
- ~~((32))~~ (33) Methylphenobarbital (mephobarbital);
- ~~((33))~~ (34) Midazolam;
- ~~((34))~~ (35) Nimetazepam;
- ~~((35))~~ (36) Nitrazepam;
- ~~((36))~~ (37) Nordiazepam;
- ~~((37))~~ (38) Oxazepam;
- ~~((38))~~ (39) Oxazolam;
- ~~((39))~~ (40) Paraldehyde;
- ~~((40))~~ (41) Petrichloral;
- ~~((41))~~ (42) Phenobarbital;
- ~~((42))~~ (43) Pinazepam;
- ~~((43))~~ (44) Prazepam;
- ~~((44))~~ (45) Quazepam;
- ~~((45))~~ (46) Temazepam;
- ~~((46))~~ (47) Tetrazepam;
- ~~((47))~~ (48) Triazolam;
- ~~((48))~~ (49) Zolpidem.

(d) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position or geometric), and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Cathine ((+) - norpseudoephedrine);
- (2) Diethylpropion;
- (3) Fencamfamin;
- (4) Fenproporex;
- (5) Mazindol;
- (6) Mefenorex;
- (7) Pemoline (including organometallic complexes and chelates thereof);
- (8) Phentermine;
- (9) Pipradrol;
- (10) SPA ((-)-1-dimethylamino-1, 2-dephenylethane.

(f) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

- (1) Pentazocine;
- (2) Butorphanol.

**WSR 10-02-081**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**  
 (Board of Pharmacy)

[Filed January 5, 2010, 2:27 p.m., effective February 5, 2010]

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

Purpose: WAC 246-883-020 Identification of legend drugs for purposes of chapter 69.41 RCW, the purpose of the rule is to update the commercial pharmaceutical publication referenced in the rule to the 2009 edition of the Drug Topics Red Book. In addition, the rule provides direction on ordering the publication from the board of pharmacy and corrects the address for the administrative office.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 246-883-020.

Statutory Authority for Adoption: RCW 18.64.005.

Other Authority: RCW 69.41.075.

Adopted under notice filed as WSR 09-22-083 on November 3, 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: December 10, 2009.

Gary G. Harris, Chair  
Board of Pharmacy

**AMENDATORY SECTION** (Amending WSR 02-14-049, filed 6/27/02, effective 7/28/02)

**WAC 246-883-020 Identification of legend drugs for purposes of chapter 69.41 RCW.** (1) In accordance with chapter 69.41 RCW, the board of pharmacy finds that those drugs which have been determined by the Food and Drug Administration, under the Federal Food, Drug and Cosmetic Act, to require a prescription under federal law should also be classified as legend drugs under state law because of their toxicity or potential for harmful effect, the methods of their use and the collateral safeguards necessary to their use, indicate that they are only safe for use under the supervision of a practitioner.

(2) For the purposes of chapter 69.41 RCW, legend drugs are drugs which have been designated as legend drugs under federal law and are listed as such in the ~~((2002))~~ 2009 edition of the *Drug Topics Red Book*. Copies of the list of legend drugs as contained in the *Drug Topics Red Book* are available for public inspection at the headquarters office of the State Board of Pharmacy, ~~((1300 Quince Street))~~ 310 Israel Road S.E., P.O. BOX 47863, Olympia, Washington 98504-7863. To obtain copies of this list from the department, interested persons must submit a written request, indicating which format they wish to receive, and payment of ((seventy-six dollars for each copy to the board)) the actual cost of the text or CD, including shipping and handling charges from the publisher. Requestors may also contact the publisher directly to obtain copies. The department takes no responsibility for periodic updates or on-line access. Arrangements for periodic updates or on-line access must be made directly with the publisher.

(3) There may be changes in the marketing status of drugs after the publication of the above reference. Upon application of a manufacturer or distributor, the board may grant authority for the over the counter distribution of certain drugs which had been designated as legend drugs in this reference. These determinations will be made after public hearing and will be published as an amendment to this chapter.

**WSR 10-02-087**  
**PERMANENT RULES**  
**OFFICE OF**

**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2009-18—Filed January 6, 2010, 8:49 a.m., effective February 6, 2010]

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

Purpose: The purpose of this rule making is to repeal WAC 284-54-750 because it is obsolete and replaced by WAC 284-17-262 adopted in 2008.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 284-54-750.

Statutory Authority for Adoption: RCW 48.83.170.

Adopted under notice filed as WSR 09-20-073 on October 5, 2009.

A final cost-benefit analysis is available by contacting Donna Dorris, P.O. Box 40258, Olympia, WA 98504, phone (360) 725-7040, fax (360) 586-3109, e-mail [donnad@oic.wa.gov](mailto:donnad@oic.wa.gov).

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

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

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

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

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

Date Adopted: January 5, 2010.

Mike Kreidler  
Insurance Commissioner

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 284-54-750

Standards for education of licensees soliciting long-term care contracts.

**WSR 10-02-088**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed January 6, 2010, 8:59 a.m., effective February 6, 2010]

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

Purpose: To complete the revision process required after the emergency rule change in June 2009 and to make technical clarifications to the school bus reimbursement system.

Citation of Existing Rules Affected by this Order:  
Amending WAC 392-142-255 and 392-142-260.

Statutory Authority for Adoption: RCW 28A.150.290.

Adopted under notice filed as WSR 09-20-064 on October 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 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: December 11, 2009.

December 11, 2009

Randy I. Dorn

State Superintendent

AMENDATORY SECTION (Amending WSR 05-19-072, filed 9/16/05, effective 10/17/05)

**WAC 392-142-255 Deposit of payments in transportation vehicle fund.** School districts shall deposit proceeds for the rent, sale, or lease of school buses and replacement payments for school district-owned vehicles in the transportation vehicle fund. School districts shall not deposit school bus depreciation payments for contractor-owned vehicles in the transportation vehicle fund. ~~((For school buses placed on the reimbursement system between September 1, 1975, and August 31, 1980, the superintendent of public instruction shall recover ninety percent of the net proceeds of the sale of such vehicles by deduction from the next annual reimbursement allocation. For school buses placed on the reimbursement system between September 1, 1980, and August 31, 1982, the superintendent of public instruction shall recover one hundred percent of the net proceeds of the sale of such vehicles by deduction from the next annual reimbursement allocation.))~~

AMENDATORY SECTION (Amending WSR 03-13-049, filed 6/12/03, effective 7/13/03)

**WAC 392-142-260 Allowable uses of transportation vehicle fund.** School districts shall use moneys in the transportation vehicle fund for the following purposes:

- (1) The purchase of school buses;
- (2) Performing major repairs of a school bus receiving prior approval by the superintendent of public instruction. ~~((Repairs costing less than twenty-five percent of the current state determined purchase price for that type and category of vehicle shall not be considered a major repair.))~~
- (3) The transfer of moneys from the transportation vehicle fund to the debt service fund exclusively for the payment of debt and interest incurred by the transportation vehicle fund shall not be considered to be a transfer of moneys from the transportation vehicle fund to any other fund within the meaning of RCW 28A.160.130.

**WSR 10-02-089**  
**PERMANENT RULES**  
**ARTS COMMISSION**

[Filed January 6, 2010, 9:13 a.m., effective February 6, 2010]

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

Purpose: To update Title 30 WAC to include current address and contact information, statutory references, and legislative requirements. Adopting these changes will make the WAC consistent with RCWs and provide accurate contact information to the public, hereby minimizing confusion.

Citation of Existing Rules Affected by this Order: Amending WAC 30-01-040, 30-01-060, 30-04-010, 30-04-020, 30-04-030, 30-04-040, 30-04-050, 30-04-070, 30-04-120, 30-08-010, 30-08-020 and 30-08-050; and new sections WAC 30-41-010, 30-41-020, 30-41-030, and 30-41-040.

Statutory Authority for Adoption: RCW 43.46.040.

Other Authority: RCW 43.46.081.

Adopted under notice filed as WSR 09-17-072 on August 14, 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 16 [12], Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, Amended 12, 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: December 30, 2009.

Kris Tucker  
Executive Director

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

**WAC 30-01-040 Description of commission's purpose and goals.** (1) The commission is charged with the conservation and development of the state's artistic resources as described in RCW 43.46.005. It is a citizens' commission consisting of nineteen members appointed by the governor and ~~((two))~~ four members of the legislature. It is authorized by RCW 43.46.050 to study, plan, and advise the governor, state departments, and the legislature regarding cultural development. Through the authority granted by RCW 43.46.055, the commission may administer any activity, and assist any person or agency in programs or projects related to the growth and development of the arts and humanities.

(2) Statement of purpose. The commission has adopted as its mission: The arts are essential to the quality of life for all of Washington's citizens. The Washington state arts commission states its dedication to the support of the promotion, growth, development, and preservation of the arts within the



state. The commission strives to foster artistic merit and ensure accessibility to all citizens of the state.

(3) Goals. To work toward this mission, the commission will promote throughout the state:

- (a) Artistic development, growth, and preservation;
- (b) Artistic expressions of the many cultures which contribute to Washington's diversity;
- (c) The arts as basic to the education of all citizens;
- (d) Access, equity, and local empowerment in all its activities; and
- (e) Organizational skills development, stability and continuity, and managerial expertise.

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

**WAC 30-01-060 Office (~~location and hours~~ ~~Correspondence to staff~~) hours and contact information.** ~~((+) The official administrative location of the commission and its staff is at the Washington State Arts Commission, 234 E. 8th Avenue, Olympia, Washington, 98504-2675 (360) 753-3860. The commission office shall be open each day for the transaction of business from 8:00 a.m. to 5:00 p.m. (Saturdays, Sundays, and legal holidays excepted, and except for business relating to public records, which is governed by WAC 30-04-040).~~

~~(2) Address for written communications. All written communications with the commission shall be addressed as follows: Washington State Arts Commission, 234 E. 8th Avenue, P.O. Box 42675, Olympia, Washington, 98504-2675.) The Washington state arts commission is open from 8:00 a.m. to 5:00 p.m. Monday through Friday except weeks that include state legal holidays. Written correspondence should be addressed to P.O. Box 42675, Olympia, WA 98504-2675. Additional information is available on the commission's web site at [www.arts.wa.gov](http://www.arts.wa.gov). For business hours and contact information related to public records see WAC 30-04-040.~~

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

**WAC 30-04-010 Purpose.** The purpose of this chapter is to ensure compliance by the Washington state arts commission with the provisions of RCW ~~((42.17.250 through 42.17.320))~~ 42.56.040 through 42.56.520 dealing with public records.

AMENDATORY SECTION (Amending WSR 98-24-073, filed 11/30/98, effective 12/31/98)

**WAC 30-04-020 Public records available.** All public records of the commission as defined in WAC 30-02-010 (34), are available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW ~~((42.17.310))~~ 42.56.210 and WAC 30-04-070.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

**WAC 30-04-030 Public records officer.** The commission's public records shall be in the charge of the public records officer designated by the executive director. The person so designated shall be located in the office. The public records officer shall be responsible for the following: The implementation of commission policy in regard to the release of public records, coordinating the staff of the office in this regard, and generally insuring staff compliance with the public disclosure requirements of chapter ~~((42.17))~~ 42.56 RCW.

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

**WAC 30-04-040 Inspection and copying.** Public records shall be available for inspection and copying from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday ~~((, (excluding Saturdays, Sundays, and) except weeks that include state legal holidays((+)).~~ All public records of the commission are located at the Washington State Arts Commission, ~~((234 E. 8th Avenue))~~ 711 Capitol Way S., Suite 600, Olympia, ~~((Washington))~~ WA 98504.

AMENDATORY SECTION (Amending WSR 95-15-040, filed 7/12/95, effective 8/12/95)

**WAC 30-04-050 Requests for public records.** In accordance with the requirements of chapter ~~((42.17))~~ 42.56 RCW, that agencies prevent unreasonable invasion of privacy, protect public records from damage or disorganization and prevent excessive interference with essential functions of the agency, public records may be inspected or copied, or copies of such records may be obtained, by members of the public upon compliance with the following procedure:

(1) A request shall be made in writing upon a form prescribed by the commission which shall be available at the location ~~((indicated above))~~ listed in WAC 30-04-040. The form shall be presented to the public records officer, or to another designated member of the staff if the public records officer is not available. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request was made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the public records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the current index, an appropriate description of the record requested.

(2) The public records officer, or staff person assisting the member of the public making the request, will ascertain whether or not the information requested is exempt from public inspection and copying as outlined in WAC 30-04-070 and further defined in RCW ~~((42.17.310))~~ 42.56.210. Included therein, but not limited to, are such exemptions as personal information that may violate the rights of privacy of

the individual, national defense information, certain aspects of real estate appraisals as outlined in RCW ((42-17-310 (1)(g))) 42.56.260, and other particular information.

(3) Only after a determination has been made that all or such portion of a public record as is not deleted may be inspected shall such public record or portion thereof be made available for inspection by a member of the public.

(4) In all cases, it shall be the obligation of the public records officer, or staffperson to whom the request is made, to:

(a) Locate the specific document(s) requested by the member of the public in the most timely manner possible;

(b) Assist the member of the public in appropriately identifying the public record requested;

(c) Protect and otherwise prevent damage to the public record being inspected and copied;

(d) Prevent disorganization of file folders or document containers;

(e) Remain in the company of the member of the public at all times during which a public document is being inspected, and provide the fullest assistance possible;

(f) Prevent excessive interference with the other essential functions of the agency.

(5) Only the staff and members of the commission may open files to gain access to commission records.

(6) No public record of the commission may be taken from the premises of the commission by a member of the public.

(7) Public inspection of commission records shall be done only in such locations as are approved by the public records officer, which locations must provide an opportunity for staff to ensure that no public record of the commission is damaged, destroyed, unreasonably disorganized or removed from its proper location or order by a member of the public.

(8) Public records of the commission may be copied only on the copying machine of the commission unless other arrangements are authorized by the public records officer.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

**WAC 30-04-070 Exemptions.** (1) The commission reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 30-04-050 is exempt under the provisions of RCW ((42-17-310)) 42.56.210.

(2) The commission reserves the right to allow the public to only inspect certain public records where there is reason to believe that the ability to copy such records would be a violation of contractual copyright agreements.

(3) In addition, pursuant to RCW ((42-17-260)) 42.56-070, the commission reserves the right to delete identifying details when it makes available or publishes any public record in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter ((42-17)) 42.56 RCW. The public records officer will justify such deletion in writing.

(4) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption

authorizing the withholding of the record and a brief explanation of how the exemption applies to the withheld.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

**WAC 30-04-120 Records index.** The commission shall provide a current records index based on those records available in the commission office and outlined on the commission's schedule for archival of official agency records. Those records which are considered exempt for the purposes of WAC 30-04-070 and RCW ((42-17-310)) 42.56.210 shall be so noted on the index.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

**WAC 30-08-010 Purpose.** The purpose of this chapter is to ensure compliance by the Washington state arts commission with the provisions of chapters ((42-17)) 42.56 and 42.30 RCW, in particular those sections which deal with procedures and meetings.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

**WAC 30-08-020 Uniform procedure rules.** Practice and procedure in and before the commission are governed by the uniform procedural rules codified in the Washington Administrative Code, WAC ((1-08-005 through 1-08-590 [WAC 10-08-001 through 10-08-252])) 10-08-001 through 10-08-252, as now or hereafter amended, which rules the commission adopts as its own, subject to any additional rules the commission may choose to adopt. The commission reserves the right to make whatever determination is fair and equitable should any question not covered by its rules come before the commission, said determination to be in accordance with the spirit and intent of the law.

AMENDATORY SECTION (Amending Order 1, Resolution No. 86-1, filed 4/1/86)

**WAC 30-08-050 Commission meeting materials.** The commission and its staff will make every effort to make commission meeting materials available for viewing by the public at the time of the meeting, pursuant to WAC 30-04-010 through 30-04-120, except as otherwise provided by RCW ((42-17-310)) 42.56.210. Due to the unpredictability of attendance at meetings, extra copies of meeting materials will be distributed until depleted. Requests can be made to the staff to provide copies by mail.

## Chapter 30-41 WAC

### POET LAUREATE PROGRAM

#### NEW SECTION

**WAC 30-41-010 Purpose.** The Washington state arts commission is authorized by RCW 43.46.081 to establish and administer the poet laureate program. The poet laureate shall

engage in activities to promote and encourage poetry within the state, including, but not limited to, readings, workshops, lectures, or presentations for Washington educational institutions and communities in geographically diverse areas over a two-year term.

#### NEW SECTION

**WAC 30-41-020 Procedures.** (1) Selection of a poet laureate shall be made by a committee appointed and coordinated by the commission. The committee may include representatives of the Washington state library, the education community, the Washington commission for the humanities, publishing, and the community of Washington poets.

(2) The commission and the committee shall establish criteria to be used for the selection of a poet laureate. In addition to other criteria established, the poet laureate must be a published poet, a resident of Washington state, active in the poetry community, and willing and able to promote poetry in the state of Washington throughout the two-year term.

(3) The recommendation of the poet laureate selection committee shall be forwarded to the commission, which shall appoint the poet laureate with the approval of the governor.

#### NEW SECTION

**WAC 30-41-030 Compensation.** The poet laureate shall receive compensation at a level determined by the commission. Travel expenses shall be provided in accordance with RCW 43.03.050 and 43.03.060.

#### NEW SECTION

**WAC 30-41-040 Term limits.** The poet laureate may not serve more than two consecutive two-year terms.

#### **WSR 10-02-100 PERMANENT RULES DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

(Health and Recovery Services Administration)

[Filed January 6, 2010, 10:24 a.m., effective February 6, 2010]

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

Purpose: The department is correcting an errant WAC cross reference.

Citation of Existing Rules Affected by this Order: Amending WAC 388-556-0600.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: RCW 74.08.090.

Adopted under notice filed as WSR 09-23-075 on November 16, 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 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: December 28, 2009.

Don Goldsby, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 00-24-053, filed 11/30/00, effective 12/31/00)

**WAC 388-556-0600 Mental health services.** Mental health-related services are available to eligible clients under chapter ((388-862)) 388-865 WAC and WAC 388-531-1400.

#### **WSR 10-02-101**

#### **PERMANENT RULES**

#### **DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed January 6, 2010, 10:29 a.m., effective February 6, 2010]

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

Purpose: These rules amend chapter 388-825 WAC to repeal the family support program rules. The family support rules have been adopted in chapter 388-832 WAC, the individual and family services program. These amendments also clarify existing language and update sections to maintain consistency with other WAC chapters.

Citation of Existing Rules Affected by this Order: See Reviser's note below.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.040.

Adopted under notice filed as WSR 09-15-020 on July 6, 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 14, Repealed 57.

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 14, Repealed 57.

Date Adopted: December 30, 2009.

Don Goldsby, Manager  
Rules and Policies Assistance Unit

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 10-03 issue of the Register.

**WSR 10-02-111**  
**PERMANENT RULES**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**

[Insurance Commissioner Docket Number R 2009-15—Filed January 6, 2010, 11:04 a.m., effective January 6, 2010]

Effective Date of Rule: January 6, 2010. The rules are adopted immediately on the basis that chapter 48.160 RCW, being implemented by the rules imposed a registration requirement on the regulated entities effective January 1, 2010. Adoption is therefore necessary before thirty-one days after filing due to the imminent peril to the public welfare if the requirements are not in place to protect consumers as soon after the statutory effective date as possible.

Purpose: The guaranteed asset protection waiver rules explain the registration process and requirements to those selling and administering the waivers, as well as outlining the commissioner's regulatory requirements implementing chapter 48.160 RCW. The rules ensure that consumers know how to contact the company holding their waiver if they wish to cancel it, or if they need to execute the waiver.

Statutory Authority for Adoption: RCW 48.02.060, 48.160.070.

Adopted under notice filed as WSR 09-24-103 on December 2, 2009.

A final cost-benefit analysis is available by contacting Meg L. Jones, 5000 Capitol Boulevard, Olympia, WA, phone (360) 725-7170, e-mail megj@oic.wa.gov, fax (360) 586-0241.

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 9, Amended 0, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 9, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 9, 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 9, Amended 0, Repealed 0.

Date Adopted: January 6, 2010.

Mike Kreidler  
Insurance Commissioner

**Chapter 284-160 WAC**

**GUARANTEED ASSET PROTECTION WAIVER**

**RULES FOR THE GUARANTEED ASSET PROTECTION WAIVER PROGRAM**

NEW SECTION

**WAC 284-160-010 Purpose of this chapter.** (1) The purpose of this chapter is to adopt processes and procedures for creditors to use when they register with the commissioner under chapter 48.160 RCW, and otherwise implement the chapter.

(2) This chapter is effective on January 1, 2010. All guaranteed asset protection waiver creditors must comply with this chapter on or after that date. Applicants registered before the effective date of this chapter do not need to refile their application to be in compliance.

NEW SECTION

**WAC 284-160-020 Definitions.** For purposes of this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Complete filing" means the package of information containing the registration application, other supporting documents requested by the commissioner, and fees.

(2) "Creditor" means the same as in RCW 48.160.010 (3), and includes any person acting as an obligor for a guaranteed asset protection waiver.

(3) "Days" means calendar days including Saturday and Sunday and holidays unless otherwise specified.

(4) "File" means a record in any retrievable format, and unless otherwise specified, includes paper and electronic formats.

(5) "Home state" means the District of Columbia and any state or territory of the United States or province of Canada in which a creditor maintains its principal place of residence or principal place of business and is licensed to do business.

(6) "Registrant" means a person registering with the commissioner under the guaranteed asset protection waiver program as required by chapter 48.160 RCW.

(7) "Written" or "in writing" means any retrievable method of recording an agreement or document, and unless otherwise specified, includes paper and electronic formats.

NEW SECTION

**WAC 284-160-030 Persons required to register.** Any person offering or selling guaranteed asset protection waivers to residents of the state of Washington or borrowers in the state of Washington, or acting as an obligor for guaranteed asset protection waivers sold to residents of this state, must register with the commissioner as required by RCW 48.160.-020 unless:

- (1) The person is exempt under RCW 48.160.001(2);
- (2) The person is a retail seller of motor vehicles assigning:

(a) More than eighty-five percent of guaranteed asset protection waiver agreements within thirty days of such agreements' effective date; and

(b) One hundred percent of guaranteed protection waiver agreements within forty-five days of each agreement's effective date; or

(3) The person is an insurer authorized to transact insurance business in Washington state.

#### NEW SECTION

**WAC 284-160-050 Use of legal name and address.** (1) Every guaranteed asset protection waiver contract issued to a resident of Washington state or in Washington state must conspicuously disclose the legal name, home office address, and local contact address of the creditor.

(2) Upon any assignment or transfer of the waiver, as allowed under RCW 48.160.030, the disclosure provided to the consumer must conspicuously include:

(a) The legal name and home office address of both the person or entity transferring the obligation;

(b) The legal name and home office address of the assignee for the guaranteed asset protection waiver; and

(c) The local address, telephone and e-mail contact information for the assignee for the guaranteed asset protection waiver.

(3) The contract must not use a trade name, a group designation, name of a parent company, name of a particular division, service mark, slogan, symbol, or other device or reference without also disclosing the legal name of the creditor, or in such a manner that it would have the capacity or tendency to mislead or deceive as to the true identity of the creditor or create the impression that a company other than the creditor would have any responsibility for the financial obligation under the contract.

(4) No contract, solicitation or marketing document or disclosure notice to a consumer may use any combination of words, symbols or physical materials which by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols or physical materials used by a government program or agency or otherwise appear to be of such a nature that they tend to mislead prospective consumers into believing that the program or contract is in some manner connected with such government program or agency. Creditors may disclose that they are registered with the commissioner.

(5) The commissioner will use the last mailing address provided by the registrant to the commissioner as the address of record. Registrants must advise the commissioner of any change of address within thirty days after the end of the month in which the change of address occurs. This includes any change in the registrant's mailing, business or e-mail address. Failure to advise the commissioner of a change of address may subject a registrant to disciplinary action under RCW 48.160.070.

(6) When communicating with the commissioner's office for any reason, applicants and registrants must use their legal name.

#### NEW SECTION

**WAC 284-160-060 Guaranteed asset protection waiver program registration requirements.** (1) An applicant for registration to issue guaranteed asset protection waivers must file a completed application as required by the commissioner on the application form and its accompanying instructions. The application form and instructions for completing the form are available on the commissioner's web site at [www.insurance.wa.gov](http://www.insurance.wa.gov). The application form and any required documents must be completed and submitted to the commissioner electronically, unless the applicant receives prior approval to file a paper copy of the application and documents.

(2) In order to transact the business of issuing and administering guaranteed asset protection waiver contracts in the state of Washington, the commissioner must have approved the registration application packets filed by an applicant for registration. Applicants must submit packets that comply with chapter 48.160 RCW and with these rules.

#### NEW SECTION

**WAC 284-160-070 Required notices and disclosures.** When a registrant under this chapter provides notice to a borrower of the sale, transfer or any type of assignment of the waiver obligation, they must comply with the requirements in RCW 48.160.030.

(1) The selling, transferring or assigning creditor must mail the notice to the borrower's last known address using U.S. mail. The selling, transferring or assigning creditor may also provide electronic notice to the borrower, but such notice does not satisfy the notice requirement under the statute.

(2) The notice of transfer, assignment or sale of the waiver obligation must contain the legal name and official business address, and if different, the local business address of the new person or entity responsible to the borrower for waiver benefits. If that person or entity is different from the contact person or entity to apply to for benefits, then the notice must also contain the legal name, official business and local business addresses for the contact person.

#### NEW SECTION

**WAC 284-160-080 Payment of refund on canceled guaranteed asset protection contracts.** When a borrower cancels a guaranteed asset protection contract and a refund is due that is payable to the borrower, the current obligor on the guaranteed asset protection contract must refund the amount due, and must not require the borrower to request the refund from the original or a prior obligor on the contract.

#### NEW SECTION

**WAC 284-160-090 Registrant documentation.** For each guaranteed asset protection contract entered into, registrants must retain records, preferably in electronic format, of all transactions associated with the contract, including correspondence from the borrower, notices sent to the borrower, and agreements or contracts associated with the sale or trans-

fer of the guaranteed asset protection obligation. Creditors must retain the records for the duration of the waiver agreement and for an additional two years after its termination date. Termination occurs when a contract expires, is canceled by either party, or waiver under the agreement on behalf of a borrower occurs.

#### NEW SECTION

**WAC 284-160-100 Use of the term "insurance."** A guaranteed asset protection program must not use the term "insurance" to describe the program in its advertisements, marketing efforts, promotions, marketing materials, guaranteed asset protection program documents, brochures, or contracts, except when referring to the borrower's automobile insurance policy, or making the statement that the waiver is not insurance as required in RCW 48.160.050(10).

### **WSR 10-02-113**

#### **PERMANENT RULES**

#### **DEPARTMENT OF AGRICULTURE**

[Filed January 6, 2010, 11:41 a.m., effective February 6, 2010]

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

Purpose: The rule-making order amends chapter 16-302 WAC by updating the phone number for the department's seed program and the address for the Washington State Crop Improvement Association.

Citation of Existing Rules Affected by this Order: Amending WAC 16-302-040.

Statutory Authority for Adoption: Chapter 15.49 RCW.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 09-22-001 on October 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 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: January 6, 2010.

Dan Newhouse  
Director

AMENDATORY SECTION (Amending WSR 00-24-077, filed 12/4/00, effective 1/4/01)

**WAC 16-302-040 Varieties eligible for seed certification in Washington state.** (1) Only seed varieties that are

accepted as meriting seed certification by an appropriate AOSCA National Variety Review Board or a member agency of AOSCA in accordance with the criteria listed in subsection (3) of this section may be eligible for seed certification in Washington state.

(2) A current list of varieties eligible for certification for the crops certified by the seed program may be obtained by contacting WSDA Seed Program, 21 N. 1st Avenue, Yakima, WA 98902, ((509) 225-2630) 509-249-6950. A current list of varieties eligible for certification for the crops certified by WSCIA may be obtained by contacting WSCIA, ((414 S. 46th Avenue, Yakima, WA 98908, (509) 966-2234)) 1610 N.E. Eastgate Blvd. Suite 610, Pullman, WA 99163, 509-335-8250.

(3) The following information is required for submission to an AOSCA National Variety Review Board or other certifying agency for acceptance of a seed variety for certification:

(a) A statement and supporting evidence by the originator, developer, or owner requesting certification that:

(i) The variety has been adequately tested to determine its value and probable area of adaptation, and that it merits certification; and

(ii) The variety is distinguishable from other varieties as set forth in Article 5, International Code of Nomenclature for Cultivated Plants, which reads as follows: "The term cultivar (variety) denotes an assemblage of cultivated individuals which are distinguished by any characters (morphological, physiological, cytological, chemical or others) significant for the purposes of agriculture, forestry, or horticulture, and which, when reproduced (sexually or asexually) retain their distinguishing features."

(b) A statement on origin and breeding procedure.

(c) A description of:

(i) The morphological characteristics, (such as color, height, uniformity, leaf, head or flower characteristics, etc.);

(ii) Physiological characteristics;

(iii) Disease and insect reactions; and

(iv) Any other identifying characteristics of value to field inspectors and other pertinent factors as the breeder or sponsor considers relevant.

(d) Evidence of performance, including data on yield, insect or disease resistance and other factors supporting the value of the variety. Performance tests may be conducted by private seed firms or agricultural experiment stations, and must include appropriate check varieties, which are used extensively in the area of intended usage.

(e) A statement giving the suggested region of probable adaptation and purposes for which the variety is used. This includes where the breeder of the variety has tested the variety and anticipates recommending the merchandising of it.

(f) A description of the procedure for maintenance of stock seed classes. At the time a variety is accepted for certification, a sample lot of breeder seed is presented to the certifying agency. The sample is retained as a control varietal sample against which all future seed stock released for certified seed production may be tested to establish continued trueness of variety.